

Constitution of Venture
Housing Company
Limited

ACN 154 969 963

A company limited by guarantee

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1. Name and nature of Company

The name of the company is **Venture Housing Company Limited**.

2. Status of the Constitution

2.1. Constitution of the Company

This is the constitution of the Company.

2.2. Replaceable Rules

This Constitution displaces the Replaceable Rules, accordingly, none of the Replaceable Rules apply.

3. Interpretation

3.1. Definitions

In this Constitution:

Approved Business Plan and Budget means a Business Plan and its associated Budget which has been approved by a Special Majority Decision of the Board.

Auditor means the person appointed for the time being as the auditor of the Company.

Board means the Directors present at a meeting, duly convened as a Board meeting, at which a quorum is present.

Budget means a statement of the estimated expenditure necessary to carry out a Business Plan

Business means the provision of housing at less than market rent to people on low-to-moderate incomes or with a disability.

Business Day means a day which is not a Saturday, Sunday or bank or public holiday in Darwin, Northern Territory.

Business Plan means a business plan for the conduct of the Business.

Company means Venture Housing Company Limited ACN 154 969 963.

Constitution means the constitution for the time being of the Company as constituted by this document and any resolutions of the Company modifying this document.

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

Director means a person who is a director for the time being of the Company and **Directors** means more than one Director.

Member means a person who is, or who is registered as, a member of the Company and **Members** means more than one Member.

Member's Guarantee Amount means **\$10.00**.

Membership means being a Member of the Company.

NTG means the Northern Territory of Australia.

Poll means a method of voting where votes are cast in writing. The chair of the Board may determine all further details relating to any Poll from time to time.

Register of Members means the register of Members maintained pursuant to the Corporations Act.

Replaceable Rules means the replaceable rules applicable to a public company limited by guarantee set out in the Corporations Act.

Resident of the Northern Territory means a person whose main place of residence is in the Northern Territory of Australia and who resides in the Northern Territory Australia for at least 9 months of any twelve month period.

Seal means the common seal for the time being of the Company.

Secretary means any person appointed for the time being as, or to perform the functions of, secretary of the Company.

Special Majority Decision means a decision of the Company which satisfies the voting thresholds set out in **clause 15.7(b)**.

3.2. Interpretation

In this Constitution:

- (a) the words “including”, “include” and “includes” are to be construed without limitation;
- (b) a reference to legislation is to be construed as a reference to that legislation, any subordinate legislation under it, and that legislation and subordinate legislation as amended, re-enacted or replaced for the time being;
- (c) a reference to a person includes a partnership, joint venture, incorporated association, unincorporated association, corporation and a government or statutory body or authority;
- (d) a reference to a “person” includes a corporate representative appointed pursuant to section 250D of the Corporations Act;
- (e) headings are used for convenience only and are not intended to affect the interpretation of this Constitution; and
- (f) a word or expression defined in the Corporations Act and used, but not defined, in this Constitution has the same meaning given to it in the Corporations Act when used in this Constitution.

4. Objects and purpose

4.1. Objects

The objects of the Company are:

- (a) to promote, provide and manage and to provide information about affordable housing to meet the needs of low income earners and people with a disability who require supported housing arrangements in the Northern Territory;
- (b) to promote other purposes beneficial to the community in the Northern Territory through the provision of affordable housing and associated services; and
- (c) to assist and work in co-operation with other organisations which have similar objectives.

4.2. Application of income and property for objects only

The profits (if any), other income and property of the Company, however derived, must be applied solely toward the promotion of the objects of the Company as set out in **clause 4.1**.

4.3. No dividend, bonus, distribution or profit paid to Members

No part of the profits, income or property of the Company may be paid or transferred to a Member, either directly or indirectly by way of dividend, bonus, distribution or otherwise.

4.4. Payments by Company in good faith

Subject to clauses 21 and 21, clause 4.3 does not prevent payment in good faith to an officer of the Company or a Member, or to a firm of which an officer of the Company or a Member is a partner:

- (a) of remuneration for services provided by that officer or Member to the Company;
- (b) for goods supplied in the ordinary course of business;
- (c) of interest at a rate not exceeding the rate fixed for the purposes of this clause by the Company in general meeting on money borrowed from an officer of the Company or a Member; or
- (d) of reasonable rent for premises let by an officer of the Company or a Member.

4.5. Provision of services

Clause 4.3 does not prevent an officer of the Company or a Member from being a provider of services to the Company in furtherance of the Company's objects.

5. Powers of the Company

The Company has all the powers conferred on it by section 124(1) of the Corporations Act, and, without limiting the foregoing, the power to:

- (a) acquire, by way of purchase, lease, transfer or otherwise, real property;
- (b) dispose of any real property;
- (c) provide security for the payment of money;
- (d) apply for and accept, grants or loans from any federal, state or local government or authority;
- (e) enter into contracts and joint ventures with any public or private entity; and
- (f) do anything incidental to or in furtherance of its objects.

