

**CONSTITUTION
OF
AUSTRALIAN MARIST SOLIDARITY LIMITED
ABN 46 373 535 209
ACN 132 009 851**

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RECITALS

- A. The Company was initially established by the authority of the provincials of the former Sydney and Melbourne Province of the Marist Brothers as a not-for-profit organisation focused on overseas aid, education and community development projects conducted under the auspices of the Marist Brothers.
- B. The Company is an integral part of the mission of the Institute of the Marist Brothers of the Schools, a Religious Institute founded in France in 1817 and operating in Australia since 1872.
- C. The Company respects the dignity and potential of each human person. The Company demonstrates this value in its recognition of the rights and responsibilities of the individual and a commitment to self determination.
- D. The Company attends particularly to the needs of the disadvantaged including but not limited to young people, recognising their just claim to the resources of their community. It undertakes to provide service regardless of race, creed, colour, gender, disability or country of origin as resources permit.
- E. The benefits of the Company's activities are intended to be permanent in nature with its development activities forming part of a comprehensive economic, social and cultural process aimed at constant improvement of the well being of the population involved. It is further intended, through partnership with indigenous organisations that the recipients of these benefits will have a free and meaningful participation in the development process and that all benefits will be distributed fairly.
- F. In pursuing its objects, the Company must at all times act consistent with the social teachings of the Church and the charism and ethos of the Religious Institute.

1.0 INTERPRETATION

1.1 In this Constitution, unless there is something in the subject or context inconsistent therewith:-

“Act” means the Corporations Act 2001 and any statutory modification or enactment thereof;

“Approved Organisation” means an organisation declared for the time being by the Minister for Foreign Affairs to be an approved organisation

“Board” includes a meeting of the Directors duly called and constituted at which a quorum shall be present or, as the case may be, the Directors assembled or represented at such a meeting;

“Board Committee” means a committee that is integral to the work of the Board either as required by this constitution or by legislation or by resolution of the Board.

“Canon Law” means the body of law known as canon law within the Catholic Church;

“Chair of Board” means the chair for the time being of the Board or in the case of absence the Deputy Chair for the time being of the Board or in the absence of the Deputy Chair such other person as may be appointed by the Board to perform the duties of Chair;

“Chair of Members” means the chair for the time being of Company Members;

“Chief Executive Officer” means the senior executor officer appointed under Rule 18

“Company” means Australian Marists Solidarity Limited (ABN 463 735 3209) (AMS) whatever its name may be from time to time;

“Company Members” means members of the company for the time being;

“Constitution” means the constitution for the time being of the company;

“Corporation” means any body corporate, whether formed or registered within or outside the state;

“Deputy Chair” means the Deputy Chair for the time being of the Board;

“Directors” means the directors for the time being of the Company;

“Executive Officer” means the Executive Officer for the time being of the Company;

“Financial Year” means the twelve (12) months commencing the 1st January in each year or such other date as the Company Members determine;

“Minister for Foreign Affairs” means the Commonwealth Minister of the Crown responsible for Australian Foreign Affairs as appointed from time to time by the Governor General of Australia.

“Office” means the registered office for the time being of the Company;

“Province” means the Marist Brothers Province of Australia;

“Provincial” means the provincial of the Province for the time being under Canon Law;

“Provincial Council” means the provincial and members from time to time of the leadership team of the Religious Institute;

“Register” means the register of Company members kept in accordance with the Act;

“Religious Institute” means the institute of the Marist Brothers of schools or religious institute of the Roman Catholic Church under Canon Law founded in France in 1817 and represented in Australia by the Marist Brothers Province of Australia.

“Rule” means a rule contained in this Constitution;

“Secretary” means any person appointed to perform the duties of a secretary of the Company and includes an honorary secretary;

“Standing Committee” means a committee that is integral to the work of the Board either as required by this Constitution or by legislation or by a resolution of the Board;

“State” means the state or territory of Australia in which the Company is sited;

“Trustees” means a body corporate pursuant to the provisions of the Roman Catholic Church Communities’ Lands Act 1942 of New South Wales and known as Trustees of the Marist Brothers ABN 91 064 875 510;

“Vice Provincial” means the deputy of the Provincial;

1.2 Interpretation: In this Constitution, unless there is something in the subject or context inconsistent therewith:-

- (a) “in writing” or “written” includes printing, lithography, typing, writing or other modes of representing or reproducing words in a visible form.
- (b) Words importing the singular number include the plural number and vice versa and words importing the masculine gender include the feminine gender and neuter gender and words referring to persons include corporations.
- (c) Words or expressions contained in this Constitution shall be interpreted in accordance with Part 1.2 of the Act as in force at the date this Constitution became binding on the Company.

