

Constitution

Alkira Disability Services Ltd

ACN: 672 474 065

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Preamble

Alkira Disability Services Ltd was incorporated as a company limited by guarantee on 14 November 2023, following a transfer of incorporation from an incorporated association structure. The company's predecessor entity was Alkira Centre Box Hill Inc (ABN 47 368 869 748), an incorporated association registered in Victoria. Alkira Disability Services Ltd is the legal successor of Alkira Centre Box Hill Inc.

1. Name

The name of the Company is Alkira Disability Services Ltd (the **Company**).

2. Principal Purpose and Powers

- (a) The Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a Charity.
- (b) The Principal Purpose for which the Company is established is to provide benevolent relief to people in need, including by supporting people with a disability.
- (c) Solely to carry out the Principal Purpose, the Company may exercise all of the powers of an individual and a company under the Act.

3. Not-For-Profit

- (a) The income and property of the Company must be applied solely towards the Principal Purpose.
- (b) No part of the income or property of the Company may be paid or transferred directly or indirectly to Members or Directors by way of dividend, bonus or other profit distribution in their capacity as Members or Directors.
- (c) Clause 3(b) does not stop the Company from making a payment:
 - (i) to a Member for goods or services provided or expenses properly incurred at fair and reasonable rates or rates more favourable to the Company;
 - (ii) to a Member in carrying out the Company's Principal Purpose;
 - (iii) of premiums for insurance indemnifying Directors to the extent allowed for by law and this Constitution; or
 - (iv) with the prior approval of the Board, to a Director:
 - (A) for work they do for the Company, other than as a Director, if the amount is no more than a reasonable fee for the work done; or
 - (B) as reimbursement for out-of-pocket expenses properly incurred in performing a duty as Director.

4. Membership

4.1 General

The minimum number of Members is five.

4.2 Eligibility

To be eligible for Membership, a person must be committed to the Principal Purpose of the Company.

4.3 Application

- (a) An application for Membership must be made in writing in the form and manner (if any) approved by the Board.
- (b) An applicant must pay the Annual Membership Fee determined by the Board (if any).
- (c) An applicant must agree in writing to contribute the Guaranteed Amount in accordance with clause 18.2.

4.4 Admission

- (a) The Board must consider and resolve whether to accept or reject each application for Membership within a reasonable time.
- (b) The Board does not have to give reasons for accepting or rejecting any application for

Membership.

- (c) If the Board accepts a Membership application, the Secretary must, as soon as possible:
 - (i) enter the applicant's details into the Register, subject to the payment of the Annual Membership Fee (if any); and
 - (ii) notify the individual in writing of the date their Membership commenced.
- (d) If the Board rejects an application, the Secretary must notify the applicant in writing of the rejection as soon as possible.
- (e) A person becomes a Member when their name is entered into the Register.

4.5 Joining Fee and Annual Membership Fee

- (a) The Board may determine the amount of the Annual Membership Fee from time to time.
- (b) The Board may determine that any new Member who joins after the start of a Financial Year must, for that Financial Year, pay a Joining Fee equal to:
 - (i) the full Annual Membership Fee;
 - (ii) a pro rata Annual Membership Fee based on the remaining part of the Financial Year; or
 - (iii) a fixed amount determined from time to time by the Board.
- (c) The Annual Membership Fee is due and payable on 1 July each year.
- (d) The rights of a Member (including the right to vote) who has not paid the Annual Membership Fee by the due date are suspended until it is paid.
- (e) If a Member does not pay their Annual Membership Fee within 60 days of receiving a notice of payment from the Company, the Member is deemed to have resigned their Membership.

4.6 Register

- (a) The Secretary must maintain the Register.
- (b) The Register must contain:
 - (i) the name, address and date of admission to Membership – for each current Member; and
 - (ii) the name, date of admission to Membership and date on which a person stopped being a Member – for each person who ceased to be a Member in the past seven years.
- (c) The Secretary may keep former Member entries separately from current Member entries.
- (d) Notices may be served on a Member at their address in the Register.
- (e) The Company must give Members access to the Register in accordance with the Act.
- (f) Information that is accessed from the Register must only be used in a manner relevant to the interests or rights of Members.

4.7 Ceasing to be a Member

- (a) A person ceases to be a Member:
 - (i) if the Member receives a notice from the Company requesting that they confirm their membership within 30 days (which notice must not be provided more than once in any calendar year) and does not respond within that time – on expiry of the 30 day notice period;
 - (ii) on death;
 - (iii) on resignation;
 - (iv) on expulsion in accordance with clause 4.8;
 - (v) on deemed resignation in accordance with clause 4.5(e);
 - (vi) on the Board deeming, in its sole discretion, the Member to be an untraceable Member because the person has not responded to correspondence within 60 days;
 - (vii) on becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally; or

- (viii) on becoming of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law related to mental health.
- (b) A Member whose Membership is terminated will be liable for all moneys due by that Member to the Company in addition to any sum not exceeding the Guaranteed Amount for which the Member is liable under this Constitution.
- (c) The Board may, in its sole discretion, refund all or part of any Joining Fee or Annual Membership Fee in the event of a person ceasing to be a Member, either on a pro rata basis or otherwise.
- (d) There will be no liability for any loss or injury suffered by a Member as a result of any decision made in good faith under this clause.
- (e) Any person who for any reason ceases to be a Member must not represent themselves in any manner as being a Member.