6. Modification or repeal of this Constitution

6.1. Modifying or repealing Constitution

- (a) Subject to clause 6.1(b) this Constitution may be modified or repealed only by a Special Majority Decision of the Company in a general meeting.
- (b) A Special Majority Decision to modify or repeal the Constitution does not have any effect unless:
 - (i) if such modification or repeal is to occur during the “Term of the Funding Deed”, as that term is defined in the Implementation Agreement 20 December 2011, the NTG consents to it.

6.2. Date of effect of modification or repeal

Any modification or repeal of this Constitution takes effect on the date the special resolution is passed or any later date specified, or provided for, in the resolution.

7. Members’ liability

7.1. Liability to contribute

Subject to this Constitution, each person who is a Member, and each person who was a Member during the year ending on the day of the commencement of the winding up of the Company, undertakes to contribute to the property of the Company for:

- (a) payment of debts and liabilities of the Company;
- (b) payment of the costs, charges and expenses of winding up; and
- (c) any adjustment of the rights of the contributories among Members.

7.2. Limited liability

The amount that each Member or past Member is liable to contribute under **clause 7.1** is limited to the amount of the Member’s Guarantee Amount.

8. Members

8.1. Number of Members

The Company must have at least one Member.

8.2. Admission as a Member

The Board may admit as a Member any person who:

- (a) agrees to be bound by this Constitution and any other rules, by-laws, policies or other standards prescribed by any Directors from time to time;
- (b) agrees to assume the liability to pay the Member’s Guarantee Amount; and

- (c) is appointed as a Director.

8.3. Class of Members

The Company shall have one class of Members:

- (a) Members who are individuals and are appointed to the Board as a Director.

9. Rights of Members are non-transferable

The rights and obligations of a Member are personal and are not transferable.

10. Cessation of Membership

10.1. Cessation of Membership

A person ceases to be a Member:

- (a) if the person resigns as a Director in accordance with this Constitution;
- (b) if the person is expelled as a Director in accordance with this Constitution;
- (c) if the person dies;
- (d) if the person is subject to assessment or treatment under any mental health law and the Board resolves that the person should cease to be a Director;
- (e) the Board resolves that the person should cease to be a Director;
- (f) if the person becomes a bankrupt; or
- (g) if the person is disqualified from acting as a Director under the Corporations Act.

10.2. Resignation of Member

- (a) Members may resign from the Company by providing written notice to the Board. A Member who resigns as a Member of the Company shall automatically cease to be a Director of the Company.

11. Maintenance of Register

11.1. Register of Members

The Secretary must maintain a Register of Members setting out:

- (a) the name and address of each Member;
- (b) the date on which each person became a Member;
- (c) any conditions imposed on a Member's Membership; and
- (d) in respect of each person who has ceased to be a Member, the date on which that person ceased to be a Member.

11.2. Inspection of Register of Members

The Register of Members must be kept at the Company's registered office or the principal place of business. A Member may inspect the Register of Members between the hours of 9.00 am and 4.00 pm on any Business Day. No amount may be charged for inspection.

12. General meetings

12.1. Annual general meetings

If required to be held under the Corporations Act, annual general meetings of the Company are to be held in accordance with the Corporations Act.

12.2. Director convening a general meeting

Any Director or the Directors may convene a general meeting when they think fit and must do so if required to do so under the Corporations Act.

12.3. Meetings requested by Members

- (a) If the Board receives a request from:
 - (i) at least two Members who are entitled to vote at that general meeting, the Board must convene a general meeting within 21 days after the date of receipt of that request.
- (b) The request must detail any proposed resolution and be signed by Member(s) requesting the general meeting.

12.4. Notice of general meeting

At least 21 days' notice of a general meeting must be given to the Members and Auditor. The notice must:

- (a) state the date, time and place (or places) of the meeting;
- (b) state the general nature of the business to be conducted at the meeting;
- (c) state any proposed resolutions;
- (d) state the names of proxies that have been appointed (if any); and
- (e) contain a statement informing the Members of the right to appoint a proxy.

12.5. Shorter notice of general meeting

Subject to the Corporations Act, shorter notice of a general meeting may be given if the calling of the notice of the general meeting on shorter notice is agreed to:

- (a) in the case of an annual general meeting, by all Members entitled to attend and vote at the meeting; and

- (b) in the case of any other general meeting, by all but one of the Members entitled to attend and vote at the general meeting agree before the meeting,
- and accordingly, any such general meeting will be treated as having been duly convened.

12.6. Notice of resumption of adjourned general meeting

If a general meeting is adjourned for 30 days or more, at least 30 days' notice must be given to the Members, Directors and Auditor of the day, time and place (or places) for the resumption of the adjourned general meeting.

12.7. Postponement or cancellation of general meeting

- (a) Subject to this Constitution and the Corporations Act, the Board may change the place (or places) of, postpone or cancel a general meeting.
- (b) If a general meeting is convened pursuant to a request by Member(s), the Board must not postpone or cancel the general meeting without the consent of the requesting Members.