2.0 EXCLUSION OF REPLACEABLE RULES

- 2.1 The replaceable Rules provided for in the Act shall not apply to the Company.

3.0 OBJECTS OF THE COMPANY

- 3.1 The principal object of the Company is to provide and facilitate development and/or relief activities for necessitous persons in developing countries as published from time to time by the Minister for Foreign Affairs under the auspices of the Religious Institute whilst working in partnership with indigenous organisations.
- 3.2 Of equal importance as a principal object is that the Company maintains connection with and follows the charism objects of the Religious Institute.
- 3.3 .The Company is an Approved Organisation
- 3.4 The Company will is trustee of Australian Marist Solidarity Overseas Aid Fund.

4.0 POWERS OF THE COMPANY

- 4.1 The powers of the Company shall include all such powers as are necessary to enable the Company to carry out its objects and to do all things it is required or permitted to do, except that the power of investment by the Company shall be limited to an investment authorised by a Trustee Act of a state in which the investment is made but only to one or more of the following:-
- a. an Australian Owned Bank supervised by the Australian Prudential Authority;
 - b. any Catholic Diocesan development fund;
 - c. any such other fund as may be approved by the Company Members; and
 - d. any investment fund as listed in an approved schedule signed by the Company Members.
- 4.2 The income and property of the Company from wherever it is derived shall be applied solely towards the promotion of the objects of the Company and no portion thereof shall be paid or transferred directly or indirectly by way of dividend bonus or otherwise howsoever by way of profit to the Company Members PROVIDED THAT, except in the case of a Director (who may only be paid by the Company in the circumstances outlined in Rule 4.3), nothing herein contained shall prevent the payment in good faith of remuneration to any officers or employees of the Company nor to any Company Member thereof or any other person in return for any service actually rendered to the Company, nor the payment of all reasonable or proper rent for premises let by any Company Member nor payment in relation to any contract nor payment for the provision of goods or service where the

Company Member's right arises other than by virtue of the Company Member's membership of the Company.

- 4.3 The Company shall not make payments to any Director of the Company other than:-
- a. for the payment of out-of-pocket expenses incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;
 - b. for payment of any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
 - c. for payment of any salary or wage due to the Director as an employee of the Company where the terms of employment have been approved by the Directors of the Company.

5.0 WINDING UP

5.1 Surplus assets not to be distributed to members

If the Company is wound up, any surplus assets must not be distributed to a member or a former member of the Company, unless that member or former member is a charity described in Rule 5.2.

5.2 Distribution of surplus assets

Subject to the Act and any other applicable Act, and any court order, any surplus assets that remain after the Company is wound up must be distributed to one or more charities:

- a. with charitable purpose(s) similar to, or inclusive of, the purpose(s) in Rule 3, and
- b. which also prohibit the distribution of any surplus assets to its members to at least the same extent as the Company.

5.3 The decision as to the charity or charities to be given the surplus assets must be made by a special resolution of members at or before the time of winding up, or failing such choice, by the Provincial.

5.4 The liability of the Company Members is limited.

5.5 Every Company Member undertakes to contribute to the property of the Company in the event of the same being wound up while he or she is a Company Member, or within one year after he or she ceases to be a Company Member, for payment of the debts and liabilities of the Company (contracted before he or she ceases to be a Company 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 one hundred dollars (\$100.00).

6.0 COMPANY MEMBERSHIP

6.1 The members of the Company shall be the Provincial and the members of the Provincial Council. who shall be deemed to have applied for membership and to have had their names entered in the register as members of the Company upon their appointment

7.0 REGISTER OF COMPANY MEMBERS

7.1 The Secretary shall keep and maintain a Register and shall enter therein the full name, address and date of entry of each company member. The Register shall be available for inspection and copying by Company Members and the Provincial upon request.

7.2 Admission to membership will only become effective upon the Register being updated to note that person as a Company Member.

8.0 RESIGNATION, REMOVAL AND RETIREMENT OF COMPANY MEMBERS

8.1 Any Company Member shall cease to be a Company Member upon the happening of any one of the following events:-

- a. if the Company Member resigns from being a Company Member by notice in writing to the Provincial;
- b. if notice in writing from the Provincial is given to the Secretary that the membership of the Company of a particular Company Member has ended.
- c. at the expiration of the term of a person as Provincial or Provincial Councillor referred to in Rule 6.
- d. Upon any Company Member becoming an employee of the Company

8.2 Upon a person ceasing to be a Company Member, the Secretary shall make in the Register an entry recording the date on which the Company Member ceased to be a Company Member.