4.8 Discipline of Members

- (a) The Board may suspend or expel a Member from the Company if it decides it is not in the interests of the Company for the person to continue or remain as a Member.
- (b) The Board may not resolve to suspend or expel a Member outside of a Board meeting.
- (c) If the Board intends to consider a resolution to suspend or expel a Member, it must notify the Member in writing at least 7 days prior to the relevant Board meeting:
 - (i) of the date, place and time of the meeting where the resolution will be considered;
 - (ii) of the intended resolution and the grounds on which it is based; and
 - (iii) that they may attend the meeting and give an oral or written explanation or submission before the resolution is voted on.
- (d) After considering any oral or written explanation or submission, the Board may resolve to:
 - (i) take no further action;
 - (ii) warn the Member;
 - (iii) suspend the Member's rights for up to 12 months;
 - (iv) expel the Member;
 - (v) refer the decision to an unbiased, independent person on conditions that the Board considers appropriate (however, the person can only make a decision that the Board could have made under this clause); or
 - (vi) require the matter to be determined at a General Meeting.
- (e) Any Member expelled from the Company may at any time apply to the Board to be readmitted as a Member.
- (f) No person may become a Director following expulsion or while suspended unless they are subsequently readmitted as a Member.

4.9 Liability of Members

The liability of a Member is limited to the Guaranteed Amount, being \$10.

5. Convening General Meetings

5.1 Convening General Meetings

- (a) The Board may call a General Meeting.
- (b) If the Company receives a written request from Members with at least 30% of the votes that may be cast at a General Meeting to call a General Meeting (a **Meeting Request**), the Board must:
 - (i) give all Members notice of a General Meeting within 21 days of the Meeting Request; and
 - (ii) hold the General Meeting within 2 months of the Meeting Request.
- (c) The Meeting Request must state any resolution to be proposed at the meeting.

- (d) If the Board does not call the meeting within 21 days of a Meeting Request, 50% or more of the Members who made the Meeting Request may call a General Meeting.
- (e) To call and hold a meeting under clause 5.1(d) the Members must:
 - (i) as far as possible, follow the General Meeting procedures in this Constitution; and
 - (ii) hold the General Meeting within three months after making the Meeting Request.
- (f) The Company must pay the Members who make the Meeting Request any reasonable expenses they incur because the Board did not call and hold the meeting.
- (g) The Board must ensure that any General Meeting is held at a reasonable time and, if any Members are entitled to physically attend, at a reasonable location or locations.

5.2 Changes to General Meeting arrangements

- (a) The Board may change the venue for, postpone or cancel a General Meeting called under clause 5.1(a).
- (b) If a change is made under clause 5.2(a):
 - (i) notice of the change must be given to all persons entitled to receive notices of a General Meeting under this Constitution;
 - (ii) a notice of postponement must specify the date, time and place to which the General Meeting has been postponed; and
 - (iii) clause 5.5 does not apply to the notice.
- (c) The only business that may be transacted at a General Meeting which is postponed is the business specified in the original notice convening the meeting.

5.3 Entitlement to receive notice

Notice of a General Meeting:

- (a) must be given to every Member and every Director; and
- (b) may be given to any auditor appointed for the Company and in office at the time.

5.4 Notice of General Meetings

A notice of General Meeting must:

- (a) be in writing;
- (b) state the place, day and time of the meeting;
- (c) if virtual meeting technology is to be used, provide sufficient information to allow the Members to participate by means of the technology;
- (d) state the general nature of the business to be transacted at the meeting;
- (e) state the wording of any Special Resolution to be considered (and state that it is proposed as a Special Resolution);
- (f) include the information under clause 6.5;
- (g) include any proxy form approved by the Board; and
- (h) state that any proxy form must be given to the Company at least 24 hours before the meeting, by delivery to the Company at its registered address or at another address (including an electronic address) specified in the notice of the meeting.

5.5 Timing of notice

At least 21 days' notice must be given of a General Meeting (other than a meeting to consider a resolution to remove a Director or auditor) unless:

- (a) in the case of an Annual General Meeting, all Members entitled to attend and vote agree beforehand; and
- (b) in the case of any other General Meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.

5.6 Annual General Meeting

- (a) The Board must hold an Annual General Meeting at least once in every calendar year.

- (b) The business of an Annual General Meeting may include any of the following (even if not stated in the notice of meeting):
 - (i) the annual financial statements and any auditor's report;
 - (ii) the appointment of Directors; and
 - (iii) the appointment of any auditor.
- (c) At an Annual General Meeting, the chairperson must allow a reasonable opportunity for the Members:
 - (i) to ask questions or comment on the management of the Company; or
 - (ii) if an auditor or an auditor's representative is present in their capacity as appointed auditor of the Company, to ask the auditor or the auditor's representative questions relevant to the conduct of the audit and the content of the auditor's report.

