

**A Company Limited by Guarantee  
And Not Having Share Capital**



**CONSTITUTION**

**OF**

**ST MAURICE AGED CARE LTD**  
**(ABN: 16 160 441 770)**

**Final Constitution**  
**Version 1(c)**

**Last Edited  
by**

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**&**

**Ramy Mikhael (Secretary)**

**On**

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**St Maurice Aged Care Ltd**  
A company limited by guarantee  
And not having share capital

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**1. INTERPRETATION**

1.1 In this constitution unless the context otherwise requires:

“**Act**” Means the Corporations Act 2001 (CTH).

“**Board**” or “**Board of Directors**” Mean the Directors of the Company for the time being holding office pursuant to this Constitution.

“**Chairman**” Means the Director for the time being elected or appointed to the office of Chairman of the company.

“**Company**” Means St Maurice Aged Care Ltd ABN: 16 160 441 770.

“**Coptic Community Member**” Means a person verified in writing to be a member of the Christian Coptic Orthodox Community by two (3) or more of the Company’s Directors.

“**Expressions referring to writing**” Are construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form.

“**Financial Year**” Means a year commencing on 1 July.

“**Headings**” Sub-headings and notes are included for ease of reference and none of the provisions of this Constitution is to be construed or interpreted by reference to any headings, sub-headings or notes.

“**Honorary Christian Member**” Means a person who has satisfied the company’s Board of Directors that they are a member of a Christian church being a church which is a member of the Australian Council of Churches or the Catholic Church.

“**Law**” Includes statutes, ordinances, by-laws, rules and regulations of the Commonwealth or any State or any Territory of the Commonwealth or statutory governmental, semi-governmental or local governmental authority and decisions of courts in force from time to time.

“**Month**” Means calendar month.

“**NSW**” Means the State of New South Wales.

“**Objects**” Means the objects of the Company set out in clause 3.

“**Reference to “a function”**” Includes a reference to a power, authority and duty and a reference to the “exercise” of a function includes where the function is a duty, the performance of the duty.

**“Reference to Authorities”** Institutes, associations and bodies whether statutory or otherwise are in the event of any such authority, institute association, or body ceasing to exist or being reconstituted renamed or replaced or the powers or functions thereof being transferred to any other authority, institute, association or body taken to refer respectively and to the authority, institute association or body established or constituted in lieu thereof and/or as nearly as may be succeeding to the powers or functions thereof.

**“References of Sections and Clauses”** Are references to the respectively numbered provisions of this Constitution.

**“Reference to Statutes”** Regulations, ordinances or by-laws or the provisions of them are taken to extend to all statutes, regulations, ordinances, by-laws or provisions amending, consolidating or replacing them. A reference to a statute includes a reference to all regulations, ordinances, and by-laws under it.

**“Replaceable Rules”** Each of the provisions of the Act that would apply to the Company as a replaceable rule but for this clause, is expressly displaced and does not apply to the Company.

**“Secretary”** Means any person for the time being elected or appointed to perform the duties of a secretary of the Company and includes an Honorary Secretary.

**“Section 46 of the Acts Interpretation Act 1901 (Cth)”** Is taken to apply to this Constitution as if it was an instrument made by an authority under a power conferred by the Act.

**“Treasurer”** means the person for the time being elected or appointed to the office of Treasurer of the Company.

**“Words”** In the singular include the plural and vice versa; words importing one gender include each other gender; “person” includes a company or body corporate.

**“Words or Expressions”** Are to be interpreted in accordance with the provisions of the Act.

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**2. NAME**

2.1 The name of the Company is St Maurice Aged Care Ltd.

2.2 The Company may trade under the name or style of "SMAC".

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### **3. OBJECTS**

#### **3.1 Principal Objects**

The objects for which the Company is formed are for purposes beneficial to the community namely the provision of care of and facilities for any of aged, sick, handicapped, disabled, under privileged or needy people.

#### **3.2 General Objects**

Without limiting the principal objects set out under clause 3.1, the general objects of the Company are:

- (a) To accept appointment or act as delegate of any person or body corporate with or without reward and to carry out any act in exercise or performance of the delegation and to declare a trust in respect of any property whatsoever including without limitation that acquired or obtained in or in consequence of the exercise or performance of the delegation or otherwise.
- (b) To declare any trust in respect of its assets and undertaking.
- (c) To accept, appointment and to act as trustee of any trust or fund with or without reward.
- (d) To subscribe to, become a member of, co-operate with or amalgamate with any other association or organisation, whether incorporation or not, whose objects are similar to those of the Company. The Company must not subscribe to or support with its funds or amalgamate with any association or organisation which does not prohibit the distributions of its income and property among its members to an extent at least as great as that imposed on the Company under or by virtue of clause 4 of this Constitution.
- (e) To enter into any arrangements with and to act pursuant to any power, authority or duty delegated by, any government or authority, federal, state, municipal, local or otherwise, that may seem conducive to the Company's objects or any of them and to obtain from any such government or authority any rights, privileges and concessions which the Company may think it desirable to obtain; and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions.
- (f) To buy, sell and deal in all kinds of apparatus and all kinds of provisions, liquid and solid, required by the members of the Company or persons frequenting the Company's premises.
- (g) To purchase, take on lease or in exchange, hire and otherwise acquire any lands, building, easements or property, real and personal, and any rights or privileges which may be requisite for the purposes of, or capable of being conveniently used in connection with, any of the objects of the Company. Provided that in case the Company must hold any property which may be subject to any trusts,

the Company must only deal with the same in such a manner as allowed by law having regards to such trusts.