9.0 GENERAL MEETINGS

9.1 An Annual General Meeting of the Company shall be held in accordance with the provisions of the Act. All general meetings, other than Annual General Meetings, shall be called general meetings.

9.2 A general meeting shall be convened on such requisition or otherwise as provided for in the Act.

9.3 Subject to the provisions of the Act relating to special resolutions and agreements for shorter notice, twenty one 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; where there is special

business the general nature of that business shall be given to such persons as are entitled to receive such notices.

9.4 The business of an Annual General Meeting shall include any of the following, even if not referred to in the notice of meeting:

- a. Report of Chair of the Board;
- b. Report of the Chief Executive Officer.
- c. consideration of the annual financial statement as required by the Act and by current accounting standards;
- d. election of Directors, subject to Rule 11.2;
- e. appointment or removal of the Auditor, if necessary.

Any other business, at an Annual General Meeting or a general meeting, shall be considered to be special business.

9.5 The Company Members may in general meeting determine matters of policy to be followed by the Board in the management of the Company, including policies, statements and protocols approved by the Provincial for use in all works associated with the Religious Institute. Such matters of policy may include the following:-

- a. philosophy, including catholicity and ethos;
- b. selection of Directors and succession planning for Directors;
- c. succession planning for the appointment of the Chief Executive Officer and selection, appointment, reappointment, suspension and removal of the Chief Executive Officer ;
- d. induction and appraisal of the Chief Executive Officer and review by the Board;
- e. amendment of the Constitution subject to the procedures of Rule 26.

If there is a doubt as to whether an issue involves a matter of policy the ruling of the Chair of Members shall be final and conclusive.

9.6 The Company Members in general meeting may pass resolutions upon any matter that:-

- a. is referred to them for their attention as a matter of policy by any Company Member for the time being or by the Provincial;
- b. is referred to them for their attention as a matter of policy by the Board.

9.7 Any decision of the Company Members made in accordance with this Constitution shall be conveyed to the Board and the Provincial in writing by the Chair of Members.

9.8 A person, who is duly authorized in writing to attend a general meeting by the Chair of Members or the Provincial or his delegate is entitled to be present but may not vote on any matter unless he is a Member.

10.0 PROCEEDINGS AT GENERAL MEETINGS

10.1 No business shall be transacted at any general meeting unless a quorum of Company Members is present at the time when the meeting proceeds to business. A quorum shall be half of the

Company Members, or two, whichever is the greater, and a quorum must be present, in person or by proxy, at all times during the meeting.

- 10.2 The Company may hold a meeting at two or more venues using any technology consented to by all Company Members which consent shall be a standing one unless a majority of Company Members agree otherwise.
- 10.3 Except in the case of a resolution under section 329 of the Act to remove an auditor, or any other resolution which the Act or this Constitution requires to be passed at a general meeting, the Company may pass a resolution otherwise required or permitted to be passed at general meetings without the general meeting being held if all the Company Members who are 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.
 - a. Separate copies of the document may be used for signing by the Company Members if the wording of the resolution is identical in each copy;
 - b. The resolution is passed when the last Company Member signs the document;
 - c. If the Company passes a resolution under this Rule, the Company is not required to comply with Rule 10.1;
 - d. The passage of a resolution in accordance with this Rule satisfies any requirement of the Act or this Constitution that the resolution be passed at a general meeting;
 - e. This Rule does not affect any rule of law relating to the assent of Company Members not given at a general meeting.
- 10.4 Directors may attend the Annual General Meeting but shall not be counted for the purposes of constituting a quorum and shall not be entitled to vote.
- 10.5 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 Company Members, shall be dissolved; in any other case it shall stand 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 Chair of Members may determine; if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting is dissolved.
- 10.6 The Provincial shall be the chair of Members. The Provincial shall represent the Company Members in liaison with the Chair of Board and the Chief Executive Officer. The Vice Provincial will be the deputy Chair of Members.
- 10.7 The Chair of Members or in his absence the Deputy Chair of members will act as chair at every General Meeting of the Company.
- 10.8 At any General Meeting at which a quorum is present the Chair may, with the consent of the Company Members present (and shall if so directed by the meeting), adjourn the meeting from time to time and

from place to place. No business shall 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 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give notice of an adjournment or the business to be transacted at an adjourned meeting.