5.7 Chairperson of General Meetings

- (a) The Chairperson will preside as chairperson at every General Meeting.
- (b) If there is no Chairperson, the Chairperson is not present within 15 minutes of the commencement time or the Chairperson is unwilling to act as chairperson for all or part of the meeting, the following may preside as chairperson (in order of precedence):
 - (i) the Deputy Chair (if any);
 - (ii) a Director chosen by a majority of the Directors present;
 - (iii) the only Director present; or
 - (iv) a Member chosen by a majority of the Members present.

5.8 Quorum for General Meetings

- (a) No business may be transacted at a General Meeting (other than electing a chairperson or adjourning the meeting), unless a quorum is present at the time the business is dealt with.
- (b) A quorum for a General Meeting is 10% of the Members entitled to vote for the whole meeting.
- (c) If a quorum is not present within 30 minutes of the commencement time, then:
 - (i) if the meeting was called by, or at the request of Members, the meeting will dissolve;
 - (ii) otherwise:
 - (A) the meeting stands adjourned to the day, time and place, determined by the Board or (if no determination is made by the Board), to the same day, time and place in the following week; and
 - (B) if at the resumption of the meeting a quorum is not present within 30 minutes of the commencement time, the meeting will dissolve.
- (d) Each proxy present must be counted for the purpose of determining a quorum, provided that:
 - (i) only one proxy may be counted for each Member; and
 - (ii) no individual may be counted more than once.
- (e) A suspended Member is not counted for the purpose of determining a quorum.

5.9 Adjournment of General Meetings

- (a) The chairperson may (and must if directed by a majority of the Members present and entitled to vote) adjourn the meeting or any business, motion, or discussion being considered or remaining to be considered.
- (b) Only unfinished business may be transacted at a General Meeting resumed after an adjournment.
- (c) It is not necessary to give any notice of an adjournment, or of the business to be transacted at any adjourned meeting, unless a meeting is adjourned for one month or more.
- (d) A meeting adjourned under this clause is adjourned to:
 - (i) the day, time and place determined by the Board; or
 - (ii) if no determination is made by the Board – to the same day, time and place in the

following week.

5.10 Members' Statements

- (a) Subject to clause 5.10(b), Members may request that the Company give to all of its Members a statement (a **Statement**) about:
 - (i) a resolution that is proposed to be moved at a General Meeting; or
 - (ii) any other matter that may be properly considered at a General Meeting.
- (b) The Statement must be:
 - (i) no more than 1000 words; and
 - (ii) non-defamatory.
- (c) The Members' request must be
 - (i) in writing;
 - (ii) signed by the Members making the request;
 - (iii) given to the Secretary; and
 - (iv) made by Members with at least 5% of the votes that may be cast on the resolution or at least 100 Members who are entitled to vote at the meeting.
- (d) The Board must distribute any Statement that complies with clauses 5.10(b) and 5.10(c) as soon as practicable and in accordance with clause 17.

5.11 Auditor's Rights

- (a) Any auditor appointed by the Company and in office at the time of a General Meeting is entitled to:
 - (i) attend any General Meeting; and
 - (ii) be heard at the General Meeting on any part of the business of the meeting that concerns the auditor in their capacity as auditor.
- (b) The auditor may authorise a person in writing as their representative for the purpose of attending and speaking at any General Meeting.

6. Voting at General Meetings

6.1 Voting rights

- (a) Each Member has one vote (provided they are not suspended).
- (b) On a vote conducted at a General Meeting:
 - (i) on a show of hands or voices, each person present who is a Member or proxy for a Member has one vote; and
 - (ii) by poll, each person present who is a Member has one vote and each person present as a proxy has one vote for each Member they represent.

6.2 Method of Voting

- (a) A Member may cast their vote personally or by proxy.
- (b) Voting will occur by show of hands or voices or such other method as the chairperson determines, unless:
 - (i) a poll is demanded and not withdrawn; or
 - (ii) virtual meeting technology is used, in which case voting must occur by poll.
- (c) A poll can be demanded by three or more Members (or their proxies) at any time prior to a vote, or immediately after the declaration of a result of a vote conducted by means other than a poll.
- (d) A poll must be taken in the manner directed by the chairperson.
- (e) A poll demanded on the election of the chairperson or on a question of adjournment must be taken immediately.

6.3 Decisions of the Members

- (a) Questions arising for determination (other than a Special Resolution) will be decided by a majority of votes cast (unless otherwise provided in this Constitution).
- (b) The chairperson has a personal vote. If the votes cast on a motion are equal, the chairperson will also have a casting vote.
- (c) A declaration by the chairperson that a resolution has been carried or lost on a show of hands or voices is conclusive evidence of the fact (unless a poll is demanded).
- (d) An objection to the right of a person to vote may only be raised at the meeting at which the vote objected to is given or tendered. Any objection must be referred to the chairperson, whose decision is final. A vote not disallowed pursuant to such an objection is valid for all purposes.

6.4 Seconding

It is not necessary for a motion to be seconded in order to be put to a vote.