- (h)** To appoint, employ, remove or suspend such managers, clerks, secretaries, servants, work persons and other persons as may be necessary or convenient for the purpose of the Company.
- (i)** To establish and support, or aid in the establishment and support of, associations, institutions, funds, trusts and conveniences calculated to benefit employees or past employees of the Company or the dependants or family or other connections of any such persons, to grant pensions and allowances, and to make payments towards insurance and to subscribe or guarantee money for charitable or benevolent objects, or for any public, general or useful object.
- (j)** To construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences which may seem calculated directly or indirectly to advance the Company's interests, and to contribute to, subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control thereof.
- (k)** To invest and deal with the money of the Company not immediately required in such manner as the Company may from time to time think fit.
- (l)** To invest in other businesses including other companies.
- (m)** To borrow or raise or secure the payment of money in such a manner as the Company may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Company in any way and in, particular, by the issue of debentures, perpetual or otherwise, charged upon all or any of the Company's property (both present and future), and to purchase, redeem or pay off any such securities.
- (n)** To make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments.
- (o)** To sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Company.
- (p)** To take or hold mortgages, liens and charges to secure payment of the purchase price or any unpaid balance of the purchase price, of any part of the Company's property of whatsoever kind sold by the Company or any money due to the Company from purchasers and others.
- (q)** To take any gift of property whether subject to any special trust or not, for any one or more of the objects of the Company but subject always to the proviso in clause 3.2(g).
- (r)** To take such steps by personal or written appeals, public meetings or otherwise, as may from time to time be deemed expedient for the purpose of procuring



contributions to the funds of the Company in the shape of donations, annual subscriptions or otherwise.

- (s) To print and publish any newspapers, periodicals, books or leaflets and or to record or reproduce in any form any other materials that the Company may think desirable for the promotion of its objects.
- (t) In furtherance of the objects of the Company, to purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, institutions, societies or associations with which the Company is authorised to amalgamate.
- (u) To make donations for patriotic or charitable purposes.
- (v) In furtherance of the objects of the Company to create any trust or to give or grant any money to any trust under the control of the Company or any other Trust constituted for charitable purposes.
- (w) To attract and retain for the Company the continuing interest and financial support of members of the public.
- (x) To solicit donations, gifts, bequests and other forms of financial assistance to or for the Objects.
- (y) To widen knowledge and understanding of the Company, its activities, needs and objectives among the public.
- (z) To raise money from the public and establish and administer trusts and funds for the purpose of attaining the Objects or any of them.
- (aa) To do all such other acts and things as are or may be incidental or conducive to the attainment of the objects and the exercise of the powers of the Company.

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#### **4. POWERS**

The Company may exercise all powers, rights and privileges as a natural person may do or exercise, for the purpose of furthering the Objects set out above.

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#### **5. LIABILITY OF MEMBERS**

##### **5.1 Limited Liability**

The liability of the members is limited to the amount specified in clause 5.2.

##### **5.2 Contribution**

Every member of the Company undertakes to contribute to the property of the Company if it is wound up while that person is a member, or within one year after that person ceases to be a member, for payment of the debts and liabilities of the Company (contracted before that person ceases to be a member) and of the costs, charges and

expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding twenty dollars (\$20.00).

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## **6. DISTRIBUTION OF PROPERTY**

### **6.1 Application to Objects**

All of the property and income of the Company must be applied solely towards the promotion of the Objects of the Company as set out in this Constitution, and no portion of it is to be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise, to the members or directors of the Company including without limitation the payment of fees to directors of the Company.

### **6.2 Permitted Payments**

- (a) Notwithstanding clause 6.1 and subject to clauses 6.2(b), 6.2(c) and 6.2(d), the Company may make payments in good faith of remuneration to any member, officer or employee of the Company in return for any services rendered to the Company, reimbursement of expenses incurred by that member officer or employee, or for goods supplied in the ordinary and usual course of business.
- (b) The Company must not make any payment to a Director for services rendered by that Director to the Company unless the provision of those services has the prior consent of the Board, the amount payable is approved by a resolution of the Board and is on reasonable commercial terms.
- (c) The Company must not make any payment to a Director in his or her capacity as an employee of the Company, in return for any services rendered by that employee to the Company, unless the terms of that employment have first been approved by a resolution of the Board.
- (d) The Company may pay interest on money borrowed from any member and may pay reasonable and proper rent for premises let by a member to the Company.
- (e) For the purposes of clause 6.2(d), any sum paid by a member to the Company as a deposit, bond or other security for the payment of fees and charges levied under the Constitution does not constitute money borrowed from a member.

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## **7. PROPERTY AFTER WINDING UP**

If upon the winding-up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property whatsoever, it must not be paid to nor distributed among the members of the Company, but must be given or transferred to some other corporation in Australia which:

- (a) Is a public benevolent institution for the purposes of any Commonwealth taxation Act; and
- (b) By its constitution is prohibited from paying or distributing its income or property to its members at least to the extent of the prohibition in clause 6.1 of this Constitution. The corporation is to be determined by the members of the Company at or before the time of the dissolution and in default of such determination by application to the Supreme Court for determination.

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## **8. MEMBERSHIP**

### **8.1 Types of Membership**

- (a) The Company shall have two classes of members being full members and associate members.
- (b) Honorary members shall have all the rights of full members except the right to vote at the Company's general meetings.

### **8.2 Persons entitled to apply for membership**

- (a) A Christian Coptic Orthodox Community Member is entitled to apply for full membership of the Company.
- (b) A Christian Coptic Orthodox Community Member or a Honorary Christian Member may apply for associate membership of the Company

### **8.3 Application and assessment**

An application for membership must be submitted to the Secretary and accompanied by any fee prescribed by the Board.