- 10.9 A resolution put to the vote at any general meeting shall be decided on a show of hands unless a poll is demanded. A demand for a poll may be withdrawn.
- 10.10 On a show of hands a declaration by the Chair of Members is conclusive evidence of the result, provided that the declaration reflects the show of hands and the votes of proxies received. Neither the Chair of Members nor the minutes need state the number or proportion of the votes recorded in favour or against the resolution. The result of the poll shall be the resolution of the meeting at which the poll was demanded.
- 10.11 A poll on the election of Chair of Members or on the question of adjournment must be taken immediately. A poll that is duly demanded on any other resolution shall be taken when and in the manner the Chair of Members directs.
- 10.12 In the case of an equality of votes, whether on a show of hands or on a poll, the Chair of Members shall not be entitled to a second or casting vote.
- 10.13 A Company Member may vote in person, or by proxy provided that the proxy must be another Member of the Company. On a show of hands or on a poll, every person present in person or by proxy shall have one vote.
- 10.14 A Company Member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health may not vote.
- 10.15 The instrument appointing a proxy shall be in writing under the hand of the appointor duly authorised in writing. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll. A Company Member shall be entitled to instruct his or her proxy to vote in favour of or against any proposed resolutions. Unless otherwise instructed a proxy may vote as he or she thinks fit.
- 10.16 The instrument appointing a proxy may be in the following form or in a common or usual form.

I, of
hereby appoint of
..... or failing him or her.....
of as my proxy to vote for me on my behalf at the general
meeting of the Company, to be held on the day of, 20... and at
any adjournment thereof.

My proxy is hereby authorised to vote *in favour of/*against the following resolutions.

Signed this day of , 20

* Delete whichever is not desired.

- 10.17 The instrument appointing a proxy shall be deposited at the Office or at such other place within the State as is specified for that purpose in the notice convening the meeting, not less than twenty-four (24) hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than twenty-four (24) hours before the time appointed for the taking of the poll and, in default of the above, the instrument of proxy shall not be treated as valid.
- 10.18 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or unsoundness of mind of the Company Member or revocation of the instrument or of the authority under which the instrument was executed if no intimation in writing of such death, unsoundness of mind or revocation has been received by the Company at its Office before the commencement of the meeting or adjourned meeting at which the instrument is used.

11.0 BOARD OF DIRECTORS

- 11.1 The management of the Company shall be vested in the Board.
- 11.2 The Board shall consist of not less than three (3) and not more than twelve (12) persons who, subject to this Constitution, shall be appointed by the Company Members after receiving advice from the Directors.
- 11.3 So as to facilitate the achievement of the Company's objects, the Company Members are to ensure that there is an appropriate mix of gender, skills and experience in the Directors.
- 11.4 A Director may not be an employee of the Company.
- 11.5 Directors shall generally be appointed for a three year term though this may be varied to avoid all or a large number of the terms of office of Directors expiring simultaneously.
- 11.6 Unless the Provincial determines otherwise, no person who has been a Director for three consecutive terms, shall be eligible to be reappointed a Director before the expiration of one year after the expiration of three consecutive terms.
- 11.7 Appointment of Directors shall be subject to the requirements of the Act and of this Constitution.
- 11.8 The office of a Director shall become and be vacant:-
- a. by death of the Director; or
 - b. if the Director be absent from three successive meetings of the Board without leave granted by resolution of the Board; or

- c. by the Director's written resignation from the office; or
 - d. if, after consultation with the Chair of Board and the Provincial, and following procedure set out in section 203D of the Act, the Director be requested in writing by the Chair of Members to resign from the Board; or
 - e. if the Director is declared bankrupt; or
 - f. in accordance with the Act.
- 11.9 The Directors are required to develop and implement a policy of succession planning so that prior to each Annual General Meeting, and at any other time as required, they are in a position to give advice to the Company Members regarding persons available to act as Directors for the ensuing year.
- 11.10 A person who is being considered for appointment as a Director is required to submit to the Secretary, before being appointed, a signed consent to act as a Director.
- 11.11 Any casual vacancy occurring because of resignation or vacancy in the number of Directors (for reasons other than the expiration of a Director's term of office) may be filled by the Board after consultation with the Company Members and the Provincial and any Director so appointed holds office only until the next Annual General Meeting, and is then eligible for reappointment subject to this Constitution. The period for which a person may fill a casual vacancy under this Rule shall not count as a term of office under Rules 11.5 and 11.6.
- 11.12 A person who ceases to be a Director pursuant to any provision of this Constitution and who is not ineligible pursuant to Rule 11.4 to be a Director shall be eligible to be reappointed a Director.
- 11.13 The members of the Company shall appoint one of the Directors to be the Chair of the Board.
- 11.14 The Chair of Board shall hold office for three years and shall, subject to Rule 11.6, be eligible for re-election.
- 11.15 The office of Chair of Board shall become and be vacant:-
- a. if the Chair of Board ceases to be a Director; or
 - b. by the written resignation of the Chair of Board from the office.
 - c. By written notice from the Chair of Members to the Secretary removing the Chair of the Board from the office
- 11.16 If the Chair of Board is not present at a Board meeting and if the deputy Chair of the Board is also absent the Directors shall elect a Director from those present to chair the meeting.
- 11.17 Subject to this Constitution the Board may continue to act notwithstanding the existence of a vacancy or vacancies among the Directors.