6.5 Proxies

- (a) A Member may appoint another Member as their proxy to act on their behalf at one or more General Meetings (including any adjournment of that meeting) by written notice submitted to the Secretary at least 24 hours prior to the meeting.
- (b) A proxy may exercise any and all of the rights of the Member who appointed them, subject to the following:
 - (i) any directions or limitations specified in the proxy appointment; and
 - (ii) a proxy cannot speak and vote for a Member while the Member is present at a meeting.
- (c) The appointment must be written and signed by the appointing Member in a form substantially similar to that in Schedule 1.
- (d) A proxy vote is valid even if the appointing Voting Member revokes the appointment, or ceases to be a Member, provided that the chairperson was not aware of the revocation or cessation of Membership at the time of the meeting.
- (e) If:
 - (i) an appointed proxy is not the chairperson;
 - (ii) the appointment specifies the way that the proxy is to vote on a particular resolution at a General Meeting;
 - (iii) at the General Meeting, a poll is demanded for voting on a resolution; and
 - (iv) the proxy either does not vote on the resolution or is not recorded as attending the General Meeting,then the chairperson is taken, before voting on the resolution closes, to have been appointed as the proxy for the purpose of voting on the resolution at that General Meeting.
- (f) If a General Meeting is postponed to a later date, an appointment of a proxy is valid for the postponed meeting unless the appointing Voting Member:
 - (i) revokes the appointment by written notice to the Secretary at least 24 hours prior to the later meeting date; or
 - (ii) ceases to be entitled to vote prior to the later meeting date.

6.6 Use of virtual meeting technology in General Meetings

- (a) The Company may hold a General Meeting at any two or more locations using any virtual meeting technology that gives the Members as a whole a reasonable opportunity to participate including a reasonable opportunity to exercise a right to speak.
- (b) A person participating through the use of virtual meeting technology will be deemed to be present at the meeting in person.
- (c) A person participating through the use of virtual meeting technology:
 - (i) must be given the opportunity to participate in a vote in real time; and
 - (ii) may, in the sole discretion of the Board, be given the opportunity to record a vote in advance of the meeting, in which case the voter may elect to vote in real time or in

advance.

- (d) A document that is required or permitted to be tabled at a meeting using virtual meeting technology is taken to have been tabled if it is:
 - (i) given to the persons entitled to attend the meeting (whether physically or using virtual meeting technology) before the meeting; or
 - (ii) made accessible to the persons entitled to attend the meeting (whether physically or using virtual meeting technology) during the meeting.

6.7 Circulating Member Resolutions

- (a) This clause does not apply to a Special Resolution, a resolution to remove a Director or a resolution to appoint or remove an auditor.
- (b) A resolution may be passed without a meeting if:
 - (i) notice is given to all Members entitled to vote; and
 - (ii) at least 75% of Members entitled to vote approve the resolution in writing.
- (c) For the purpose of this clause:
 - (i) the notice must include the wording of the resolution and may be distributed by any means, including electronic communication;
 - (ii) approval in writing includes approval by email and any other means of electronic communication; and
 - (iii) the resolution will fail if it does not receive the required approval within seven days after the notice is given.
- (d) The resolution is passed when approval is given to the Secretary by the last person necessary to constitute a 75% majority in favour of the resolution.

7. Dispute Resolution

- (a) The Board will determine the procedure to be followed to determine any dispute arising between:
 - (i) a Member and another Member;
 - (ii) a Member and the Board; and
 - (iii) a Member and the Company.

8. Appointment and Removal of Directors

8.1 Number of Directors

- (a) The Company must have at least five and no more than twelve Directors.
- (b) The Board shall at all times comprise a minimum of fifty (50) per centum membership of persons with intellectual disabilities, their advocates, their family members, the family members of a deceased person having intellectual disabilities or person who are cognisant of the experience of people with intellectual disabilities.
- (c) The Chief Executive Officer may attend and speak at Board meetings but may not vote at Board meetings.

8.2 Eligibility

- (a) Any natural person committed to the Principal Purpose is eligible to be a Director provided:
 - (i) the person is 18 years of over;
 - (ii) the person is a Member;
 - (iii) the person has consented in writing to be a Director;
 - (iv) the person has suitable qualifications, skills and experience to discharge the functions of a Director, as determined by the Board from time to time; and
 - (v) the person is not ineligible to be a Director under:
 - (A) the Act; or

- (B) the ACNC Legislation.
- (b) Rule 8.2(a)(v)(B) will not apply to disqualify a person if an exemption is obtained from the ACNC Commissioner.