### **8.4 Admission of Members**

- (a) The Board of Directors by resolution may in its absolute discretion admit to membership of the Company any person of or above the age of eighteen (18) years who meets the criteria referred to in clause 8.2.
- (b) The Board may reject any application for membership without assigning any reason for such rejection. If the Board rejects the application, any moneys tendered with it will be repaid to the applicant without interest.

### **8.5 Application fee**

The Board may resolve from time to time that any person applying to become a member must pay an application fee and, if so, how much and when and how it is to be paid.

## **8.6 Notice of Acceptance**

As soon as practicable after a person becomes a member the Secretary must forthwith send to him or her written notice of his or her membership.

## **8.7 Register of Members**

- (a) The Secretary must establish and maintain a register of members of the Company specifying the name and address of each person who is a member of the Company, the date on which the person became a member. The register of members must be kept at the principal place of business of the Company and must be open for inspection, without fee or charge, by any member of the Company at any reasonable hour.
- (b) A member must promptly notify the Secretary of any change in the member's details which are recorded in the register.
- (c) Any dispute that arises in relation to the register must be referred to the Board, whose decision will be final and binding on all members.

## **8.8 Fees and Subscriptions**

A member of the Company is required to pay annual membership fee of \$30 or as determined from time to time by the Board.

## **8.9 Membership not transferable**

A member must not sell, transfer or dispose of their interest in the Company to another member or third party.

## **8.10 Disciplining of Members**

- (a) A complaint may be made to the Board of Directors by any person that a member of the Company:
  - (i) has persistently refused or neglected to comply with a provision or provisions of this Constitution, or
  - (ii) has persistently and wilfully acted in a manner prejudicial to the interests of the Company.
- (b) On receiving such a complaint, the Board of Directors:
  - (i) must cause notice of the complaint to be served on the member concerned, including particulars of the alleged act, omission or conduct complained of and the intended resolution; and
  - (ii) must give the member at least fourteen (14) days from the time the notice is served within which to make submissions to the Board of directors in connection with the complaint (whether in writing or orally (or both) at the meeting and before the passage of the resolution); and

- (iii) must take into consideration any submissions made by the member in connection with the complaint.
- (c) The Board of Directors may, by a resolution passed by 75% of the Directors present and voting, expel the member from the Company or suspend the member from membership of the Company if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the action taken is warranted.
- (d) If the Board of Directors expels or suspends a member, the Secretary must within seven (7) days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the Board of Directors for having taken that action and of the member's right of appeal under clause 8.10.
- (e) The expulsion or suspension does not take effect:
  - (i) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
  - (ii) if within that period the member exercises the right of appeal, unless and until the Company confirms the resolution under clause 8.10(e) or the appeal is withdrawn or abandoned, whichever is the later.

#### **8.11 Right of Appeal of Disciplined Member**

- (a) A member may appeal to the Company in general meeting against a resolution of the Board of Directors under clause 8.10, within seven (7) days after notice of the resolution is served on the member, by lodging with the Secretary a notice to that effect.
- (b) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (c) On receipt of a notice from a member under sub-clause 8.11(a), the Secretary must notify the Board of Directors which is to convene a general meeting of the Company to be held within twenty-eight (28) days after the date on which the Secretary received the notice.
- (d) At a general meeting of the Company convened under sub-clause 8.11(c):
  - (i) no business other than the question of the appeal is to be transacted; and
  - (ii) the Board of Directors and the member must be given the opportunity to state their respective cases at his, her or its option orally or in writing, or both, and

- (iii) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (e) If at the general meeting the Company passes a special resolution in favour of the confirmation of the resolution, the resolution is confirmed.

## **8.12 Removal from the register**

- (a) Where a member is expelled from the Company, that member's name must be removed from the register.
- (b) Upon the removal of a member's name from the register:
  - (i) the member will forfeit all rights and privileges attaching to membership and all rights which the member may have against the Company arising out of the membership; and
  - (ii) the Company will have no liability to such member in respect of the removal from the register.

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## **9. CESSATION OF MEMBERSHIP**

### **9.1 Members**

A member automatically and simultaneously ceases to be a member of the Company upon:

- (a) the expiration of one month after he or she gives notice in writing to the Secretary of his or her resignation; or
- (b) death; or
- (c) becoming a mentally ill or mentally disordered person within the meaning of the Mental Health Act 1990 (NSW); or
- (d) expulsion from membership of the Company.

### **9.2 Continuing Liability**

A former member of the Company continues to be liable for all monies due by him or her or it to the Company and in addition for any sum not exceeding twenty dollars (\$20.00) for which he or she is liable as a member of the Company under clause 5.2.

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## **10. GENERAL MEETINGS**

### **10.1 Annual General Meeting**

An Annual General Meeting of the Company must be held in accordance with the provisions of the Act.

## **10.2 Extraordinary General Meeting**

The Board may convene an Extraordinary General Meeting at such time and place as the Board thinks fit, but must be convened in accordance with the Act. Members may also convene an Extraordinary Meeting, but only in accordance with the Act.

## **10.3 Convening a General Meeting**

Five (5) or more members may convene a general meeting of the Company. General meetings must also be convened on such requisition, or in default may be convened by such requisitionists, as provided by the Act.

## **10.4 Notice**

Subject to the provisions of the Act relating to special resolutions and agreements for shorter notice, fourteen (14) days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, and exclusive of the day for which notice is given) specifying the place, the day and the hour of meeting, and in the case of special business the general nature of that business must be given to such persons as are entitled to receive such notices from the Company.