12.8. Notice of change, postponement or cancellation of general meeting

- (a) If the Board has convened a general meeting, the Board may change the place (or places) of the general meeting, postpone or cancel the general meeting. If a Director has convened a general meeting, only the Director who convened the general meeting may change the place (or places) of the general meeting, or postpone or cancel the general meeting.
- (b) If the Board changes the place (or places) of a general meeting, notice must be given to each Member and each person entitled to receive notice of the meeting of the new place (or places) of the meeting.
- (c) If the Board postpones a general meeting, notice must be given to each Member and each other person entitled to receive notice of the new date, time and place (or places) of the meeting.
- (d) If the Board cancels a general meeting, notice must be given to each Member and each other person entitled to receive notice of general meetings.

12.9. Omission to give notice relating to general meeting

No resolution passed at or proceedings at any general meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) that general meeting;
- (b) any change of place (or places) of that general meeting;
- (c) postponement of that general meeting, including the date, time and place (or places) for the resumption of the adjourned meeting; or
- (d) resumption of that adjourned general meeting.

13. Proceedings at general meetings

13.1. Quorum

- (a) A quorum at a general meeting is a majority of the Members. The quorum must be present at all times during the general meeting.
- (b) If a Member has appointed more than one proxy and two or more proxies attend a general meeting, only one proxy will be counted for the purposes of determining whether there is a quorum.

13.2. Lack of quorum

- (a) If a quorum is not present within 30 minutes after the time appointed for a general meeting (or any longer period of time as the chair may allow) or ceases to be present at any time during the general meeting, the general meeting:
 - (i) if convened on the request of Member(s), is dissolved; or
 - (ii) in any other case:
 - (A) is adjourned to be resumed on a day, time and place (or places) as the chair determines or if the chair is not present as the Directors or Director at the meeting may determine; or
 - (B) if the Directors do not so determine, no Director is present or no Director present so determines:
 - (1) the date for the resumption of the adjourned general meeting will be on the same day in the next week;
 - (2) the time for the resumption of the adjourned general meeting will be at the same time as the adjourned meeting; and
 - (3) the place (or places) for the resumption of the adjourned general meeting, will be at the same place (or places) as the adjourned meeting.
- (b) If a quorum is not present within 30 minutes after the time appointed for the resumption of the adjourned general meeting or ceases to be present during the meeting, the general meeting is dissolved.

13.3. Chairing general meetings

- (a) The person elected by the Board as chair will chair general meetings. The chair must be a resident of the Northern Territory of Australia.
- (b) If the chair is not present within 15 minutes after the time appointed for any general meeting or if the chair is unwilling or unable to act as chair for the whole or any part of that general meeting, the Directors present may elect a Director present to chair that general meeting.
- (c) If no Director is elected or if all the Directors present decline to take the chair for the whole or any part of that general meeting the meeting will be adjourned to be resumed on the same day, at the same time and at the same place (or places) in the following week.

13.4. Conduct of general meetings

The chair of each general meeting has charge of conduct of that meeting, including the procedures to be adopted and the application of those procedures at that meeting.

13.5. Adjournment

- (a) The chair of a general meeting at which a quorum is present may adjourn the general meeting.
- (b) If a majority of Members present at a general meeting in person or by proxy determine that the meeting should be adjourned, the chair must adjourn the meeting to another date, time and place (or places) determined by the chair.
- (c) No business may be transacted on the resumption of an adjourned or postponed general meeting other than the business left unfinished at the adjourned or postponed general meeting.

14. Proxy

14.1. Appointment of proxy

- (a) A Member who is entitled to attend and to vote at a general meeting of the Company may appoint a person as proxy to attend, speak and vote for that Member. The instrument appointing a proxy may restrict the exercise of any power.
- (b) A proxy may be, but does not have to be, a Member.

14.2. Proxy instruments

- (a) An appointment of a proxy must be in writing and be signed by the Member appointing the proxy or by the duly authorised attorney of the Member and state:
 - (i) the Member's name and address;
 - (ii) the Company's name;
 - (iii) the proxy's name or the name of the office held by the proxy; and
 - (iv) the general meeting at which the proxy may be used, or if the appointment is a standing one, a clear statement to that effect.
- (b) Where a proxy is signed pursuant to a power of attorney, a copy of the power of attorney (certified as a true copy of the original) must be attached to the proxy instrument sent to the Company.
- (c) An instrument appointing a proxy may direct the way in which a proxy is to vote on a particular resolution. If an instrument contains a direction, the proxy must vote as directed in the instrument, and is not entitled to vote on the proposed resolution except as directed in the instrument. If an instrument does not contain a direction, the proxy is entitled to vote on the proposed resolution as the proxy considers appropriate.
- (d) If a proxy is appointed to vote on a particular resolution by more than one member, that proxy:

- (i) may vote on a show of hands in the same way if each instrument appointing the proxy directs the proxy to vote in the same way or does not direct the proxy how to vote; and
- (ii) may not vote on a show of hands unless each instrument appointing the proxy and directing the proxy to vote in a particular way directs the proxy to vote in the same way.