8.3 Election of Directors

- (a) Elections for vacant Board positions must be held at each Annual General Meeting.
- (b) The notice of Annual General Meeting must:
 - (i) name the members of the Board who will retire at the meeting;
 - (ii) state the number of vacant Board positions;
 - (iii) call for nominations for membership of the Board,
 - (iv) state the date by which nominations must be received (being no less than seven days before the Annual General Meeting);
 - (v) include the information set out in clause 8.3(d)(iii); and
 - (vi) detail the nominations process for and the process for filling vacant Board Positions.
- (c) Members may nominate themselves as candidates for election to a vacant Board position.
- (d) All nominations must:
 - (i) be seconded or supported by at least one Member (other than the Member being nominated); and
 - (ii) be provided to the Secretary by the date set under clause 8.3(b)(iv); and
 - (iii) include, in writing:
 - (A) the nominee's name and contact details;
 - (B) a resume or description of the nominee's relevant skills and experience;
 - (C) the nominee's consent to act as a Director; and
 - (D) any other information requested by the Board in the notice of Annual General Meeting.
- (e) If the Board determines (in their sole discretion) that a nominee is approved and has submitted a nomination in accordance with clause 8.3(d), the nominee will become an approved candidate.
- (f) The Board must notify all nominees of whether or not they are an approved candidate as soon as practicable after any determination in clause 8.3(e) has been made (and no later than one day before the Annual General Meeting).
- (g) If the number of approved candidates is:
 - (i) less than or equal to the number of vacant Board positions – the candidates must be deemed to be elected to the positions;
 - (ii) greater than the number of vacant Board positions – a ballot must be held for those positions.
- (h) Ballots for the election of Board members will be conducted at the Annual General Meeting in such manner as the Board may direct.
- (i) The results of elections must be announced at each Annual General Meeting.

8.4 Board appointed Directors

The Board may:

- (a) appoint a new Director to fill a casual vacancy that arises if:
 - (i) a person stops being a Director pursuant to clause 8.6; or
 - (ii) there are fewer than five Directors in place immediately following an Annual General Meeting; and
- (b) appoint additional Directors (subject to the maximum specified in clause 8.1(a)).

8.5 Term of office

- (a) The term of office of a Director elected by the Members, other than a First Director, (unless a different period is specified in the resolution):
 - (i) [Deleted 26/11/24]
 - (ii) commences at the end of the General Meeting at which they are elected; and
 - (iii) expires at the end of the third Annual General Meeting following the election (or at the end of the period specified in the resolution).
- (b) The term of office of a Director appointed by the Board:
 - (i) commences on the date of appointment; and
 - (ii) expires at the conclusion of the first Annual General Meeting following the appointment.
- (c) A Director who has served continuously for nine years or more may only seek re-election with the unanimous support of the Board.

8.6 Ceasing to be a Director

A person stops being a Director, and a casual vacancy is created, if they:

- (a) resign by written notice to the Company;
- (b) cease to be a Member;
- (c) are removed by the Members under the Act;
- (d) are absent without leave of the Board from:
 - (i) three consecutive Board meetings; or
 - (ii) four Board meetings over 12 months;
- (e) die;
- (f) become subject to a Court order to receive treatment or have their finances managed by another person due to being of unsound mind or having a mental illness;
- (g) are directly or indirectly interested in any contract or proposed contract with the Company and fail to declare the nature of the interest; or
- (h) become ineligible to be a Director under the Act or the ACNC Legislation.

8.7 Insufficient Directors

If the number of Directors is insufficient to constitute a quorum or less than the minimum number fixed under clause 8.1, the remaining Directors may, except in an emergency, act only to:

- (a) increase the number of Directors to a number sufficient to constitute a quorum or meet that minimum number; or
- (b) convene a General Meeting of the Company.

8.8 Defects in appointment of Directors

An act done by, or with the participation of, a person acting as a Director or member of a committee is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting or taking the relevant step.

9. Board Decision Making

9.1 Convening Board meetings

- (a) The Board must meet at least six times in each year.
- (b) The Chair or a majority of Directors may convene, or ask the Secretary to convene, a Board meeting.

9.2 Notice of Board meetings

- (a) Written notice of Board meetings must be given to every Director at least five days prior to the meeting (unless the Board unanimously waives this requirement).
- (b) A notice of a Board meeting must:

- (i) specify the place, day and time of the meeting;
- (ii) if virtual meeting technology is to be used, provide sufficient information to allow the Directors to participate by means of the technology; and
- (iii) does not need to specify the nature of the business to be transacted at the meeting.

9.3 Quorum for Board meetings

- (a) No business may be transacted at any Board meeting unless a quorum is present.
- (b) A quorum of Directors for Board meetings is a majority of the total number of Directors.
- (c) A Director on a leave of absence approved by the Board should not be included when calculating the total number of Directors for the purposes of this clause.

9.4 Use of virtual meeting technology in Board meetings

- (a) The Board may hold its meetings using any virtual meeting technology that is agreed to by the Board.
- (b) The use of any virtual meeting technology must give the Director a reasonable opportunity to participate including a reasonable opportunity to exercise a right to speak.
- (c) The Board's agreement may be a standing one.
- (d) A Director participating through the use of virtual meeting technology is deemed to be present at the meeting in person.

9.5 Chairperson of Board meetings

- (a) The Chairperson will preside as chairperson at Board meetings.
- (b) If there is no Chairperson, the Chairperson is not present within 15 minutes of the commencement time or the Chairperson is unwilling to act as chairperson for all or part of the meeting, the following may preside as chairperson (in order of precedence):
 - (i) the Deputy Chair (if any); or
 - (ii) a Director chosen by a majority of Directors present.