12.0 FUNCTIONS AND DUTIES OF THE BOARD

12.1 Subject to the Act and this Constitution, the functions and duties of the Board are:-

- a. to appoint, suspend or dismiss the Chief Executive Officer after obtaining the approval of the Chair of Members;
- b. to be responsible for the induction and performance review of the Chief Executive Officer in accordance with policies approved by the Company Members;
- c. to manage the business of the Company by developing policies by which the objects of the Company may be realised;
- d. to develop policies for use in the Company that enhance collaborative leadership within the Board and in its relationship with the Chief Executive Officer;
- e. to conduct, whether by themselves or otherwise, a regular review of the Board and a periodic review of the Company;
- f. to exercise all powers of the Company except those that are, either by the Act or by this Constitution, required to be exercised by the Company in general meeting.

12.2 In carrying out these functions and duties, all cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two (2) Directors, or a Director and Company Secretary or in such manner as the directors determine.

13.0 DOCUMENTATION - BOARD AND COMPANY MEMBERS

13.1 The Company Members shall provide to the Board:-

- a. statements of any policy changes;
- b. statements of plans and proposals for the future development of the Company.

13.2 The Board shall provide to the Company Members for their information:-

- a. any policies as requested by the Company Members from time to time;
- b. the then current organisational chart of the management structure of the Company;
- c. a copy of the minutes of each meeting of the Board;
- d. a copy of the budget of income and expenditure and cash flow forecasts prior to the beginning of the next financial year; and
- e. subject to the Act such other information as is requested from time to time by the Company Members.

13.3 In preparation for the Annual General Meeting the Board shall, at the time of giving notice of the meeting, forward to the Company Members reports and resolutions pertaining to the business of the meeting in accordance with Rule 9.4.

13.4 The Company Members and the Board may agree from time to time that the exchange of documents be in electronic format.

14.0 MEETINGS OF THE BOARD

- 14.1 The Board shall meet for the dispatch of business at such times and places as it may determine provided that:-
- a. it shall meet at regular intervals not less than four times a year;
 - b. it shall meet whenever the Chair of Members or Chair of Board gives reasonable notice in writing to each Director.
- 14.2 At least seven (7) days notice in writing of an ordinary meeting of directors, and such notice as is practicable of a special meeting of directors shall be given to the Directors. If however, less notice than herein provided be given of a meeting, that meeting shall not be invalidated thereby if all Directors, excluding, if need be, a Director who has requested and been granted by the Board leave or absence from that meeting, are present at the notified place and time and unanimously agree to waive, in respect of such meeting, the provisions of this Rule.
- 14.3 A Board meeting may be called or held using any technology consented to by all Directors which consent once given shall be a standing one unless 75% of Directors agree otherwise.
- 14.4 The Directors may pass a resolution without a Board meeting being held if all Directors entitled to vote on the resolution sign a document containing a statement whether or not they are in favour of the resolution set out in the document. The procedure is:-
- a. separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy;
 - b. when the last Director has signed, the resolution is decided according to Rules 14.5 to 14.7 inclusive.
- 14.5 At any meeting of the Board, each Director present shall have one vote.
- 14.6 A resolution of the Directors must be passed by a majority of the votes cast by the Directors present and for the time being entitled to vote on the resolution.
- 14.7 The Chair of Board shall not have a casting vote.
- 14.8 Notice of a special meeting shall state the business to be considered at that meeting, and no business other than that so stated shall be considered at that meeting.
- 14.9 At a meeting of the Board, half of the then Directors shall constitute a quorum.
- 14.10 If within half an hour from the time appointed for the meeting a quorum is not present the meeting shall be dissolved. All business proposed to be transacted at the meeting shall be brought before the next meeting of the Board.

- 14.11 If a quorum is not present for thirty minutes at any time after a meeting of the Board has commenced, that meeting shall thereupon be deemed to be adjourned to the next meeting of the Board.
- 14.12 The Chair of Board, or in his or her absence, the Deputy Chair of the Board, shall chair each meeting of the Board. If both the Chair of Board and the Deputy Chair of the Board are absent, the Directors present shall appoint one from among their number to chair the meeting.
- 14.13 Subject to this Constitution, the procedure to be followed at a meeting of the Board shall be as the Board determines.
- 14.14 The Provincial, or his authorised delegate, may attend and take part in any meeting of the Board or of a committee of the Board, but may not vote on any matter unless he or she is a Director.
- 14.15 The Provincial may request the attendance at any meeting of the Board of any person who, in the opinion of the provincial may be able to assist the Board regarding any matter before it.

15.0 CHAIR OF BOARD

- 15.1 The Chair of Board shall have such duties and functions and may exercise such powers and authorities as are imposed or conferred on him or her by this Constitution and by any resolution of the Board including the following:-
- a. to foster and facilitate collaboration between the Board and the Chief Executive Officer;
 - b. to maintain liaison with the Chair of Members;
 - c. to decide any question of procedure arising at a meeting of the Board which is not provided for by this Constitution or any prior resolution of the Board;
 - d. to request the Chief Executive Officer or Secretary to carry out or give effect to any or all decisions or directions of the Board; and
 - e. to perform such other duties or functions as the Board may determine.

16.0 DELEGATION BY THE BOARD

- 16.1 The Board may delegate to such one or more Directors as it may decide (hereinafter referred to as delegate or delegates, as the case may be) the performance or exercise of such of the duties, functions, powers and authorities imposed or conferred on it by this Constitution.
- 16.2 A delegation made under this Rule may be subject to such conditions and/or limitations as to the performance or exercise of any of the specified duties, functions, powers and authorities delegated or as to time or other circumstances as may be specified in the resolution and instrument of delegation.
- 16.3 An instrument of delegation shall be signed by the Chair of Board at a meeting to approve delegation and one other Director who is not a

delegate pursuant to that instrument, provided that, if that Chair of Board be a delegate pursuant to an instrument of delegation, that instrument shall be signed by two Directors who are not delegates pursuant to it.

- 16.4 A delegate or, where there is more than one delegate, one of their number as determined by them, shall report to the next following ordinary meeting of the Board and thereafter as directed by the Board with regard to the performance or exercise of the duties, functions, power and authorities delegated.
- 16.5 Subject to Rule 16.6, any act or thing done by the delegate or delegates when acting in pursuance of a delegation and within the terms thereof shall have the like force and effect as if the act or thing had been done by the Board.
- 16.6 Notwithstanding any delegation made under this Constitution the Board may continue to perform or exercise all or any of the duties, functions, powers and authorities delegated.

17.0 ESTABLISHMENT OF COMMITTEES

- 17.1 The Board may establish such other committee or committees of the Board as it determines from time to time.
- 17.2 The duties, functions, powers and authorities of the committee shall be as the Board determines. These duties, powers, powers and authorities shall be performed and exercised as the Board determines.
- 17.3 A committee shall consist of such persons as the Board may appoint to the committee.
- 17.4 The terms and conditions of appointment of persons appointed to a committee shall be as the Board determines.
- 17.5 At the time it appoints persons to a committee, and thereafter as it deems necessary, the Board shall fix the number of such persons that must be present at a meeting of the committee to constitute a quorum for such a meeting.
- 17.6 The Board shall appoint a Director to be chair of each committee; provided that if the Board be of the opinion that there are special reasons arising from the nature of the duties and functions of a committee which make it in the interest of the Company and preferable that it should do so, it may appoint as chair of that committee a person who is not a Director.
- 17.7 The terms and conditions of appointment as chair of the committee shall be as the Board determines.
- 17.8 A committee shall be deemed to be established when the name, duties, functions, powers and authorities thereof are prescribed or fixed and the chair thereof is appointed.

- 17.9 A committee shall not have power to perform any of its duties or functions while there is no chair thereof appointed.
- 17.10 Subject to this Constitution a committee shall be subject to the authority of the Board at all times and shall act in accordance with and not contrary to any direction of the Board.
- 17.11 The Board, at any time and either with or without notice of its intention so to do, may dissolve a committee by notice in writing to the chair of the committee.

18.0 THE CHIEF EXECUTIVE OFFICER

- 18.1 The Chief Executive Officer may be appointed by the Board to further the objects of the Company.
- 18.2 The Chief Executive Officer is required to maintain effective liaison with the Chair of Board, the Chair of Members and the Chief Executive Officer of Marist Ministeries.
- 18.3 The Chief Executive Officer is required to work with the Chair of Board in the preparation of the agenda for each Board meeting, and to attend all meetings of the Board unless the Board has authorised leave of absence for a specific reason. The Board at all times reserves the right to require the Chief Executive Officer to withdraw from discussion of any agenda item that touches on the Chief Executive Officer 's employment.
- 18.4 The Chief Executive Officer shall be actively involved in discussions of the Board but does not have voting rights.
- 18.5 The Chief Executive Officer is responsible for ensuring the preparation of an annual budget and budget and cash flow forecasts to be presented for the consideration of the Board.

19.0 THE SECRETARY

- 19.1 The Secretary or secretaries, shall be appointed by the Board in accordance with the Act and for such terms and upon such conditions as the Board thinks fit, and any Secretary so appointed may be removed by the Board.

20.0 EXECUTION OF DOCUMENTS

- 20.1 The Company may execute a document by having it signed by:-
- a. two Directors of the Company; or
 - b. a Director and a Secretary.

21.0 NOTICE TO DIRECTORS

- 21.1 Without prejudice to any other method of giving notice, it shall be sufficient compliance with any provision of this Constitution requiring notice to be given to Directors if, with observance of the required time, notice is given:-

- a. in a document delivered to the Director in person; or
- b. in a prepaid letter or other document addressed and posted to the Director at his or her last-known address two days prior to the date by which notice must be given; or
- c. in a resolution of the Board made at a duly held meeting of the Board and which sufficiently specifies that which is required to be notified, if the terms of that resolution, as recorded in the confirmed proceedings of that meeting, be delivered or posted as aforesaid to the Director.

21.2 Any such notice may be given in any manner of representing or reproducing words in visible and legible form, and may give notice of either one or more than one matter or event.

22.0 REAL PROPERTY

22.1 Real Property that is vested in the Company is held for the objects of the Company and not otherwise, and is to be administered in accordance with the requirements the Province.

22.2 The Board shall ensure that the real property is kept in a state of good repair and condition and, from time to time as and when necessary, shall ensure that it is renewed or replaced, as the case requires.

23.0 DEDUCTIBLE GIFT FUND RECIPIENT PROVISIONS

If the Company is registered as a deductible gift recipient and is wound up or its endorsement as a deductible gift recipient is revoked, (whichever occurs first), any surplus of the following assets will be transferred to another charitable organisation to which income tax deductible gifts can be made:

- (a) gifts of money or property for the principal purpose of the company;
- (b) contributions made in relation to an eligible fundraising event held for the principal purpose of the company;
- (c) money received by the Company because of such gifts and contributions.

24.0 GIFT FUND

24.1 There shall be maintained a fund known as the Gift Fund in accordance with the provisions of subdivision 30-BA part 2.5 of the *Income Tax Assessment Act, 1997*. Separate such gift funds will be maintained for each public fund or relief fund of which the Company is trustee.

24.2 If a gift fund referred to in this Rule 24 is wound up or if the endorsement of the Commissioner for Taxation in accordance with subdivision 30-BA part 2.5 of the *Income Tax Assessment Act 1997* of the Company as a deductible gift recipient is revoked, any surplus assets of the Gift Fund remaining after payment of the liabilities attributable to it shall be transferred to a fund, authority or institution satisfying the conditions set forth in Rules 4 & 5 to which income tax deductible gifts can be made

25.0 DISSOLUTION OF BOARD

25.1 The Board may, subject to the Act and after consulting the Provincial, be dissolved by resolution of the Company Members in general

meeting. Such a resolution is to be given to each Director by the Chair of Members within seven days next after the general meeting.

- 25.2 A dissolution of the Board shall not of itself affect the continuity of this Constitution or invalidate any act or decision of the dissolved Board.
- 25.3 The Company members shall treat a dissolution of the Board as creating casual vacancies in the office of each Director and thereupon the several said casual vacancies shall be filled, subject to this Constitution, by appointments being made to the vacant offices as if such vacancies had occurred without any such dissolution of the Board.
- 25.4 Nothing in this Rule of itself shall cause a person who was a Director at the time of that dissolution to be ineligible to be appointed to fill any such casual vacancy.
- 25.5 Upon a dissolution of the Board any committee established by the Board shall thereby be dissolved.
- 25.6 Upon a dissolution of the Board a delegation made by the Board shall thereby be revoked and a subsequent Board may in accordance with this Constitution make a fresh delegation of the same matter in terms the same as or different from those of the revoked delegation.

26.0 REPEAL, VARIATION AND AMENDMENT OF CONSTITUTION

- 26.1 This Constitution may be varied or amended from time to time by a special resolution of the Company Members in accordance with the Act provided that the consent of the Provincial to such a proposal has been given in writing.
- 26.2 The Board may propose a variation or amendment to this Constitution provided that the proposal has been adopted at a meeting of the Board in respect of which notice in writing of the proposal and of the date, time and place of the meeting of the Board at which it was to be considered was given to the Directors not less than one month prior to the date of that meeting.

27.0 ACCOUNTS

- 27.1 The Board shall cause proper accounting and other records to be kept as required by the Act and by current accounting standards and shall:
 - a. distribute to the Company Members copies of financial information noted in Rule 13.2 of this Constitution; and
 - b. cause to be made out and laid before each Annual General Meeting financial information noted in Rule 9.4 of this Constitution.
- 27.2 Subject to the Act the Board shall from time to time determine at which times and places and under what conditions or regulations the accounting and other records of the Company shall be open to the inspection of Company Members.

28.0 THE AUDITOR

28.1 The Company shall appoint a properly qualified auditor or auditors; duties and remuneration are regulated in accordance with the Act.

29.0 NOTICE - GENERAL MEETINGS

29.1 Notice may be given to any Company Member or other person entitled to receive a notice in any manner provided for in this Constitution. Notice shall be deemed to be given as provided for in the Law.

29.2 Notice of every Annual General Meeting shall be given in accordance with Rule 9.3 to the following persons:-

- a. every Company Member except those Company Members who have not supplied to the Company an address for the giving of notices to them; and
- b. the Chief Executive Officer; and
- c. the auditor or auditors for the time being of the Company; and
- d. every Director and the Secretary.

29.3 Notice of other general meetings shall be given in accordance with Rule 9.3 to the following persons:-

- a. every Company Member, as in Rule 29.2 a; and
- b. the Secretary.

29.4 No other person shall be entitled to receive notices of general meetings.

30.0 INDEMNITY AND INSURANCE

30.1 Every person who is or has been a Director or other officer of the Company is indemnified, to the maximum extent permitted by the Act, out of the property of the Company against any liabilities for costs and expenses incurred by that person:

- a. In defending any proceedings relating to that person's position with the Company whether civil or criminal, in which judgment is given in that person's favour or in which that person is acquitted or which are withdrawn before judgment; or
- b. In connection with any administrative proceedings relating to that person's position with the Company, except proceedings which give rise to civil or criminal proceedings against that person in which judgment is not given in that person's favour or in which that person is not acquitted or which arise out of conduct involving that person's lack of good faith; or
- c. In connection with any application in relation to any proceedings relating to that person's position with the Company whether civil or criminal, in which relief is granted to that person under the Act by the court.

30.2 Persons to whom Rules 30.2 and 30.4 apply.

- a. to each person who is or has been a Director or an Executive Officer of the Company;
- b. to such other officers or former officers of the Company or of its related bodies corporate as the Directors in each case determine; and
- c. if the Directors so determine, to any auditor or former auditor of the Company or of its related bodies corporate.

30.3 Indemnity

The Company may indemnify, to the extent permitted by law, each person to whom this Rule 30.2 applies for all losses or liabilities incurred by the person as an officer and, if the Directors so determine, an auditor of the Company or of a related body corporate including, but not limited to, a liability for negligence or for legal costs on a full indemnity basis.

30.4 Extent of Indemnity

The indemnity in Rule 30.3:

- a. is a continuing obligation and is enforceable by a person to whom Rule 26.2 applies even though that person may have ceased to be an officer or auditor of the Company or of a related body corporate;
- b. applies to losses and liabilities incurred both before and after the date of adoption of that Rule; and
- c. operates only to the extent that the loss or liability is not paid by insurance.

30.5 Insurance

The Company may, to the extent permitted by law:

- a. purchase and maintain insurance; or
 - b. pay or agree to pay a premium for insurance,
- for any person to whom Rule 30.4 applies against any liability incurred by the person as an officer or auditor of the Company or of a related body corporate including, but not limited to, a liability for negligence or for legal costs.

30.6 Savings

Nothing in Rule 30.2 or 30.4:

- a. affects any other right or remedy that a person to whom those Rules apply may have in respect of any loss or liability referred to in those Rules; or
- b. limits the capacity of the company to indemnify or provide insurance for any person to whom those Rules do not apply