14.3. Proxy to be received by Company

The instrument appointing a proxy is not effective unless it is received, together with any additional documentation, including a copy of the power of attorney (certified as a true copy of the original), by the Company at least 48 hours before the general meeting or, as the case may be, the resumption of an adjourned general meeting, at any of the following:

- (a) the registered office;
- (b) a facsimile number at the registered office; or
- (c) a place, facsimile number or electronic address specified for that purpose in the notice of the general meeting.

14.4. Power to demand Poll

A proxy may demand, or join in demanding, a Poll.

14.5. Revocation of proxy

The appointment of a proxy may be revoked by the Member who appointed the proxy by notice to the Company from the Member or, as the case may be, the duly authorised attorney of the Member, stating that the appointment of a proxy is revoked or by appointing a new proxy.

14.6. Validity of votes of proxy

A vote cast by a proxy will be valid unless before the start of a general meeting (or, in the case of an adjourned or postponed general meeting, not less than 48 hours before the resumption of the adjourned or postponed general meeting) at which a proxy votes:

- (a) the Member who appointed the proxy ceases to be a Member; or
- (b) the Company receives notice of:
 - (i) the revocation of the instrument appointing the proxy;
 - (ii) the appointment of a new proxy; or
 - (iii) the revocation of any power of attorney under which the proxy was appointed.

14.7. No liability

The Company is not responsible for ensuring that any directions provided in the instrument appointing the proxy or the way in which a proxy is to vote on a particular resolution are complied with, and accordingly is not liable if those directions are not complied with.

15. Voting

15.1. Entitlement to vote

Each Member entitled to vote at a general meeting may vote in person or by proxy. Each Member has one vote, whether on a show of hands, or on a Poll.

15.2. Casting vote

If on any ordinary resolution an equal number of votes is cast for and against a resolution, the Chair has the casting vote.

15.3. Proxy vote to be identified

Before a vote is taken the chair must inform the Members present whether a proxy vote has been received and, if so, how the proxy vote is to be cast.

15.4. Voting on resolution

At any general meeting, a resolution put to a vote must be determined by a show of hands unless a Poll is demanded in accordance with this Constitution.

15.5. Objection to right to vote

- (a) A challenge to a right to vote at a general meeting:
 - (i) may only be made at that general meeting; and
 - (ii) must be determined by the chair.
- (b) A determination made by the chair in relation to a challenge to a right to vote is binding on all Members and is final.

15.6. Ordinary decisions

Subject to **clause 15.7**, decisions at any meeting of the Members will be made by the affirmative vote of one or more Members present (in person or by representative, attorney or proxy) and entitled to vote at the meeting having (in aggregate) more than 50% of the total votes of all Members present and entitled to vote (**Simple Majority**).

15.7. Special Majority Decisions

- (a) The following matters will require a Special Majority Decision of the Members:
 - (i) any matters specified in this Constitution that require a Special Majority Decision of the Members;
 - (ii) any change in the name of the Company;
 - (iii) an amendment to or replacement of the Constitution of the Company;
 - (iv) approving or permitting a material change in the nature of the Business;

- (v) merging, consolidating or amalgamating the Business, or a material part of it, with any other business;
 - (vi) authorising the Company to appoint an administrator;
 - (vii) authorising the Company to wind up the Company voluntarily; or
 - (viii) authorising the Company to make application to court seeking the appointment of a liquidator; and
 - (ix) subject to the Corporations Act, approving any conversion of the Company to a proprietary company.
- (b) A Special Majority Decision will require the affirmative vote of all but one of the Members present (in person or by representative, attorney or proxy) and entitled to vote at the meeting.

[Example: if 6 Members are present and entitled to vote, the affirmative vote of 5 Members shall comprise a Special Majority Decision. If 5 Members are present and entitled to vote, the affirmative vote of 4 Members shall comprise a Special Majority Decision]

15.8. Written resolutions

Members may pass a resolution without a general meeting being held if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. For this purpose, signatures of the Members may be contained in more than one document. The resolution is taken to be passed (and if it is required to be a Special Majority Decision to be effective, passed as a Special Majority Decision resolution), as if it had been passed unanimously at a duly convened general meeting, at the time the Secretary has evidence that the last Member has signed it.

15.9. Minutes

- (a) Unless a Poll is demanded in accordance with this Constitution, a declaration by the chair that a resolution has, on a show of hands, been:
- (i) carried;
 - (ii) carried unanimously;
 - (iii) carried by a particular majority; or
 - (iv) lost or not carried by a particular majority,
- is conclusive evidence of the fact declared. An entry to that effect made in the Minutes book of the Company signed by the chair is evidence of that fact unless the contrary is proved.
- (b) Within one month after each general meeting, the Directors must record or cause to be recorded in the minutes book:
- (i) the proceedings and resolutions of each general meeting;
 - (ii) any declarations at each general meeting ; and
 - (iii) all resolutions passed by Members without a general meeting.
- (a) The Chair, or the Chair of the next general meeting, must sign the minutes of the previous general meeting confirming those minutes.
- (b) The minute books must be kept at the registered office.

- (c) Members may inspect the minute books between the hours of 9.00 am and 5.00 pm on any Business Day. No amount may be charged for inspection.

16. Poll

16.1. Chair may determine to take a Poll

The chair of a general meeting may determine that a Poll be taken on any resolution.

16.2. Right to demand Poll

A Poll may be demanded on any resolution at a general meeting other than the election of a chair or the question of an adjournment by at least two (2) Members entitled to vote on the resolution.

16.3. Procedure for demanding Poll

- (a) A Poll may be demanded:
 - (i) before a vote on a show of hands is taken;
 - (ii) before the result of a vote on a show of hands is declared; or
 - (iii) immediately after the result of a vote on a show of hands is declared.
- (b) If a Poll is demanded on the election of a Chair or on the question of an adjournment, it must be taken immediately. If a Poll is demanded on any other matter, it may be taken in the manner and at the time and place (or places) as the chair directs.
- (c) Other than where a Poll is demanded on the election of a Chair or the question of an adjournment, a demand for a Poll may be withdrawn at any time by the person or persons who demanded it. A demand for a Poll which is withdrawn does not invalidate the result of a show of hands declared before the demand for the Poll was made.
- (d) Other than where a Poll is demanded on the election of a chair or the question of an adjournment, a demand for a Poll does not prevent the general meeting continuing for the transaction of any business.

17. Appointment and removal of Directors

17.1. Number of Directors

Unless otherwise determined by the Company in general meeting, the number of Directors must not be less than four or more than seven.

17.2. Appointment of Directors

- (a) If there is a vacancy on the Board or a vacancy is anticipated to occur in the near future (due to the retirement of a Director or the expiry of their term), the Board must seek to convene a nomination committee (**Nomination Committee**) which may be comprised of:

- (i) the chair of the Board or the chair's Director nominee;
 - (ii) a nominee of an organisation that the Board determines is:
 - (A) willing to undertake the role;
 - (B) in an industry that is related to the activities of the Company;
 - (C) has sufficient expertise and experience in the matters described in clause 17.2(b); and
 - (D) is sufficiently independent from the Company and the members of the Board;
 - (iii) such other person as may be determined by the Board from time to time by Special Majority Decision.
- (b) The Nomination Committee shall be governed by rules determined by the Nomination Committee from time to time.
 - (c) The primary purpose of the Nomination Committee shall be to consider applications for each vacant position and recommend no more than 4 candidates for each vacant position (based on experience and qualification criteria set by the Board from time to time):.
 - (d) The Company shall pay for all expenses incurred by the Nomination Committee in carrying out activities related to the purposes described in 17.2(c).
 - (e) The Board may by ordinary resolution collectively elect up to seven (7) natural persons as Directors who must be selected after being nominated by the Nomination Committee for their skills to be of benefit to the Company's objects.
 - (f) Four of the Directors appointed by the Board under clause 17.2(e) must be resident in the Northern Territory of Australia at the time of their appointment and whilst they hold tenure as Directors.
 - (g) Three of the Directors appointed by the Board under clause 17.2(e) must be specifically selected for their skills or expertise required by Venture. There is no requirement for these skills-based Directors to reside in the Northern Territory of Australia.
 - (h) An appointment of a person as a Director is not effective unless a signed consent to the appointment is provided by that person to the Company. The appointment of a person as a Director will take effect on the later of the date of appointment and the date on which the Company receives the signed consent.

17.3. Tenure of Directors

- (a) Unless otherwise determined by the Board pursuant to clause 17.3(b):
 - (i) A Director may be appointed by the Board at any time for a period of three years plus the period between the three year anniversary and the end of the Annual General Meeting immediately following the three (3) year anniversary.
[Example: If Ms Smith is appointed on 1 April 2020, and if the AGM for 2023 is held on 30 November 2023, her term shall expire at the end of the AGM on 30 November 2023]
 - (ii) A Director is eligible to be appointed for a further two (2) terms of the period described in clause 17.3(a)(i). Such appointment will be made at the Annual General Meeting just prior to the end of their term.
 - (iii) A Director must retire upon the ninth Annual General Meeting for which they have consecutively held the position of Director unless there is a Special Majority Decision of the Members to allow the Director serve a further term of three (3) years.

- (iv) A Director who is appointed by the Board under clause 17.2(f) must retire upon ceasing to be a resident of the Northern Territory of Australia during the Director's tenure.
- (b) The Board reserves the right to stagger the terms of the Directors in order to balance continuity of appropriate knowledge, skills and experience on the Board and continuity of the Company's operations.

17.4. Removal of Director

- (a) The Company may remove a Director by Special Majority Decision at a general meeting.
- (b) At least two months' notice must be given to the Company of the intention to move a resolution to remove a Director at a general meeting.
- (c) If notice of intention to move a resolution to remove a Director at a general meeting is received by the Company, that Director must be given a copy of the notice as soon as practicable.
- (d) The Director must be informed that the Director may:
 - (i) submit a written statement to the Company for circulation to the Members before the meeting at which the resolution is put to a vote; and
 - (ii) speak to the motion to remove the Director at the general meeting at which the resolution is to be put to a vote.
- (e) At least 21 days' notice must be given to the Members of a general meeting at which the resolution for the removal of a Director is proposed. The notice must set out the proposed resolution and the grounds for the proposed resolution.

17.5. Cessation of Directorship

A person ceases to be a Director and the office of Director is vacated if the person:

- (a) is removed from office as a Director or a Member under **clause 17.4**;
- (b) resigns or retires as a Director or a Member in accordance with this Constitution;
- (c) is subject to assessment or treatment under any mental health law and the Board resolves that the person should cease to be a Director;
- (d) dies;
- (e) is disqualified from acting as a Director under the Corporations Act;
- (f) without the consent of the Company in general meeting, holds any office of profit under the Company otherwise than as an officer or employee of the Company;
- (g) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of such interest as required by the Corporations Act; or
- (h) is absent from Board meetings for a continuous period of three months without leave of absence granted by the remaining directors, unless the Board makes a resolution to the contrary.

17.6. Resignation of Directors

A Director may resign from the office of Director by providing written notice to the Board

17.7. Powers and duties of Board

- (a) Subject to this Constitution and the Corporations Act, the activities of the Company are to be managed by, or under the direction of, the Board whose responsibilities include, but are not limited to:
 - (i) determining the annual Budgets and Business Plans;
 - (ii) implementing the strategic priorities and objectives of the Company as described in the Business Plan;
 - (iii) determining the form of any other documentation or presentations to be made to the NTG;
 - (iv) agreeing on a position in respect of any negotiations with the NTG;
 - (v) financial management, including setting Budgets and monitoring cash flows;
 - (vi) approval and engagement of key contractors and consultants;
 - (vii) managing development programming, community consultation and planning application processes; and
 - (viii) determining matters of a major or unusual nature which are not in the ordinary course of business of the Company.
- (b) Subject to this Constitution and the Corporations Act, the Board may exercise all powers of the Company that are not required to be exercised by the Company in a general meeting.
- (c) The powers of the Board include the power to:
 - (i) borrow or otherwise raise money;
 - (ii) mortgage, charge (including in the form of a floating charge) any of the Company's assets (both present and future); and
 - (iii) issue debentures and other securities, and any instrument (including any bond).
- (d) The Board may delegate any of its powers to:
 - (i) a Director;
 - (ii) a committee of Directors;
 - (iii) an employee of the Company; or
 - (iv) any other person.

18. Negotiable instruments

All negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed in such manner as the Board may determine.

19. Remuneration and reimbursement for expenses

19.1. Remuneration of Director

The Directors are entitled to receive reasonable remuneration from the Company for the services performed as a Director as determined by the Board.

19.2. Reimbursement of expenses

Directors are entitled to be reimbursed by the Company for reasonable costs and expenses incurred or to be incurred in connection with attendance at meetings of the Board and committees of the Board.

19.3. Payments to Directors

Any payment to a Director must be approved by the Directors.

20. Board meetings

20.1. Convening meetings

- (a) In the ordinary course, the Secretary will convene Board meetings in accordance with the determinations of the Board.
- (b) A Director may at any time convene a Board meeting by notice to the other Directors.
- (c) There must be a minimum of six (6) Board meetings a year.

20.2. Notice of meetings

- (a) Each Director must be given at least 48 hours' notice of each meeting of the Board, provided that such notice will not be required where all Directors agree to waive notice of the meeting.
- (b) Each notice must state:
 - (i) the date, time and place (or places) of the Board meeting;
 - (ii) the general nature of the business to be conducted at the Board meeting; and
 - (iii) any proposed resolutions.

20.3. Omission to give notice

No resolution passed at or proceedings at any Board meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) that Board meeting;
- (b) any change of place (or places) of that Board meeting;
- (c) postponement of that Board meeting; or
- (d) resumption of that adjourned Board meeting.

20.4. Use of technology

- (a) A Board meeting may be convened or held using any technology consented to by all Directors. The consent may be a standing one. A Director may withdraw consent to the use of a particular technology within a reasonable time period before a Board meeting.
- (b) If a number of Directors equal to the quorum is able to hear or to see and to hear each other Director contemporaneously using any technology consented to by all Directors, there is a meeting and that meeting is quorate. The rules relating to meetings of Directors apply to each such meeting.
- (c) A Director participating at a meeting using technology consented to by all Directors is treated as being present in person at the meeting.
- (d) A meeting using technology consented to by all Directors is to be taken to be held at the place determined by the chair of the meeting.

20.5. Quorum at meetings

At the meeting of Directors, the number of Directors whose presence in person is necessary to constitute a quorum is a majority of the Directors.

20.6. Chair of meetings

- (a) The Directors will elect a Director as Chair and may determine the period for which the Chairperson will hold office. The Chair must be a resident of the Northern Territory of Australia.
- (b) If the Chair is not present within 15 minutes after the time appointed for a Board meeting or if the chair is unwilling or unable to act as Chair for the whole or any part of that Board meeting, the Directors present may elect a Director present to chair that Board meeting.

20.7. Voting rights

Each Director present in person at a Board meeting is entitled to vote and has one vote.

20.8. Ordinary decisions

Decisions at any meeting of the Board will be made by the affirmative vote of those Directors present and entitled to vote at the meeting having (in aggregate) more than 50% of the total votes of all Directors present and entitled to vote (**Simple Majority**).

20.9. Casting vote

If on any resolution an equal number of votes is cast for and against a resolution, the Chair has the casting vote.

20.10. Conduct of meetings

The Chair of each Board meeting has charge of conduct of that meeting, of the procedures to be adopted and the application of those procedures at that meeting.

20.11. Written resolutions

The Board may pass a resolution without a Board meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. For this purpose, signatures can be contained in more than one document, with each document to be identical to each other document. The resolution is passed when the last Director signs. The document may be sent or circulated by facsimile or electronic transmission.

20.12. Minutes of meetings

- (a) Within one month after each Board meeting, the Directors must record or cause to be recorded in the minute books:
 - (i) the proceedings and resolutions of each Board meeting; and
 - (ii) all resolutions passed without a Board meeting.
- (b) The chair, or the chair of the next Board meeting, must sign the minutes within one month after the meeting.
- (c) The minute books must be kept at the registered office.
- (d) The Directors may inspect the minute books between the hours of 9.00 am and 4.00 pm on any Business Day. No amount may be charged for inspection.

20.13. Sub-Committee and Advisory Group meetings

- (a) The Board may create or disband a sub-committee (being a group of Directors) at any time by Simple Majority resolution. The members of such sub-committee shall be as determined by the Board from time to time.
- (b) The Board may create or disband an advisory group (being a group of persons which may include Directors and non-Directors) at any time by Simple Majority resolution. The members of such advisory group shall be as determined by the Board from time to time.
- (c) The rules of this Constitution relating to meetings (including resolutions and minutes) and proceedings of the Board with any necessary modifications apply to the meeting of any sub-committee and advisory group of the Board except that a quorum for a meeting of any sub-committee and advisory group is from time to time to be determined by the Board.

20.14. Valid proceedings

Each resolution passed or thing done by, or with the participation of, a person acting as a Director is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or doing the thing at the time the resolution was passed or the thing was done.

21. Director's interests

21.1. Prohibition on being present or voting

- (a) Except where permitted by the Corporations Act, a Director who has a material personal interest in a matter that is being considered at a meeting of Directors:
 - (i) must not be counted in a quorum;
 - (ii) must not vote on the matter; and
 - (iii) must not be present while the matter is being considered at the meeting.
- (b) If a Director who has a material personal interest in a matter that is being considered at a meeting of the Directors is not prohibited by the Corporations Act from being present at the meeting and voting, the Director may be present, be counted in the quorum and may be heard but may not vote on the matter.

21.2. Director to disclose interests

- (a) A Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company must, as soon as practicable after the relevant facts have come to the Director's knowledge, declare the nature of the interest at a meeting of the Directors or by written notice to the Secretary.
- (b) A Director who holds any office or possesses any property by which, whether directly or indirectly, duties or interests might be created in conflict with his or her duties or interests as Director must declare at a meeting of the Directors or by written notice to the Secretary the fact and the nature, character and extent of the conflict.
- (c) For the purposes of **clauses 21.2(a)** and **21.2(b)**, a Director's interest or any conflict must be disregarded if it arises from or relates solely to a guarantee to be given by the Director (or by persons including the Director or by a body corporate of which the Director is a member or officer) in respect of a loan to the Company.

21.3. Effect of interest in contract

- (a) If a Director has an interest in a contract or proposed contract with the Company (other than as a Member), or a conflicting interest or duty in relation to any other matter being considered by the Directors, and the Director discloses the nature and extent of the interest or duty at a meeting of the Directors or by written notice to the Secretary:
 - (i) the contract may be entered into; and
 - (ii) if the disclosure is made before the contract is entered into:
 - (A) the Director may retain benefits under the contract even though the Director has an interest in the contract;
 - (B) the Company cannot avoid the contract merely because of the existence of the interest; and
 - (C) the Director is not disqualified from the office of Director.
- (b) For the purposes of **clause 21.3(a)**, contract includes an arrangement, dealing or other transaction.

21.4. Other Interests

Without limiting **clauses 21.2** or **21.3**, a Director may to the extent permitted by the Corporations Act be interested in any operation, undertaking or business undertaken or assisted by the Company or in which the Company is or may be interested.

21.5. No distribution

Despite any other provision of this Constitution, no payment made under this **clause 22** may be a distribution by the Company to any Director.

22. Appointment of Secretary

- (a) The Company must have at least one Secretary. The Board has the power to appoint a natural person to act as secretary on the terms and for such period as the Board may determine.
- (b) Any Secretary appointed may be removed at any time by the Board.

23. Seal

- (a) If the Company has a Seal the Directors must provide for the safe custody of the Seal (and any duplicate of it).
- (b) The Seal (and any duplicate of it) must not be used without the prior authority of the Board, and when used, the Seal must be used in accordance with any direction of the Board.
- (c) If a document is to be executed by the use of the Seal, the fixing of the Seal must be witnessed by two Directors or a Director and Secretary.

24. Financial records

24.1. Member's access to financial records

- (a) The Board may determine whether and, if so, the extent to which and at what times and which place and under what conditions any financial record or other records of the Company may be inspected by Members.

24.2. Directors' access to financial records

Any Director may at any time access and inspect any financial and any other record of the Company.

24.3. Access to financial records after ceasing to be a Director

The Board may determine that any person who is to cease or has ceased to be a Director may continue to have access to and inspect any financial record and any other record of the Company relating to the time during which the person was a Director.

25. Accounts

The Directors must cause the accounts of the Company to be maintained and audited in accordance with any applicable requirements of the Corporations Act.

26. Notices

26.1. General

Any notice, statement or other communication under this Constitution must be in writing, except that any notice convening a Board meeting does not need to be in writing.

26.2. How to give a communication

In addition to any other way allowed by the Corporations Act, a notice or other communication may be given by being:

- (a) personally delivered;
- (a) left at the person's current address as recorded for notices.

26.3. Communications by post

A communication is given if posted:

- (b) within Australia to an Australian address, ten Business Days after posting;
- (c) outside Australia to an address outside Australia, ten Business Days after posting.

26.4. Communications by fax

A communication is given if sent by fax, when the sender's fax machine produces a report that the fax was sent in full to the addressee. That report is conclusive evidence that the addressee received the fax in full at the time indicated on that report.

26.5. Communications by email

A communication is given if sent by email, when the information system from which the email was sent produces a confirmation of delivery report which indicates that the email has entered the information system of the recipient, unless the sender receives a delivery failure notification, indicating that the email has not been delivered to the information system of the recipient.

26.6. After hours communications

If a communication is given:

- (a) after 5.00 pm in the place of receipt; or
 - (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,
- it is taken as having been given at 9.00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

27. Indemnity and insurance

27.1. Indemnity

To the extent permitted by the Corporations Act and subject to the Corporations Act, the Company may indemnify each current or former officer, Director and Secretary of the Company in respect of any liability, loss, damage, cost or expense incurred or suffered or to be incurred or suffered by the officer, Director or Secretary in or arising out of the conduct of any activity of the Company or the proper performance of any duty of that officer, Director or Secretary.

27.2. Documenting indemnity

The Company may enter into an agreement containing an indemnity in favour of any officer, Director or Secretary. The Board will determine the terms of the indemnity contained in the agreement.

27.3. Insurance

- (a) To the extent permitted by the Corporations Act and subject to the Corporations Act, the Company may pay any premium in respect of a contract of insurance between an insurer and an officer, Director or Secretary or any person who has been an officer, Director or Secretary of the Company in respect of the liability suffered or incurred in or arising out of the conduct of any activity of the Company and the proper performance by the officer, Director or Secretary of any duty.
- (b) If the Board determines, the Company may execute a document containing rules under which the Company agrees to pay any premium in relation to such a contract of insurance.

28. Winding up

28.1. Winding up

- (a) In the event of the winding up of the Company or the revocation of its endorsement as a deductible gift recipient for income tax law, any property whatsoever remaining after satisfaction of all debts and liabilities of the Company must not be paid to or distributed among the Members, but must be given or transferred to some (one or more) other fund, authority or institution that is established in Australia and operating in the Northern Territory of Australia, but provided that there is no such fund then to some (one or more) such fund authority or institution in Australia:
 - (i) to which income tax deductible gifts can be made;
 - (ii) having objects and purposes, being charitable, similar to those of the Company; and
 - (iii) which prohibits the distribution of its or their income among its members to an extent at least as great as is imposed on this Company under or by virtue of **clause 4**.
- (b) If at the time of the winding up of the Company the Company is registered as a community housing provider under the Community Housing Providers (National Uniform Legislation) Act 2013 (Northern Territory) then all of its then remaining community housing assets in the Northern Territory must be transferred to another registered community housing

provider or to a Housing Agency in the Northern Territory that will commit to maintaining the objects of the Company.

- (c) For the purpose of clause 30.1(b), the expressions community housing provider, community housing asset and Housing Agency have meaning ascribed to them by the Community Housing Providers (National Uniform Legislation) Act 2013 (Northern Territory).