9.6 Voting at Board meetings

- (a) A question arising at a Board meeting is to be decided by a majority of votes of Directors present and entitled to vote.
- (b) The chairperson has a personal vote. If the votes cast on a motion are equal, the chairperson will also have a casting vote.
- (c) Voting by proxy is not permitted.

9.7 Resolutions without meetings

- (a) A Board resolution may be passed without a meeting if a majority of the Directors entitled to vote on the resolution respond to a notice approving of the resolution.
- (b) For the purpose of this clause:
 - (i) the notice must be in writing and include the wording of the resolution;
 - (ii) the notice may be distributed by any means; and
 - (iii) the resolution fails if it has not achieved majority Director approval within 48 hours after the notice was given.
- (c) The Directors may respond to the notice by:
 - (i) sending a reply email, including the text of the resolution in their reply and approving the resolution; or
 - (ii) signing and returning a notice of the resolution.
- (d) The resolution is passed at the time when the last Director necessary to constitute majority approval responds.

10. Directors' Powers and Duties

10.1 Powers of the Board

- (a) The Directors are responsible for the governance of the Company and furthering the Principal Purpose.
- (b) The Directors may exercise all the powers of the Company that are not, by the Act or by this Constitution, required to be exercised by the Members.
- (c) The Board cannot remove a Director or auditor.
- (d) The Board may delegate any of its powers to one or more Directors, the Chief Executive Officer, a committee, an employee or any other person.
- (e) The Board may specify terms of the delegation (including the power to further delegate) and revoke a delegation.

10.2 Duties of Directors

Directors must comply with any duties imposed on them by the Act and with the duties described in governance standard 5 of the ACNC Legislation.

10.3 Establishment of committees

- (a) The Board may establish committees.
- (b) A committee may include, or be comprised of, non-Directors.
- (c) The meetings and proceedings of committees are:
 - (i) subject to any terms of reference and/or delegation; and
 - (ii) otherwise governed as far as possible by the provisions of this Constitution which regulate the proceedings of the Board.

10.4 By-laws

- (a) The Board may make regulations or by-laws for the general conduct and management of the Company and the business of the Board.
- (b) The Board may revoke and alter by-laws or regulations as it sees fit.

11. Directors' Interests

11.1 Conflicts of interest

- (a) A Director must disclose the nature and extent of any perceived or actual material conflict of interest to the other Directors (or the Members if the other Directors share that conflict).
- (b) A Director who has a material personal interest in a matter that is being considered by the Board, as determined by a majority of the Directors who do not have a material personal interest in the matter:
 - (i) must not be present while the matter is being considered at a Board meeting; or
 - (ii) vote on the matter;unless permitted by clause 11.1(c).
- (c) Provided the Board approves and it is permitted by law, a Director may be present or vote if:
 - (i) the interest arises because the Director is a Member and the other Members have the same interest;
 - (ii) the interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as an officer of the Company;
 - (iii) the interest relates to any payment by the Company under clause 13 in respect of an indemnity permitted under the Act or any contract relating to such an indemnity;
 - (iv) the Australian Securities and Investments Commission makes an order allowing the Director to vote on the matter;
 - (v) the interest relates to a contract the Company is proposing to enter into that:
 - (A) is subject to approval by the Members; and

- (B) will not impose any obligation on the Company if it is not approved by the Members;
- (vi) the Directors who do not have a material personal interest in the matter pass a resolution that:
 - (A) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company; and
 - (B) states that those Directors are satisfied that the interest should not stop the Director from voting or being present; or
- (vii) the interest arises merely because the Director has a right of subrogation in relation to a guarantee or indemnity referred to in clause 13.

11.2 Permissible conduct

Provided a Director complies with clause 11.1, they may:

- (a) hold any other position in the Company, except that of auditor;
- (b) hold any office or place of profit in any other entity promoted by the Company or in which it has an interest of any kind;
- (c) enter into a contract or arrangement with the Company;
- (d) act in a professional capacity (or be a Member of a firm which acts in a professional capacity) for the Company, except as auditor;
- (e) sign or participate in the execution of a document by or on behalf of the Company; and
- (f) do any of the above despite the fiduciary relationship of the Director's office:
 - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
 - (ii) without affecting the validity of any contract or arrangement.

12. Office Bearers and Chief Executive Officer

12.1 Appointment of Office Bearers

- (a) At its first meeting after the Annual General Meeting in each year, the Board must appoint a Chairperson and a Deputy Chair and may appoint any other Office Bearers it deems fit from among the Board.
- (b) Office Bearers of the Company hold office until the end of the first Annual General Meeting following their appointment.
- (c) An Office Bearer may be elected for more than one successive term.
- (d) The Board may remove or suspend a person from holding any Office Bearer position by resolution passed at a Board meeting provided:
 - (i) the resolution is passed by not less than two-thirds of the Directors present; and
 - (ii) at least 21 days' notice in writing of the resolution has been given to the Secretary and to the person who is the subject of the resolution.