## **10.5 Business**

For the purpose of clause 10.4 all business is special that is to be transacted at a general meeting and also all that is to be transacted at an Annual General Meeting, with the exception of the consideration of the accounts, balance sheets, and the reports of the Directors and auditors, office-bearers and the appointment of auditors, if necessary.

## **10.6 Alteration of procedure**

With the consent of all members entitled to vote at some particular meeting, that meeting may be convened by such shorter notice and in such manner as those members may think fit provided that such action complies with the Act.

## **10.7 Failure to receive notice**

The accidental omission to give notice of a meeting to any member or the non-receipt of such notice by any member does not invalidate any resolution passed at, or proceeding of, that meeting.

## **10.8 Cancellation or postponement of General Meeting**

Except in the case of a General Meeting convened on the requisition of members, the Board may at any time cancel or postpone a meeting before the time for holding the meeting. The Board shall endeavour to notify each member orally or otherwise of the cancellation or postponement, but failure to notify a member does not affect the validity of the cancellation or postponement.

## **10.9 Business at postponed General Meeting**

The only business that may be transacted at a postponed General Meeting is the business specified in the original notice convening the meeting.

## **10.10 Proxy or attorney at postponed General Meeting**

Where by the terms of an instrument appointing a proxy or attorney:

- (a) the appointed person is authorised to attend and vote at a General Meeting or General Meetings to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a later date than the date specified in the instrument of proxy or power or attorney,

then the later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy or power of attorney unless the Member appointing the proxy or attorney gives to the Company, at its registered office, or the Secretary, written notice to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

## **10.11 Circulating resolution**

- (a) The Company 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.
- (b) Separate copies of the document may be used for signing by members if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last member signs.

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## **11. PROCEEDINGS AT GENERAL MEETINGS**

### **11.1 General Body of Members**

The members of the Company:

- (a) constitute the general body of members; and
- (b) are entitled to receive notice of and to attend general meetings of the Company; and
- (c) are entitled to vote (whether on a show of hands or on a poll) in person or by proxy at any general meeting of the Company; and
- (d) have one vote each including without limitation on a show of hands and on a poll.

### **11.2 Appointment of Proxy**

- (a) Any member may appoint a natural person as a proxy to vote on the member's behalf and may direct the proxy to vote either for or against each or any resolution.



(b) A proxy must be a member.

### 11.3 Form of Proxy

A proxy must be in or to the effect of:

*St Maurice Aged Care Ltd ACN 160 441 770 (the Company)*

I, \_\_\_\_\_ of \_\_\_\_\_  
(full name) (address)

Being a member of the Company, hereby appoint \* (full name of proxy) of  
(address) as my proxy to vote for me as indicated below at the annual extraordinary  
general meeting of the Company to be held on and at any adjournment of that  
meeting in respect of the following resolutions:

Name or number of resolution (*specify*) \_\_\_\_\_ for/against (*specify*) \_\_\_\_\_

Unless otherwise instructed the proxy may vote as he or she thinks fit.

Dated:

Signed:

\*NOTE: A proxy vote may not be given to a person who is not a member of the  
Company.

The instrument appointing a proxy and the power of attorney or other authority, if any,  
under which it is signed or a notarial certified copy of that power or authority must be  
deposited at the registered office of the Company or at such place within NSW as is  
specified for that purpose in the notice convening the meeting, not less than forty eight  
(48) hours before the time for holding the meeting or the adjourned meeting at which  
the person named in the instrument proposes to vote and in default the instrument of  
proxy is not to be treated as valid.

If no notice in writing of the death or unsoundness of mind of the principal or of  
revocation of the authority under which the instrument was executed has been  
received by the Company at the registered office before the commencement of the  
meeting or adjourned meeting at which the instrument is used, a vote given in  
accordance with the terms of an instrument of proxy or attorney is valid  
notwithstanding the previous death or unsoundness of mind of the principal or  
revocation of the instrument or of the authority under which the instrument was  
executed.

### 11.4 Instrument Appointing a Proxy

The instrument appointing a proxy must be in writing under the hand of the appointer  
or of his or her attorney duly authorised in writing. The instrument appointing a proxy  
is taken to confer authority to demand or join in demanding a poll. A member is

entitled to instruct his or her proxy to vote in favour of or against any proposed resolutions. Unless otherwise instructed the proxy may vote as he or she thinks fit.

#### **11.5 Appointment of attorney**

- (a) Any member may, by duly executed power of attorney, appoint an attorney to act on the member's behalf at all or certain specified meetings of the Company. That power of attorney must be produced for inspection at the registered office or any other place the Board determines, together with evidence of the due execution of it the Board requires, before the attorney will be entitled to appoint a proxy for the member granting the power of attorney.
- (b) The directors may, by power of attorney, appoint any person whether nominated directly or indirectly by the directors to be an attorney or attorneys of the Company. Such appointment may be for any purposes and with powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under this Constitution) and for periods and subject to any conditions as they think fit. Any power of attorney may contain provisions for the protection and convenience of persons dealing with any attorney as the directors think fit and may also authorise any attorney to sub-delegate all or any of the powers, authorities and discretions vested in them.

#### **11.6 Voting of attorney or proxy**

- (a) A vote given in accordance with the terms of an instrument of proxy or power of attorney will be valid despite the previous death of the principal or revocation of the proxy or power of attorney, provided no notice in writing of the death or revocation has been received at the registered office before the meeting.
- (b) The principal attending and taking part in the meeting will not revoke a proxy, unless that principal votes on the resolution to which the proxy applies.

#### **11.7 Quorum**

No business is to be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Unless this Constitution otherwise provides, half the members plus one present in person is a quorum. For the purposes of this clause “member” includes a person attending as a proxy.

#### **11.8 Quorum Not Present**

If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, must be dissolved. In any other case it stands adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present are a quorum.

## **11.9 Chairman**

- (a) The Chairman or in his or her absence the Deputy Chairman will preside as chairman at every General Meeting.
- (b) If at any General Meeting neither is present within 15 minutes after the time appointed for holding the meeting or if neither is willing to preside, the members present will choose a Director to preside. If no Director is present or if all Directors present decline to preside, then those persons present will choose a member who is present to preside as chairman.

## **11.10 Adjournment**

The Chairman may, with the consent of any meeting at which a quorum is present (and must if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business must be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting must be given as in the case of an original meeting. Save as aforesaid it is not necessary to give any notice of an adjournment or the business to be transacted at an adjourned meeting.

## **11.11 Method of Voting**

At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:

- (a) by the Chairman; or
- (b) by at least two members.

Unless a poll is so demanded a declaration by the Chairman that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

## **11.12 Evidence of resolution**

Unless a poll is duly demanded, a declaration by the Chairman that a resolution has been passed or lost (having regard to the majority required) and an entry to that effect in the books of the Company, signed by the Chairman of that or the next succeeding meeting, will be conclusive evidence that the resolution has been passed or lost without proof of the number or proportion of the votes recorded in favour of or against the resolution.

### **11.13 Poll**

If a poll is duly demanded it must be taken in such a manner and either at once or after an interval or adjournment or otherwise as the Chairman directs, and the result of the poll is taken to be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a Chairman or on a question of adjournment must be taken at the meeting and without adjournment.

### **11.14 Equality of Votes**

In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded is not entitled to a second or casting vote and the motion is taken to be lost.

### **11.15 Annual General Meetings**

- (a) An annual general meeting of the Company must be held in accordance with the provisions of the Act.
- (b) The business of an annual general meeting is the consideration of the accounts, balance sheets, the report of the Board and auditor, the election of officers and other members of the Board, the appointment and fixing of the remuneration of the auditors and such business as is prescribed by the Act.

### **11.16 Extraordinary general meetings**

All general meetings, other than annual general meetings, are to be called extraordinary general meetings.

### **11.17 Convening or Requisition of Extraordinary General Meetings**

Any member of the Board or any ten members of the Company may, whenever he, she or they think fit, requisition an extraordinary general meeting. Extraordinary general meetings must be convened by the Secretary on such requisition, or in default may be convened by the requisitionists as provided by the Act.

### **11.18 Notice of General Meetings**

Subject to the provisions of the Act relating to special resolutions and agreement for shorter notice, fourteen (14) days' notice at the least (exclusive of the day on which the notice is served or taken to be served, but inclusive of the day for which notice is given) specifying the place, the day, and the hour of meeting, and in case of special business, the general nature of that business must be given (and in the case of removal or appointment of any Director or office bearer, the name of the person concerned) to such persons as are entitled to receive such notices from the Company.

### **11.19 Special Business**

All business is taken to be special that is transacted:

- (a) at an extraordinary general meeting, and

- (b) at an annual general meeting, with the exception of the consideration of the accounts, balance sheets, the report of the Board and auditor, the election of officers and other members of the Board, and the appointment and fixing of the remuneration of the auditors.

#### **11.20 Use of technology**

The Company may hold a General Meeting at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

#### **11.21 Auditor**

The Auditor is entitled:

- (a) to attend any General Meeting of the Company;
- (b) to receive all notices of and other communications relating to any General Meeting which a member is entitled to receive; and
- (c) to be heard at any General Meeting which the auditor attends on any part of the business of the meeting which concerns the auditor in that capacity and is entitled to be heard, despite the fact that the auditor retires at that meeting or a resolution to remove the auditor or the agent from office is passed at that meeting.

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### **12. VOTES OF MEMBERS**

#### **12.1 Entitlement to vote**

Each full member present in person or represented by proxy or attorney is entitled to one vote at a General Meeting of the Company, whether by show of hands or on a poll.

#### **12.2 Resolutions**

Any resolution of members will not be taken to be carried whether on a show of hands or a poll unless the requisite majority comprises the following:

- (a) in the case of an ordinary resolution of members, there is an affirmative vote of more than 50% of members present and entitled to vote (in person or by an attorney or proxy);
- (b) in the case of a special resolution of members, there is an affirmative vote of more than 75% of Members present and entitled to vote (in person or by attorney or proxy);

#### **12.3 Special Resolutions**

The following matters will require a special resolution of the members:

- (a) any business which the Act states requires a special resolution;

- (b) any alteration to Company's legal status;
- (c) voluntary winding up of the Company;
- (d) changing the purposes, Objects or scope of the Company;
- (e) any variation or amendment to, or repeal of this Constitution; and
- (f) making, varying or repealing the Company's by-laws.

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## **13. THE BOARD OF DIRECTORS**

### **13.1 Election of Directors**

- (a) The Company must elect its directors at its annual general meeting.
  - (i) Directors are to be appointed for a term of three (3) years from the date of their election.
  - (ii) Directors will be eligible to stand for re-election at the end of their three (3) years term.
- (b) The office-bearers of the Company are:
  - (i) The Chairman
  - (ii) Deputy Chairman
  - (iii) The Treasurer
  - (iv) Secretary
- (c) If it so desires the Board may elect from its own members, persons to fill the following positions as required:
  - (i) Fund raising
  - (ii) Marketing
  - (iii) Property
  - (iv) Governance
- (d) Each Director, subject to this Constitution, holds office until the conclusion of the annual general meeting following the date of the Director's election, but is eligible for re-election.
- (e) In the event of a casual vacancy occurring in the Board and/or the office-bearers, the Board may nominate a member or members of the Company to fill the vacancy and the company may elect a person to fill the said casual vacancy by election at a special general meeting of the Company and clause 13.2 applies mutatis mutandis to the election at

the special general meeting. The Director so appointed holds office, subject to this Constitution, until the conclusion of the annual general meeting next following the date of the appointment.

### **13.2 Numbers of Persons to Comprise Board of Directors**

- (a)** The Board of Directors must consist of 11 members, from whom the following will be elected:
  - (i)** The Chairman
  - (ii)** Deputy Chairman
  - (iii)** The Treasurer
  - (iv)** Secretary
- (b)** Nominations of candidates for election as office-bearers of the Company or as other Directors:
  - (i)** Must be made in writing, signed by at least one member of the Company and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and
  - (ii)** Shall be delivered to the Secretary not less than seven days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- (c)** If insufficient nominations are received to fill all vacancies on the Board, further nominations are to be received at the annual general meeting.
- (d)** If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.
- (e)** If the number of nominations received equals or exceeds the number of vacancies to be filled, a ballot must be held.
- (f)** The ballot for the election of office-bearers and ordinary members of the committee must be conducted at the annual general meeting in such usual and proper manner as the Board may direct.
- (g)** Subject to clause 13.1 a nomination of a candidate for election under this clause is not valid if that candidate has been nominated for election to another office at the same election.

### **13.3 Removal of Director**

- (a)** The Company in general meeting may by resolution remove any Director from the office of Director before the expiration of the Director's term of office and may by resolution appoint another person

to hold office until the expiration of the term of office of the Director so removed.

- (b) Where a Director to whom a proposed resolution referred to in sub-clause 13.3(a) related makes representations in writing to the Secretary or the Chairman (not exceeding a reasonable length) and requests that the representations be notified to the members of the Company, the Secretary or the Chairman may send a copy of the representations to each member of the Company or, if they are not so sent, the Director is entitled to require that the representations be read out at the meeting at which the resolution is considered.

#### **13.4 Ceasing to be a Director**

A person ceases to be a Director of the Company if he or she:

- (a) Ceases to be a member of the Company; or
- (b) Is removed from the office of Director of the Company; or
- (c) Resigns his or her office of Director of the Company by notice in writing to the Company; or
- (d) For more than six months is absent without permission of the Board from meetings of the board held during that period; or
- (e) Holds an office of profit under the Company other than as permitted under clause 6.2; or
- (f) Fails to give notice of a material personal interest in a matter that relates to the affairs of the Company as required by section 191 of the Act; or
- (g) 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; or
- (h) Becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- (i) Becomes of unsound mind; or
- (j) Becomes prohibited from being a director of a company by reasons of any order made under the Act; or
- (k) Becomes disqualified from managing a corporation under the Act.

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## **14. POWERS AND SUTIED OF THE BOARD OF DIRECTORS**

### **14.1 Management and Exercise of Power of the Company**

The business of the Company is managed by the Board who may pay all expenses incurred in promoting and registering the Company and may exercise all such powers



of the Company as are not, by this Constitution or the Act, required to be exercised by the Company in general meeting.

#### **14.2 Rules, Regulations and By-laws**

The Board may make rules, regulations and by-laws which are not inconsistent with any other provision of this Constitution or the Act. Any such rule, regulation or by-law may be disallowed by the Company in general meeting.

#### **14.3 Acts of Board Remain Valid**

No resolution passed by the Company in a general meeting invalidates any prior act of the Board which would have been valid if that resolution had not been passed.

#### **14.4 Borrowing**

The Board may raise money in any manner it thinks fit including the borrowing of money on the security of the Company's assets and the issuing of a security for any other purpose.

#### **14.5 Investment**

The Board may invest funds of the Company in any manner and for any period as it thinks fit.

#### **14.6 Negotiable Instruments**

All cheques, promissory notes, drafts bills of exchange and other negotiable instruments, and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed as the case may be, by one Director and another person for the time being designated by the Board or in such other manner as the Board from time to time determines.

#### **14.7 Directors to act in the best interests of the Company**

Each Director must act in the best interests of the Company as a whole and with due regard to the furtherance of the Company's objectives. Each Director must also act in accordance with a non-excluded duty or obligation owed by the Director to the Company or the Members under general law, the Act, or other provisions of this Constitution.

#### **14.8 Minutes**

The Board must cause minutes to be made:

- (a) Of all appointments of officers and servants;
- (b) Of the names of the directors present at all meetings of the Company and of the Board;
- (c) Of all proceedings at all meetings of the Company and of the Board.

The minutes must be signed by the Chairman of the meeting at which the proceedings were held or by the Chairman of the next succeeding meeting.

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## **15. PROCEEDINGS OF THE BOARD OF DIRECTORS**

### **15.1 Meetings**

The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit. The Board must meet at least three times in any period of twelve (12) months. A Director may at any time and a Secretary must, on the requisition of the Chairman or a Director convene a meeting of the Board.

### **15.2 Notice of Meetings**

- (a) Oral or written notice of a meeting of the Board must be given by the Secretary to each Director at least forty-eight (48) hours (or such other period as may be unanimously agreed upon by the Board) before the time appointed for the holding of the meeting.
- (b) Notice of a meeting given under clause 15.2(a) must specify the general nature of the business to be transacted at the meeting and no business other than that business may be transacted at the meeting, except business which the Directors present at the meeting unanimously agree to treat as urgent business.
- (c) The accidental omission to give notice of a meeting to, or the non-receipt of a notice of meeting by, a Director will not invalidate proceedings at a Board meeting.

### **15.3 Voting**

- (a) Subject to this Constitution, questions arising at any meeting of the Board are decided by a majority of votes and a determination by a majority of the Directors present is for all purposes taken to be a determination of the Directors. In case of an equality of votes the Chairman does not have a second or casting vote and the motion is taken to be lost.
- (b) Questions arising at any meeting will be decided by a majority of votes and each Director present will be entitled to one vote.

### **15.4 Quorum**

- (a) Unless otherwise determined by the Board, a quorum for meetings of the Board is half plus one of the Directors, or if the number of Directors is not a multiple of two, then the odd number nearest to and greater than half of the Directors.
- (b) No business is to be transacted by the Board unless a quorum is present and if within half an hour or the time appointed for the meeting a

quorum is not present the meeting stands adjourned to the same place and at the same hour of the same day in the following week.

- (c) If at adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is dissolved.

#### **15.5 Vacancy**

The Directors may act notwithstanding any vacancy in the Board, but if and so long as their number is reduced below the number pursuant to clause 15.4 as the necessary quorum of the Board, the Director or Directors may act for the purpose of increasing the number of Directors to that number or of convening a general meeting of the company, but for no other purpose.

#### **15.6 Chairman**

At a meeting of the Board:

- (a) The Chairman or, if he or she is absent or unwilling to act, a Deputy Chairman chosen by the members present at the meeting presides; or
- (b) If the Chairman and both the Deputy Chairman are absent or unwilling to act, such other Director as may be chosen by the members present at the meeting presides.
- (c) The Chairman will not have a casting vote if a vote is tied.

#### **15.7 Delegation to Committee**

- (a) The Board may delegate any of its powers and or functions (not being duties imposed on the Board as the Directors of the Company by the Act or the general law or this power of delegation) to employees, individual Directors or members or to one or more committees consisting of such member or members of the Company as the board thinks fit. Any committee so formed must conform to any regulations that may be given by the Board and subject thereto has power to co-opt a member or members of the company and may meet and adjourn as it thinks fit. Each member of a committee has one vote.
- (b) The Board may not delegate its power to delegate.

#### **15.8 Advisor Committees**

The Board may appoint one or more advisory committees consisting of such member or members of the Board and such other member or members (whether or not members of the Company) as the Board thinks fit. Such advisory committees act in an advisory capacity only. They must conform to any regulations that may be given by the Board and, subject thereto, have power to co-opt any other member or members of the Company and may meet and adjourn as it thinks fit.

## **15.9 Meetings of and Voting at Committees**

- (a) The meetings and proceedings of any committee will be governed by the provisions of this Constitution for regulating the meetings and proceedings of the Board so far as applicable and so far as those provisions are not superseded by any other direction given by the Board.
- (b) Questions arising at any meeting are determined by a majority of votes of the members present, and in the case of an equality of votes the Chairman does not have a second or casting vote and the motion is taken to be lost.

## **15.10 Validity of Acts**

All acts done by any meeting of the Board, of a committee or by any Director are notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Board, Committee or Director, or that the Directors or any of them were disqualified, as valid as if every such person had been duly appointed and was qualified to be a Director or committee member.

## **15.11 Circular resolution**

- (a) A resolution in writing signed by all Directors for the time being entitled to receive notice of a meeting of the Board is as valid and effectual as if it had been passed at meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more Directors.
- (b) A reference in clause 15.11(a) to all Directors does not include a reference to a Director who, at a meeting of Directors, would not be entitled to vote on the resolution.

## **15.12 Use of technology in conferencing**

- (a) Without limiting the discretion of the Board to regulate their meetings, the Board may, if it thinks fit, confer by radio, telephone, facsimile, computer, Internet, closed circuit television or other electronic means of audio or audio-visual communication. A resolution passed by such a conference will, notwithstanding that the Directors are not present together in one place at the time of the conference, be deemed to have been passed at a meeting of the Board held on the day and at the time the conference was held.
- (b) The provisions of this Constitution regulating the proceedings of the Board apply so far as they are capable to such conferences.

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## **16. SECRETARY**

The secretary must, in accordance with section **204D** of the Act, be appointed by the Board for such term, upon such conditions as it thinks fit, and any Secretary so

appointed may be removed by it. This does not prevent the Board from appointing a member of the Company as Honorary Secretary and any member so appointed forthwith becomes an office-bearer of the Company and, if not already a member of the Board, ex officio a member of the Board and any member so appointed is subject to the provisions of section 5 of this Constitution.

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## **17. TREASURER**

It is the duty of the Treasurer to ensure that:

- (a) All money due to the Company is collected and received and that all payment authorised by the Company are made; and
- (b) Correct books and accounts are kept showing the financial affairs of the Company including full details of all receipts and expenditure connected with the activities of the company.

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## **18. DUTIES, TAXES AND CHARGES**

- (a) Each Member will be liable for all duty and any other taxes or charges payable in respect of the application, the membership and any other transaction or instrument or transaction relating to such.
- (b) Each member indemnifies and will keep indemnified the Company in respect of all and any liability for duty, taxes or other charges referred to in the preceding clause.

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## **19. ACCOUNTS**

### **19.1 Reports and Records**

The Board must cause proper accounting and other records to be kept and must distribute copies of every profit and loss account and balance sheet (including every document required by law to be attached thereto) accompanied by a copy of the Auditor's report thereon as require by the Act, provided however, that the Board must cause to be made out and laid before each Annual General Meeting a balance sheet and profit and loss account made up to a date not more than five months before the date of the meeting and not less than 14 days before the AGM.

### **19.2 Inspection**

The Board must from time to time determine at what times and places and under what conditions or regulations, the accounting and other records of the Company are open to the inspection of members.

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## **20. AUDIT**

### **21. The Company will observe the provisions of the Act in relation to the appointment, removal and resignation of an Auditor. NOTICES**

#### **21.1 Members**

Any notice required by law or by or under this Constitution to be given to any member must be given by sending it by post to him or her at his or her registered address, or to the address, if any, supplied by him, her or it for the giving of notices. Where a notice is sent by post, service of the notice is taken to be effected by properly addressing, prepaying and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting on the day after the date of its posting, and in any other case at the time at which the letter would be delivered in the ordinary course of post.

#### **21.2 General Meetings**

- (a) Notice of every general meeting must be given in any manner hereinbefore authorised to:
  - (i) Every member except those members for whom the Company has no registered address or other address or an address for the giving of notices to them and
  - (ii) The Auditor or Auditors for the time being of the Company.
- (b) No other person is entitled to receive notices of General Meetings.

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## **22. INDEMNITY**

- (a) Subject to section 199A of the Act, every Director, Auditor, Secretary and other officer for the time being of the Company is indemnified out of the assets of the Company against any liability arising out of the execution of the duties of his or her office.
- (b) Without limiting clause 22(a), every officer must be indemnified out of the assets of the Company against any liability incurred by that person in defending proceedings, whether civil or criminal, in respect of any act or thing done by the officer in that person's capacity as such officer but excluding any liability from or against which the Company is not permitted by the Act to exempt or indemnify the officer.

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## **23. NOTICES**

### **23.1 Methods of Service**

The Company may serve notice on any member either:

- (a) personally;
- (b) by sending it by post to the member's registered address, or by leaving at the registered address in an envelope addressed to the member;
- (c) by sending it to the fax number or electronic address nominated by the member.

### 23.2 Post

- (a) A document sent by post:
  - (i) if sent to an address in Australia, may be sent by ordinary post; and
  - (ii) if sent to an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the business day after the date of its posting.

- (b) In proving such service, it is sufficient to prove that the envelope containing the notice was properly addressed and deposited as a prepaid letter at the post office or in some postal receptacle.

### 23.3 Fax or electronic transmission

A document sent or given by fax or to an electronic address:

- (a) is taken to be effected by properly addressing and transmitting the fax or electronic transmission; and
- (b) is taken to be served on the business day after it is sent.

### 23.4 Evidence of service

A certificate in writing signed by the Secretary or any officer of the Company that the envelope containing the notice was properly stamped, addressed and posted will be conclusive evidence of the service of such notice.

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## 24. ST MAURICE AGED CARE LTD GIFT FUND (DEDUCTIBLE TAX RECIPIENT UNDER THE INCOME TAX ASSESSMENT ACT 1997 (CTH))

### 24.1 Definitions

In this clause:

“**Fund**” means the fund called St Maurice Aged Care Gift Fund established and managed for the time being by the Company for the purposes of complying with the requirements of the Income Tax Act for the Company to be and remain a deductible gift recipient comprising the money and property at any time and from time to time being or representing:

- (a) The property (including money) comprised in any gift for the Principal Purpose;
- (b) All additions to the fund which, at any time and from time to time, are accepted by or on behalf of the fund as such additions; and
- (c) Income derived from investment of, or generated by, the whole or any part of the fund; and
- (d) The proceeds of the realisation of the fund or of any part of it; and
- (e) Any property from time to time acquired with money or other property constituting or forming part of the fund; and
- (f) All additions or accretions to the fund arising from, or attributable to, the investment of its money, and/or its property.

**“Income Tax Act”** means the income Tax assessment Act 1997 (CTH).

**“Principal Purpose”** means the provision of nursing home and/or hostel and/or self-care unit facilities for, and the provision of care in those facilities of, aged, sick, handicapped, disabled, under-privileged or needy people.

#### **24.2 Constitution of the Fund**

- (a) The Fund must be maintained for the Principal Purpose.
- (b) Any gifts of money or property made to the Company for the Principal Purpose must be deposited in and/or credited to the Fund.
- (c) Any money received by the Company because of any gift to it for the Principal Purpose must be deposited in and/or credited to the fund.
- (d) Money or property other than that specified in clauses 24.2(b) and 24.2(c) must not be deposited in and/or credited to the fund.
- (e) The Fund must not be used for any purpose other than the Principal Purpose.

#### **24.3 Winding Up of the Fund**

- (a) The Fund must be wound up on the earlier to occur of:
  - (i) Such date as the Company may determine; or
  - (ii) The revocation of endorsement of the Company as a designated gift recipient under the Income Tax Act.
- (b) Upon the winding up of the Fund any property or money whatsoever (including without limitation any indebtedness of the Fund) remaining after satisfaction of all debts and liabilities must be paid or transferred to or applied in, towards or for the benefit of any one or more of an



entity or a fund or an authority or an institution to which income tax deductible gifts may be made under the Income Tax Act.

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# Schedule 1

(Clause 8)

## Application For Membership Of Company

**ST MAURICE AGED CARE LTD**, a company incorporated under the Corporations Act 2001 (Cth), limited by Guarantee and not having Share Capital.

I, .....

(full name of applicant)

of .....

(address)

..... ,

(occupation)

hereby apply to become a Member of the above-named Company. In the event of my admission as a Member, I agree to be bound by the Constitution of the Company for the time being in force.

.....

Signature of applicant

Date.....

I, .....

(full name)

a Member of the Company, nominate the applicant, who is personally known to me, for Membership of the Company.

.....

Signature of proposer

Date.....

I, .....

(full name)

a Member of the Company second the nomination of the applicant, who is personally known to me, for membership of the Company.

.....

Signature of seconder

Date.....