12.2 Secretary

- (a) The Board must appoint at least one Secretary.
- (b) The Secretary is to be appointed on such terms and conditions as the Board deems fit.
- (c) A person may not be appointed as Secretary unless the person:
 - (i) consents in writing to being appointed as Secretary;
 - (ii) is at least 18 years of age; and
 - (iii) is resident in Australia.
- (d) The Board may suspend or remove a Secretary.
- (e) The position of Secretary must not remain vacant for more than 14 days.

12.3 [Deleted 26-11-24]

12.4 Chief Executive Officer

- (a) The Board may appoint a Chief Executive Officer for a term, at the remuneration and on the conditions that it deems fit.
- (b) The Chief Executive Officer may not be a Director.
- (c) Subject to any contract between the Company and the Chief Executive Officer, the Board may remove the Chief Executive Officer at any time, with or without cause.
- (d) The Chief Executive Officer may attend and speak at all Board meetings and General Meetings, but may not vote at a Board meeting.
- (e) The Board may:
 - (i) confer powers, discretions and duties on the Chief Executive Officer as it sees fit;
 - (ii) withdraw, suspend or vary any powers, discretions and duties conferred; and
 - (iii) authorise the Chief Executive Officer to delegate all or any of the powers, discretions and duties conferred.
- (f) An act done by a person acting as Chief Executive Officer is not invalidated merely because of:
 - (i) a defect in their appointment as Chief Executive Officer; or
 - (ii) the person being disqualified from being Chief Executive Officer;if that circumstance was not known by the person when the act was done.

13. Indemnities and Insurance

- (a) The Company indemnifies every present and past Director and executive officer of the Company to the full extent permitted by law against all losses and liabilities incurred as a result of their position as an officer of the Company.
- (b) This indemnity:
 - (i) is a continuing obligation and is enforceable even if the person has ceased to be an officer of the company; and
 - (ii) is not subject to any requirement to first incur an expense or make a payment.
- (c) The Company may, to the extent permitted by law, pay or agree to pay, a premium in respect of a contract insuring its officers.
- (d) Nothing in this clause 13 limits the Company's ability to indemnify or pay for insurance for any person not expressly covered by this clause.

14. Administration

14.1 Minutes and records

- (a) The Board must ensure that:
 - (i) minutes of all General Meetings, Board meetings and committee meetings; and
 - (ii) records of resolutions passed by Members, Directors and committees without a meeting;are recorded and kept with the Company's records as soon as practicable (being no later than

one month after the meeting or passing of the resolution).

- (b) The Company must ensure that minutes of a Board or General Meeting are signed within a reasonable time by the chairperson of the meeting or of the next meeting.
- (c) The Company must ensure that Directors have access to the Company's records and financial documents at all reasonable times.

14.2 Members' access to Company records

Upon request, the Company must give Members reasonable access to inspect and copy minutes of all General Meetings and records of resolutions passed by Members without a meeting, free of charge.

14.3 Common seal

The Company does not have a common seal.

14.4 Execution of documents

- (a) The Company may execute documents by the signature of:
 - (i) two Directors;
 - (ii) one Director and the Secretary; or
 - (iii) such other persons appointed by the Board for that purpose.
- (b) A document may be signed by electronic means in accordance with the Act.

15. Records, Accounting and Audit

15.1 Accounts and other records of the Company

- (a) The Board must:
 - (i) ensure that proper financial records are kept in accordance with all legal and regulatory requirements;
 - (ii) ensure that records of its operations are kept; and
 - (iii) take reasonable steps to ensure that the Company's records are kept safe.
- (b) The Company must retain its records for at least seven years.

15.2 Audit

- (a) If required by law, the Company must appoint and remunerate an auditor.
- (b) Any auditor is entitled to attend any General Meeting and to be heard by the Members on any business of the meeting that concerns the auditor in their capacity as auditor.
- (c) The Company may give any auditor all communications relating to the General Meeting that the Members of the Company are entitled to receive.

15.3 Financial year

The financial year will begin on 1 July and end on 30 June, unless the Board passes a resolution to change the financial year.

16. Amending this Constitution

- (a) The Company may only alter this Constitution by special resolution in accordance with the Act.
- (b) The Members must not pass a Special Resolution that amends this Constitution if passing it causes the Company to no longer be a Charity.

17. Notices

- (a) The Company may give notice (subject to any election or request made by the Member under the Act in relation to receipt of documents) and any communication personally, by post, email or other electronic means.
- (b) Notices to the Company may be given personally, by post, email or other electronic means.
- (c) Notices are deemed to be received:

- (i) in the case of a properly addressed and posted notice, seven days after the date of posting; and
 - (ii) in the case of a notice sent by email or other electronic means, at the time of sending.
- (d) The non-receipt of notice or a failure to give notice, does not invalidate any thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error;
 - (ii) the individual waives notice before or after the meeting (including by attending the meeting); or
 - (iii) the individual notifies the Company of their agreement to that thing or resolution before or after the meeting.
- (e) In calculating a period of notice, both the days on which the notice is given or taken to be given and the day of the meeting must be disregarded.

18. Winding Up or Revocation of Endorsement

18.1 General

The Company may only be wound up in accordance with the Act.

18.2 Contribution of a Member on winding up

If required, each Member must contribute an amount (not more than the Guaranteed Amount) to the assets of the Company if it is wound up while they are a Member, or within one year of the Member ceasing to be a Member, for the:

- (a) payment of the debts and liabilities of the Company incurred before they ceased to be a Member; and/or
- (b) costs, charges and expenses of winding up.

18.3 Distribution of assets on winding up or revocation of endorsement

- (a) If the Company is a Deductible Gift Recipient, any DGR gifts must be deposited in a separate bank account or otherwise identified so that they can be distinguished from other assets of the Company.
- (b) If the Company is a Deductible Gift Recipient and is wound up, or it ceases to be endorsed as a Deductible Gift Recipient, any DGR gifts remaining after satisfying the Company's liabilities and expenses must be transferred to a Charity or Charities which:
 - (i) has a similar purpose to the Principal Purpose;
 - (ii) prohibits the distribution of income, profit or assets to its members in their capacity as members; and
 - (iii) is endorsed as a Deductible Gift Recipient.
- (c) On the winding up of the Company, any assets remaining after complying with clause 18.3(a) and 18.3(b):
 - (i) must not be paid or distributed to the Members in their capacity as Members, and
 - (ii) must be given or transferred to a Charity or Charities which:
 - (A) has a similar purpose to the Principal Purpose, and
 - (B) prohibits the distribution of income, profit or assets to its members in their capacity as members.
- (d) The Members must decide before any winding up or revocation which Charity or Charities will receive a distribution under clause 18.3(a) or 18.3(b). If the Members fail to decide, the matter must be determined by application to the Supreme Court in the State of Victoria.

19. Interpretation

19.1 Definitions

In this Constitution:

“**ACNC**” means the Australian Charities and Not-for-profits Commission.

“ACNC Legislation” means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012* (Cth).

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

“auditor” may mean a reviewer, if permitted by the Act or ACNC Legislation.

“Board” means the Directors of the Corporation from time to time.

“chairperson” means the person chairing a meeting.

“Charity” means a charity registered under the ACNC Legislation.

“day” means calendar day except public holidays.

“Deductible Gift Recipient” means an entity to which tax deductible gifts may be made pursuant to Division 30 of the ITAA 97.

“DGR Gifts” means:

- (a) gifts of money or property for the Principal Purpose received during any time that the Company is endorsed as a Deductible Gift Recipient;
- (b) contributions described in item 7 or 8 of the table in section 30-15 of the ITAA 97 in relation to a fundraising event (as defined by section 995-1 of the ITAA 97) held for that purpose during any time that the Company is endorsed as a Deductible Gift Recipient; and
- (c) money received by the Company because of such gifts or contributions during any time that the Company is endorsed as a Deductible Gift Recipient.

“General Meeting” means a meeting of Members (including an Annual General Meeting).

“Guaranteed Amount” means the amount set out in clause 4.9.

“ITAA 97” means the *Income Tax Assessment Act 1997* (Cth).

“Member” means a person whose name is entered in the Register as a Member of the Company in accordance with clause 4.6.

“Office Bearer” means Chairperson, Deputy Chair, and any other person appointed under clause 12.1(a).

“person” includes a natural person and a corporation within the meaning of section 57A of the Act.

“Principal Purpose” means the purpose set out in clause 2.

“Register” means the register of Members under the Act.

“Special Resolution” means a resolution passed at a General Meeting:

- (a) of which notice specifying the intention to propose the resolution as a Special Resolution has been given pursuant to this Constitution and the Act; and
- (b) by not less than 75% of the votes cast.

19.2 Interpretation

In this Constitution:

- (a) If an expression in the Constitution has a meaning in the Act, the meaning from the Act will apply to the expression - except where a contrary intention appears in this Constitution.
- (b) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.

19.3 Exclusion of replaceable rules

- (a) The replaceable rules contained in the Act do not apply to the Company.
- (b) If at any time, the company is not a Charity, the Act (unless it is a replaceable rule) overrides any part of this Constitution or policy of the Company to the extent of any inconsistency.

20. Transitional Provisions

The following clauses apply notwithstanding anything to the contrary in this Constitution.

20.1 Members

The first Members are those named as Members in the application for the Company's registration under the Act.

20.2 Directors

The first Directors are those named as Directors in the application for the Company's registration under the Act. The terms of the first directors shall end at the end of the fourth Annual General Meeting following registration of the Company. Time served by Directors for the Company's predecessor entity, Alkira Centre Box Hill Inc (ABN 47 368 869 748), will not be taken into account for the purpose of clause 8.5.

Schedule 1

Appointment of Proxy

Alkira Disability Services Ltd
ACN: 672 474 065

I, _____
(Member)

of _____
(Address)

appoint _____
(Proxy)

as my proxy for the General Meeting of xxx be held on

(Date)

and at any adjournment.

CHOOSE

OR

in favour of / against	detail of proposed resolution

Signed _____
(Member)

Date: