



Compass Housing Services Co Ltd

ACN 002 862 213

Constitution

Suite 302, 12 Stewart Avenue
Newcastle West NSW 2302

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1. Overview & Objects

Overview

- 1.1 This is the *Constitution* for Compass Housing Services Co Ltd (**'Compass'**), which was established in 1985 and previously known as Newmacq Community Housing Company Ltd (**'Newmacq'**) until September 2007, a company Limited by Guarantee and not having share capital.
- 1.2 The *Constitution* sets out the following:
- (1) the basis on which *Compass* was formed
 - (2) how *Compass* operates; and
 - (3) how *Compass* is governed and managed.
- 1.3 Schedule 1 applies to and forms part of the *Constitution*.
- 1.4 The *Constitution* can only be changed or amended by a *Special Resolution* at a *GM* or *AGM*.

History & Objects

- 1.5 When *Compass* was initially incorporated as *Newmacq*, it was founded on the following objects:
- (1) To take over the funds and other assets and liabilities of the previously unincorporated association known as the Newcastle Lake Macquarie Community Housing Trust.
 - (2) To relieve poverty, sickness, destitution, helplessness and distress of persons regardless of race, creed, colour, or gender.
 - (3) To obtain secure, affordable and sensitively managed housing for poor, needy, and underprivileged people.
 - (4) To encourage the self-management of properties by involving the tenants in the management functions of the Company.
 - (5) To purchase real estate.
 - (6) To liaise with and complement existing housing provision and housing support services.
 - (7) To compile, print and publish newspapers, periodicals, books, leaflets, or other materials.
 - (8) To arrange, provide, or assist in holding conferences, exhibitions, or other meetings as necessary.
- 1.6 Under this *Constitution*, the objects of *Compass* no longer include the objects set out under clause 1.5, but instead comprise the following:

- (1) To relieve poverty, sickness, destitution, homelessness and distress of persons in need regardless of the person's status including race, gender, sex, sexuality, sexual orientation, disability, health and age.
- (2) To obtain secure, affordable and sensitively managed housing for poor, needy and underprivileged people and those with a disability.
- (3) To conduct for-profit activities that further (or are ancillary to) *Compass'* objects provided that any profits generated are solely used in the pursuit of *Compass'* objects.
- (4) To operate in its own right and through subsidiaries and joint ventures in Australia and abroad.

1.7 *Compass* may do anything that is incidental or conducive to attaining the objects set out in clause 1.6, in any jurisdiction in Australia and abroad.

Initial officers

1.8 *Compass* acknowledges the initial officers of *Newmacq*, who were as follows:

- (1) Hilary Margaret Bradbury of Merewether, Social Worker;
- (2) Tracey O'Shea of Hamilton, Community Worker;
- (3) Therese Ann McLean of Merewether, Property Manager;
- (4) Coralie Kelly of Merewether, Town Planner; and,
- (5) Kathryn Patricia Larkey of Hamilton, Clerk.

Powers

1.9 Subject to clause 1.10, *Compass* has the following powers which may only be used in the pursuit of its objects set out in clause 1.6:

- (1) the powers of an individual; and
- (2) all the powers of a *CLG* under the *Corporations Act*.

Not-for-Profit

1.10 *Compass* must not distribute any income or assets directly or indirectly to its *members* except as provided in clauses 1.11, 8.5 and 19.

1.11 Clause 1.10 does not stop *Compass* from doing the following things provided they are done in good faith:

- (1) paying a *member* for goods and/or services they have provided, or expenses they have properly incurred, at fair and reasonable rates more favourable to *Compass*; or
- (2) making a payment to a *member* in the pursuit of *Compass'* objectives.

- 1.12 No *member of Compass* may receive any prize, award, or money, except as a successful competitor at any competition held by *Compass* or as otherwise allowed by the *Constitution*.

2. How does a *person* become a member of *Compass*?

Classes of membership

- 2.1 The membership of *Compass* comprises two classes of members:

- (1) *General Members*; and
- (2) *Life Members*.

Membership procedure for *General Members*

- 2.2 Any *person* who wants to be a *General Member of Compass* must complete a written application and send it to the *Secretary* at *Compass' Office*.

- 2.3 An application for membership as a *General Member* must contain:

- (1) the name of the *person* who wants to be a *General Member*; and
- (2) the endorsement of two (2) current *members* who personally know the applicant.

- 2.4 The *Board* decides the form of any application for membership as a *General Member*.

- 2.5 The *Board* must decide whether to accept or reject any application for membership as a *General Member* at the first *Board Meeting* after the *Secretary* receives an application.

- 2.6 The *Board* is not required to provide a reason for rejecting an application for membership as a *General Member*.

- 2.7 If the *Board* accepts an application for membership as a *General Member*, the *Secretary* must:

- (1) notify the applicant in writing as soon as practicable; and
- (2) request from the applicant their first annual membership fee.

- 2.8 A *person* will only become a *General Member of Compass* when the following occur:

- (1) the *person's* application to be a *General Member* is accepted by the *Board*; and
- (2) the *person* pays the first annual membership fee.

- 2.9 The *Board* determines the amount of the annual membership fee.

- 2.10 The annual membership fee is \$5.00, unless the *Board* determines otherwise.

- 2.11 Annual membership fees are payable by no later than the last day of the financial year.

Membership procedure for Life Members

- 2.12 A *person* only becomes a *Life Member* if:
- (1) they are nominated by the *Board* as such; and
 - (2) the *members*, following the nomination by the *Board* under clause 2.12(1), resolve at an AGM to appoint that *person* as a *Life Member*.
- 2.13 In nominating a *person* for appointment as a *Life Member* under clause 2.12, the *Board* must have regard for the following criteria:
- (1) each financial year, the *Board* may only nominate a maximum of two (2) *persons* to be *Life Members*; and
 - (2) the *person* must either be, at the time of the nomination by the *Board*:
 - (a) a current *General Member* and have been a current member for not less than ten (10) consecutive years; or
 - (b) a current or former *director* who has served as a *director* for not less than six (6) consecutive years.
- 2.14 Subject to the criteria under clause 2.13, the *Board* will, from time to time, determine the policy and procedure by which the *Board* will nominate a *person* to become a *Life Member*.
- 2.15 The *members* will not be required to provide a reason for failing to resolve to appoint a *person* as a *Life Member*.
- 2.16 A *Life Member* is not required to pay an annual membership fee for any financial year after they are appointed as a *Life Member* under clause 2.12.

3. Liability of members to pay debts and liabilities of Compass

- 3.1 The liability of every *member* is limited by the terms of the *Constitution*.
- 3.2 When a *person* becomes a *member*, that *person* agrees to contribute to the property of *Compass* in the event *Compass* is wound up while that *person* is a *member*.
- 3.3 Every *member* agrees to make payments towards the debts and liabilities of *Compass*, including any costs, charges or expenses, if *Compass* is wound up.
- 3.4 The liability of every *member* to make a payment under this clause 3 is limited to \$5.00.

4. When a person's membership may end

- 4.1 The *Board* may, at its discretion, cancel the membership of any *General Member* who has not paid the annual membership fee within two (2) months of the fee becoming payable.
- 4.2 The *Board* must provide seven (7) calendar days' written notice of its intention to cancel a *person's* membership under this clause 4 before it cancels that membership.

- 4.3 A *person's* membership will automatically end:
- (1) except for a *Life Member*, twelve (12) months after the annual membership fee becomes payable if the *member* does not pay that fee by the date on which payment is due;
 - (2) if the *member* dies; or
 - (3) except where the *Board* have excused a bankrupt *member*, if the *member* is a *person* to whom Part IX of the *Bankruptcy Act 1966* (Cth) applies.
- 4.4 The *Board* may, in its discretion, reappoint a *director* whose membership has ceased as a result of this clause.
- 4.5 If the *Board* reappoints a *director* under this clause, that *director* may serve out the remainder of their term as if their membership had never ended.
- 4.6 A *member* may resign their membership by doing so in writing and sending that resignation to the *Secretary* at *Compass' Office*.
- 4.7 A *member* who resigns under clause 4.6 is still liable for any annual membership fee and any arrears unpaid at the date of their resignation.
- 4.8 If a *member* wilfully refuses or otherwise fails to comply with the *Constitution*, the *Board* may censure, suspend, or expel the *member* from *Compass* by a resolution of two-thirds of the *directors* present at a *meeting*.
- 4.9 Clause 4.8 also applies if a *member* is found guilty of any conduct that the *Board*, acting reasonably, considers unbecoming of a *member*, or that in the reasonable opinion of the *Board* may be prejudicial to the interests of *Compass*.
- 4.10 The *Board* must provide any *member* alleged to have acted in breach of clause 4.8 with a written notice about the alleged breach at least seven (7) calendar days before a *meeting* dealing with the alleged breach.
- 4.11 A notice issued under clause 4.10 must set out all of the following:
- (1) all of the actions the *member* is alleged to have made;
 - (2) all actions the *Board* proposes to take;
 - (3) the time and location of any *meeting* during which the *Board* will consider the alleged actions; and
 - (4) the *member's* right to provide an oral (either by themselves or by a representative chosen by the *member*) or written explanation in relation to the alleged actions at the *meeting* held by the *Board* under clause 4.10.

5. Meetings of Compass and the Board

Who can call a GM of Compass?

- 5.1 Subject to, and in accordance with, the procedures set out in the *Corporations Act* relating to a *CLG*, the *Board* in its discretion can call a *GM* at any time.
- 5.2 The *Board* must call and arrange to hold a *GM* on the written request of *members* with at least five percent (5%) of the votes that may be made at a *GM* and the *Board* must:
- (1) within 21 calendar days of the *members'* request, give all members notice of the *GM*, and
 - (2) hold the *GM* within 2 months of the *members'* request.

For the purpose of a request by *members* under this clause 5.2:

- (3) The percentage of votes that *members* have is to be worked out as at 11:59pm the day before the *members* request the *GM*.
- (4) The *members* who make the request for a *GM* must:
 - (a) state in the request any resolution to be proposed at the *GM*;
 - (b) sign the request, and
 - (c) give the request to the Secretary.

Separate copies of a document setting out the request may be signed by *members* if the wording of the request is the same in each copy.

- 5.3 If the *Board* does not call the *GM* within 21 calendar days of being requested under clause 5.2, fifty percent (50%) or more of the *members* who made the request may call and arrange to hold a **GM** provided that:
- (1) To call and hold the *GM*, the *members* must:
 - (a) as far as possible, follow the procedures for *GMs* set out in this *Constitution*;
 - (b) call the *GM* using the list of members on *Compass's* member register, which *Compass* must provide to the *members* making the request at no cost, and
 - (c) hold the *GM* within three months after the request was first given to the Secretary.
 - (2) *Compass* must pay the *members* who request the *GM* any reasonable expenses they incur because the *Board* did not call and hold the *GM*.
- 5.4 No action or business conducted at any *meeting* is valid unless that *meeting* is conducted in compliance with the *Constitution*, the *Corporations Act* and the *ACNC Act*.

Attendance at meetings

- 5.5 A *member* may attend or be present at any *meeting* by any means possible, including in *person*, by proxy, by power of attorney, by telephone, by video link, or by other means the *Board* sees fit to accept for that *meeting*.

Quorum for a meeting

- 5.6 Business can only be transacted, conducted, or discussed at a *GM* if:
- (1) a quorum of four (4) *members* is present for the *meeting*; or
 - (2) the *Constitution* otherwise allows.
- 5.7 A *GM*, other than an *AGM*, must be dissolved if a quorum of four (4) *members* is not present within half ($\frac{1}{2}$) an hour (or thirty (30) minutes) of the *meeting's* scheduled start time.
- 5.8 If a *meeting* is dissolved under clause 5.7, that *meeting* must be adjourned for seven (7) calendar days to a time and place the *Board* determines.
- 5.9 If a quorum of four (4) *members* is not present within $\frac{1}{2}$ hour of the scheduled start time of a *meeting* rescheduled under clause 5.8, a quorum for that rescheduled *meeting* is three (3) *members*.

How meetings will be run

- 5.10 The *Chair* must preside over every *meeting*, unless the *Constitution*, the *Corporations Act* or the *ACNC Act* requires otherwise.
- 5.11 The *Chair* has the discretion to delegate any *person* to preside over a *meeting*.
- 5.12 The *Deputy Chair* must preside over a *meeting* held under this clause if the *Chair* is not:
- (1) present at a *meeting* within ten (10) minutes of the scheduled start time; or
 - (2) able or is unwilling to preside over the *meeting*.
- 5.13 If the *Deputy Chair* is not able or is unwilling to preside over a *meeting*, the *directors* present must elect a *NED* to preside over the *meeting*.
- 5.14 At any *meeting*, the *Chair* or *person* presiding over the *meeting* must:
- (1) cause minutes to be made of the *meeting*;
 - (2) cause a record to be made of the names of all present at the *meeting*;
 - (3) sign the minutes of the previous *meeting* once those minutes have been approved by the *Board*, unless otherwise approved in accordance with this *Constitution*; and
 - (4) cause the signed minutes to be circulated to the relevant members.
- 5.15 Subject to the *Constitution* or the *Corporations Act*, the *Chair* or *person* presiding over a *meeting* must adjourn a motion, business, question, debate, or resolution at a *meeting* if at least seventy-five percent (75%) of the *members* present at that *meeting* vote in favour of an adjournment.

- 5.16 An adjournment under clause 5.15 does not affect the conduct of other business at a *meeting*, or prevent a motion, business, question, debate, or resolution at a *meeting* from being dealt with later in that *meeting* or at a subsequent *meeting*.

AGM

- 5.17 An *AGM* must take place by 30 November each year in accordance with the procedure set out in the *Corporations Act* relating to a *CLG*.
- 5.18 All *AGMs* are open to the public, except where the *Chair* determines otherwise.
- 5.19 The *Secretary* must cause a notice of an *AGM* to be made to all interested parties in accordance with the notice of meeting procedures contained in the *Corporations Act* relating to a *CLG*.

Board Meetings

- 5.20 The *Board* may hold, and determine the time and location of, a *Board Meeting* as it sees fit.
- 5.21 At least six (6) *Board Meetings* must be held in each financial year of *Compass*. At least one (1) *Board Meeting* must be held in every period of three (3) consecutive months.
- 5.22 The *Chair* may at any time call a *Board Meeting* to be held at such time and place as the *Chair* chooses.
- 5.23 The *Chair*, upon the request of any *director*, must call a *Board Meeting* to be held at such time and place as is convenient to the *directors*. If the *Chair* does not within seven (7) calendar days of a request by a *director* to convene a *Board Meeting*, make a determination as to the place and time of the *Board Meeting* then the relevant *director* may call such *Board Meeting* and the *Board Meeting* will be held not less than seven (7) calendar days after the expiry of the first seven (7) calendar day period at the registered office of *Compass*.
- 5.24 The *Chair* must cause the *Secretary* to send the following to all *directors* by any means within a reasonable time before a *Board Meeting*:
- (1) a written notice of the time and place of *Board Meeting*; and
 - (2) the agenda for the *Board Meeting*.
- 5.25 A quorum of the *Board* comprises fifty percent (50%) of the total number of *directors* in office at any time (rounded down if that is an odd number) or such greater number fixed by the *Board*, but in any event, not less than three (3) *directors*.

For example, if there are seven (7) directors in office at a given time, the quorum will be three (3) directors (arrived at by rounding seven (7) down to six (6) and then taking fifty percent (50%) of that rounded down number.

- 5.26 Subject to clause 9.10 (appointment of *Chair*) if:
- (1) no *Chair* is elected; or
 - (2) at any *Board Meeting* the *Chair*, or in the *Chair's* absence the *Deputy Chair*, is not present within fifteen (15) minutes of the time appointed for holding the *meeting*,
- then the *directors* present must choose one (1) of their number to be *Chair* of such *meeting*.

- 5.27 The *Board* may hold *meetings* at one or more venues using any technology the *Board* considers appropriate including by way of teleconference, Skype or webcasts as long as the relevant technology gives all *directors* a reasonable opportunity to participate in the *meeting*. Where a *meeting* is arranged to be held via technology the *Chair* should notify *directors* accordingly. Participation in these *meetings* is equivalent to attendance at a regular *meeting*.

6. Subsidiaries, joint ventures, committees, advisory boards, and advisory groups

Creation and acquisition

- 6.1 The *Board* may:
- (1) create entities, subsidiaries, committees, advisory boards, or advisory groups; or
 - (2) cause *Compass* to acquire any interest in any existing entity or subsidiary, or enter into any joint venture,
- in any jurisdiction, as it sees fit.

Subsidiaries, joint ventures and related entities

- 6.2 The power in clause 6.1 does not extend to *Compass* becoming the subsidiary of, or otherwise controlled by, another organisation.
- 6.3 Unless otherwise provided in the subsidiary, joint venture or other *Related Bodies Corporate's* constitution, the *Board* will determine the composition and tenure of *directors* and delegations and powers that the subsidiary, joint venture or other *Related Bodies Corporate* may have.
- 6.4 The *Board* and its delegates will represent *Compass* (and exercise its rights) as a 'member' of any subsidiary, joint venture, or other *Related Body Corporate*.
- 6.5 The *Board* may delegate any of its powers or functions to any subsidiary, joint venture or *Related Body Corporate*, to the extent that delegation is permitted under the *Corporations Act*, the *ACNC Act* or common law.

Advisory boards or advisory groups

- 6.6 For clarity, an advisory board or advisory group is not a committee for the purposes of the *Constitution*, the *Corporations Act*, or the *ACNC Act*.
- 6.7 An advisory board or advisory group can only act in an advisory capacity and its resolutions and motions are not binding on the *Board* or *Compass*.

Committees

- 6.8 The *Board* may, from time to time, create committees by establishing (and amending) terms of reference for those committees containing objectives, rules and procedures to which those committees must strictly comply.
- 6.9 Any committee created by the *Board* under clause 6.8 must be presided over by a *NED* (who is appointed as the chair of that committee by the *Board*) and must comply with the *Constitution* and any applicable law but otherwise may be comprised of such *persons* as the *Board* sees fit. At any committee meeting, if a committee's chair is absent, the committee members present must choose one (1) of their number to preside over such committee meeting.
- 6.10 Each *member* of a committee created by the *Board* under clause 6.8 has only one (1) vote, unless a proxy is in effect, in relation to matters at a meeting of that committee.
- 6.11 The *Board* may delegate any of its powers or functions to any committee to the extent that delegation is permitted under the *Corporations Act*, the *ACNC Act* or common law.
- 6.12 A committee may meet or adjourn its meetings as it sees fit.
- 6.13 Any matter required to be dealt with at a meeting of a committee is decided by a vote of the majority of the members of the committee present at that meeting.
- 6.14 Subject to clauses 6.12 and 6.13, in all other respects, the meetings and proceedings of any committee, consisting of two (2) or more *persons* are governed by the provisions in this *Constitution* for regulating the *Board Meetings* so far as those provisions are applicable and not affected by any resolution, direction or regulation made by the *Board* under the following clause 6.15.
- 6.15 Any committee formed, or *person* or *persons* appointed to a committee under or in connection with clause 6.8 must, in the exercise of the powers so delegated, or functions entrusted, conform to any resolution, direction or regulations that may at any time be imposed by the *Board*.
- 6.16 Each *person* appointed to a committee, if not otherwise an officer of *Compass*, is, when exercising the powers so delegated or functions entrusted, an officer of *Compass*.

Remuneration and expenses

- 6.17 The *Board* may provide reasonable remuneration (and reimbursements of reasonable expenses) of any *person* appointed under this clause 6 (including, without limitation, members of committees, advisory boards, advisory groups and subsidiary boards) at the *Board's* discretion.

7. How a person votes on a motion or resolution

- 7.1 Each *member* present at a *meeting* who is entitled to vote has one (1) vote, unless one (1) *member* has a proxy for another.

- 7.2 No *member* may vote at a *meeting* or in relation to a motion or resolution if their annual membership fee is more than one (1) calendar month in arrears as of the date of that *meeting*.

Resolutions of the Board at a Board Meeting

- 7.3 A resolution of the *Board* at a *Board Meeting* can only be made if a majority of *directors* at the *Board Meeting* (who are entitled to vote at that *meeting*) pass a motion in favour of that proposed resolution, unless otherwise allowed by the *Corporations Act* or the *ACNC Act*. If there is an equality of votes at a *Board Meeting*, the *Chair* (or other *person* presiding over a *meeting*) has a casting vote.
- 7.4 The *Board* can only make and pass a motion and resolution outside of a *Board Meeting* by a circulating resolution of the *Board*.
- 7.5 A circulating resolution of the *Boards* will be valid and be passed (or be carried) once a majority of *directors* have sent to the *Secretary*, by any means possible - whether electronic or otherwise, written confirmation that such *directors* are in favour of that resolution. Any irregularity in the service of the circulating resolution on *directors* will not invalidate the resolution if such irregularity would not change the outcome of the resolution.

How a motion or resolution will pass or fail at a GM or AGM

- 7.6 Subject to clause 1.4 and where other *Special Resolutions* are required, an ordinary motion or resolution at a *GM* or *AGM* will:
- (1) pass (or be carried) if the majority of the *members* present (who are entitled to vote) vote in favour of the motion; and
 - (2) fail if it is not passed (or carried) in accordance with clause 7.6(1).
- 7.7 If there is an equality of votes at a *GM* or *AGM*, the *Chair* (or other *person* presiding over a *meeting*) has a casting vote.

Proxy, power of attorney, etc.

- 7.8 If a *member* wants to appoint a proxy for a *meeting*, the proposed appointment will only be valid if it is:
- (1) made in writing and signed by the *member* proposing the appointment; and
 - (2) in the approved form.
- 7.9 The *Board* may determine the approved form for the appointment of a proxy as it sees fit.
- 7.10 If a *member* appoints a proxy or a power of attorney, the *member* must cause a copy of the signed appointment of a proxy or power of attorney to be received at *Compass' Office* by any means (electronic or otherwise) no later than 48 hours before a *meeting* at which the proxy or power of attorney is to be used.

8. Some things that Compass can and cannot do

- 8.1 *Compass* cannot pay, or in any way transfer or cause to be transferred or paid either directly or indirectly, any money, income or property of *Compass* to a *director* or *member* except as expressly allowed by the *Constitution*.
- 8.2 *Compass* can only use any funds it receives (whether in cash or otherwise) in the pursuit of the objects set out under clause 1.6 unless the *Constitution* otherwise allows.
- 8.3 *Compass* may pay any *member*, *director* or employee of *Compass* for services actually rendered to *Compass* for goods and/or services supplied in the ordinary course of business.
- 8.4 *Compass* has the power to do anything not expressly prohibited by the *Constitution* or by law.
- 8.5 The remuneration of the *NED's* must be approved by the *members*.

9. What is the Board and what does the Board do?

Governance of Compass by the Board

- 9.1 The *Board* governs the business, affairs, and operations of *Compass*, and must do so in accordance with the *Corporations Act*, the *ACNC Act*, common law and any lawful resolutions of *Compass*.
- 9.2 The business, affairs, and operations of *Compass* are managed under the directions of the *Board*. The *Board* will be entitled to make its own charter from time to time which will be binding on the *Board* until revoked by resolution of the *Board*, the terms of which will be at all times subject to the provisions of this *Constitution*, the *Corporations Act* and the *ACNC Act*.

Who can be a member of the Board?

- 9.3 A *director* must be:
- (1) a current *member* of *Compass*; and
 - (2) eligible to be a *director* under the *Corporations Act* and the *ACNC Act*.
- 9.4 A current employee of *Compass* cannot, unless the *Constitution* otherwise allows:
- (1) nominate for a position on the *Board*; or
 - (2) be appointed or elected to the *Board*.

Composition of the Board

- 9.5 The maximum number of *directors* at any one time is nine (9).
- 9.6 The *Board* will consist of:

- (1) the *GMD*, who may be appointed as a *director* by the *Board* under clause 9.15; and
 - (2) up to eight (8) *NEDs*, who are each elected for a *term* subject to the nomination and election procedure in clause 12 and the retirement, resignation and removal provisions of clause 13.
- 9.7 Commencing from the 2014 *EGM*, no *NED* may be elected or appointed to the *Board* after the 2014 *EGM* for a period of more than four (4) consecutive terms or twelve (12) consecutive years (whichever is the longer period), without a period of three (3) consecutive years during which they are not a *director*.
- 9.8 The *Board* may act despite any vacancy in its body. If the number falls below five (5), the *Board* may act only:
- (1) in accordance with clause 13.8, to appoint *directors* up to that minimum number; or
 - (2) to call a *GM*.

Officers of Compass

- 9.9 The officers of *Compass* consist of the *Chair*, the *Deputy Chair*, a *Secretary* and any other officers elected under clause 9.11.
- 9.10 The *Board* must, at the first *Board Meeting* after an *AGM* or otherwise as the *Board* determines, elect *NEDs* from among its number to serve as:
- (1) the *Chair*; and
 - (2) the *Deputy Chair*,
- and will determine the period for which each person is to hold office.
- 9.11 Notwithstanding clause 9.10, a *NED* must not be elected as *Chair* or *Deputy Chair* for more than seven (7) consecutive years.
- 9.12 The *Board* may, by resolution at any time, remove the *Chair* or *Deputy Chair* from those offices.
- 9.13 The *Boards* may elect from among their number such other officers as determined by the *Board* from time to time and may determine the period for which each is to hold office.

Management of Compass

- 9.14 The *Board* must appoint a *person* to be the *CEO* of *Compass*. The *CEO* will have day to day responsibility for the management of *Compass* under the direction of the *Board*. At the *Board's* discretion, this *person* may also be appointed a *director* under clause 9.6(1). Where this occurs, the position *CEO* will be known as the *GMD*.
- 9.15 Subject to this *Constitution*, the *Corporations Act* and the *ACNC Act*, the *Board* may at any time confer upon the *CEO* (or *GMD* if appointed to the *Board* under clause 9.14) such powers (for such time) as it thinks fit and impose any conditions or limitations on such powers. The *Board* may at any time revoke, withdraw, alter or vary all or any of such powers.

10. Powers, duties, and obligations of directors and the Board

- 10.1 *Directors* have the power and duty to govern and control the business, affairs, and operations of *Compass* as allowed by the *Corporations Act* and the *ACNC Act*.
- 10.2 Except as limited by the *Corporations Act*, the *ACNC Act* or the *Constitution*, *directors* may exercise all of the powers of *Compass*.
- 10.3 All cheques, promissory notes, drafts, bills of exchange, electronic payments and transactions and other negotiable instruments, and all receipts for money paid to *Compass* (whether electronically or otherwise), may be signed, drawn, accepted, endorsed, authorised or otherwise executed as the case may be, in such manner as the *Board* at any time determine, by way of schedule of delegations or other resolution of the *Board*.
- 10.4 The *Board* may confer on any *person* (including a *director*) the power to do specified things on behalf of *Compass*, subject to the *Corporations Act* and the *ACNC Act*, whether by power of attorney or not.
- 10.5 The *Board* may confer on a *person* referred to in clause 10.4 a power of sub-delegation.
- 10.6 If the *Board* entrusts a power to a *person*, the *Board*, or any *director*, is not excluded from exercising that power as well.
- 10.7 The *directors* must comply with their duties as *directors* under legislation and common law and with the duties described in governance standard 5 of the regulations made under the *ACNC Act* which are:
- (1) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a *director* of *Compass*;
 - (2) to act in good faith in the best interests of *Compass* and to further the objects of *Compass* set out in clause 1.6;
 - (3) not to misuse their position as a *director*;
 - (4) not to misuse information they gain in their role as a *director*;
 - (5) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 21;
 - (6) to ensure that the financial affairs of *Compass* are managed responsibly; and
 - (7) not to allow *Compass* to operate while it is insolvent.
- 10.8 *Directors* have other duties, powers, and obligations under the *Corporations Act*, the *ACNC Act* and common law that are not set out in the *Constitution*.

11. Indemnity for directors

- 11.1 To the extent permitted by law, *Compass* must indemnify a *director*, including a previous *director*, against both of the following:
- (1) any civil or criminal liability that *person* has in relation to any act or omission by that *person* in connection with their role as a *director* when the act or omission was done in good faith; and
 - (2) the legal costs of that *person* in relation to clause 11.1(1).
- 11.2 To the extent permitted by law, *Compass* may pay or agree to pay a premium for a contract insuring a *director* against any act or omission under this clause 11.

12. How are members elected to the Board?

Election and removal of future NEDs

- 12.1 The *Board* will nominate a *person* or *persons* to stand for election as a *NED* at a *GM* in accordance with this clause 12.
- 12.2 In nominating candidates for election under clause 12.1 the *Board* shall have regard for the nomination of *persons* who have the necessary skills, experience and competencies to complement the skills, experience and competencies of existing *directors*.
- 12.3 To undertake the requirements of clauses 12.1 and 12.2 the *Board* will after each *AGM* appoint a nominations committee of three (3) or more *persons* comprising at least one (1) *NED* ("**Nominations Committee**"). No *NED* whose term of service on the *Board* finishes at the following *AGM* may vote with respect to their possible re-appointment or re-election during a meeting of the *Nominations Committee* during which their re-appointment or re-election is being considered by the *Nominations Committee*.
- 12.4 The *Nominations Committee* will:
- (1) Develop a list of competencies required for the *Board* to meet the requirements of clause 12.2. This list is to be provided to the *members* along with the candidates for election as set out in clause 12.1
 - (2) Review the collective competencies of those *directors* who are continuing following the next *AGM*.
 - (3) Identify the number of vacancies which will occur at the following *AGM* and the most important competencies to be filled.
 - (4) Should a retiring *NED* be eligible and wish to be nominated for re-election, assess the *person* against both their fit with the required competencies and their performance on the *Board*.
 - (5) Following compliance with clause 12.5, determine if any new candidates for election need to be found and, if so, organise a process for sourcing such candidates.

- 12.5 No less than twenty-one (21) calendar days before the next AGM is to be held, the *members* will be notified of the names of all candidates who have been nominated in accordance with this clause 12 and who have provided a consent to act as a *NED* if elected.
- 12.6 At an AGM, the *members* may by ordinary resolution elect a candidate nominated by the *Board* in accordance with clause 12.1.
- 12.7 Where a candidate nominated by the *Board* is not elected as a *NED* pursuant to clause 12.6, the *Board* may appoint a different *person* as a *NED* to hold office until the next AGM. Where that different *person* is elected by *members* at that next AGM their term will be for a two (2) year continuous period from the date of that AGM (to harmonise such appointment with the ordinary *term* of *directors*).
- Note: See the example in clause 13.3(1) regarding this process.*
- 12.8 Notwithstanding any provision of this *Constitution*, the *members* may appoint *NEDs* by an ordinary resolution of the *members* at a *GM*.

13. How directors resign, retire, are removed, or cease to be directors

Resignation of directors

- 13.1 A *director* may resign from the *Board* before their term has expired by giving written notice to the *Secretary* at *Compass' Office*.
- 13.2 A *director's* resignation is effective from the time and date stated in the notice, provided the time and date is after the time the notice was given. If the notice does not have a date or time, the notice is effective from date the *Secretary* receives the notice.

Retirement of directors

- 13.3 A *NED* who is elected by the members will retire in accordance with the following *Triennial Rotation Rule*:
- (1) At the close of each AGM, all *NEDs* who have come to the end of their *term* (including the end of their term if appointed under clauses 12.6 or 12.7) must retire.

For example:

1. All *NEDs* nominated by the *Board* and then elected by the members at the 2018 AGM must retire at the close of the 2021 AGM (being three (3) years, or one (1) term, after their election).
2. If a person is appointed by the *Board* as a *NED* at a *Board Meeting* held after the 2018 AGM, that person will retire at the end of the 2019 AGM. If that person is nominated by the *Board* and then elected by the members at the 2019 AGM, that person must retire at the close of the 2022 AGM.
3. Suppose the *Board* nominates a person to be a *NED* and that person is not elected by the members at the 2019 AGM. If the *Board* appoint a different person to be a *NED* under clause **Error! Reference source not found.**, that person must retire at the end of the 2020 AGM. If the members, at the 2020 AGM then elect that person as a *NED*, that person must

retire at the end of the 2022 AGM (being two (2) years from their election by the member, but three (3) years in total since they first became a NED.

- (2) The *NEDs* to retire by rotation are those *NEDs* who have been longest in office. *NEDs* who were appointed on the same day may agree among themselves or, failing agreement, the Chair will determine by lot which of them must retire.
 - (3) Without limiting this clause 13.3, a *NED* must retire from office at the conclusion of the third *AGM* after the *NED* was last appointed, even if their retirement results in more than three (3) *NEDs* retiring from office.
 - (4) A retiring *NED* remains in office until the conclusion of the *AGM* but, subject to clause 9.7, will be eligible for re-election at that *AGM* if nominated by the other *NEDs* pursuant to clause 12.
- 13.4 Each *NED* who is appointed by the *Board* is automatically retired from the *Board* at the first *AGM* that occurs after their appointment to the *Board*, regardless of the number of vacancies created on the *Board* through each retirement under this clause 13.4.

Removal of directors from the Board

- 13.5 In connection with clauses 4.8 to 4.11, upon a *member* ceasing to be a *member*, any such *member* elected or appointed to the *Board* will immediately cease to be a *director*.
- 13.6 The *members* may by resolution passed in *GM* in accordance with section 203D of the *Corporations Act* remove any *director* and appoint a replacement to serve out the remainder of the replaced *director's* term.
- 13.7 If the *members* by resolution passed in a *GM* in accordance with section 203D of the *Corporations Act* removes a *director* so that there are two (2) or fewer remaining *directors*, the *members* must nominate and elect at that *GM* *NEDs* such that the number of *directors* will be at least the minimum number under clause 9.

Casual and other vacancies

- 13.8 Should a *NED* who is elected to the *Board* under clause 12 resign or retire, the remaining *directors* may appoint any eligible *person* as a *director* to fill the casual vacancy.
- 13.9 Should the number of *NEDs* be less than that set out in 9.6(2) the *directors* may appoint any eligible *person* as a *director* to fill the vacancy.
- 13.10 A *director* appointed under clauses 13.8 or 13.9 will hold office to the end of the next *AGM*.
- 13.11 Subject to clause 9.7, a *director* appointed under clauses 13.8 or 13.9 is eligible for further appointment as a *director* as set out in clause 12.

When a person ceases to be a director

- 13.12 The *GMD* automatically and immediately ceases to be a *director* when they cease to be an employee of *Compass*.
- 13.13 A *director* automatically ceases to be a *director* if any of the following applies:
- (1) the *director* is prohibited from being a *director*, or ceases to be a *director* or is removed from being a *director*, pursuant to the *Corporations Act*, the *ACNC Act* or any law or order of a court;
 - (2) the *director* is a *person* to whom Part IX or Part X of the *Bankruptcy Act 1966 (Cth)* applies;
 - (3) the *director* becomes of unsound mind, or a *person* who is, or whose estate is, liable to be dealt with in any way under any law relating to mental health;
 - (4) the *director* ceases to be a *member* of *Compass*;
 - (5) the *director* gives written notice of resignation as a *director* of *Compass*;
 - (6) the *director* dies;
 - (7) the *director* is removed as a *director* by a resolution of the *members*; or
 - (8) the *director* is absent for three (3) consecutive *Board Meetings* without approval from the *Board*.

Suspension of a director

- 13.14 If the conduct or position of any *director* is such that continuance in office appears to the majority of the *directors* to be prejudicial to the interests of *Compass* including, without limitation, a failure of a *director* to perform their duties as a *director* in accordance with the relevant *Board* charter or code of conduct, a majority of *directors* at a *Board Meeting* specifically called for that purpose may suspend that *director*.
- 13.15 Within fourteen (14) calendar days of the suspension, the *directors* must call a *GM*, at which the *members* may either confirm the suspension and remove the *director* from office or annul the suspension and reinstate the *director*.

14. Appointment of Secretary

- 14.1 The *Board* may appoint, or remove, at any time one (1) or more *persons* as company *Secretary* in accordance with the *Corporations Act* or the *ACNC Act*, on the conditions it determines.

15. Execution of documents

- 15.1 *Compass* may enter into contracts in accordance with any schedule of delegations for *Compass* approved by the *Board*.
- 15.2 With the authority of the *Board*, *Compass* may enter any contract or execute any document if the contract or document is signed (by hand or electronic means) by:
- (1) two (2) *directors*;
 - (2) a *director* and the *Secretary*; or
 - (3) a delegate duly authorised by the *Board*.

16. Accounts

- 16.1 The *Board* must cause *Compass* to keep accounting records in accordance with appropriate professional standards of accounting.
- 16.2 The *Board* must provide to *members*, copies of the audited financial statements and accompanying notes, directors' report and directors' declaration for the year ended 30 June for *Compass*, together with a copy of the auditor's report by 31 October each year, as required by the *Corporations Act* or the *ACNC Act*.
- 16.3 No *member*, unless that *member* is a *director*, has a right to inspect any account, book or paper of *Compass* unless authorised by a resolution of the *Board* or by law.
- 16.4 Subject to the *Corporations Act* and any relevant law and the *Constitution*, the *Board* must determine the times, places and under what conditions the accounting and other records of *Compass* will be available for inspection to *members* who are not *directors*.
- 16.5 *Compass'* financial year is from 1 July to 30 June, unless the *Board* pass a resolution to change the financial year, provided that any change is permitted by the *Corporations Act* or *ACNC Act*.

17. Audit

- 17.1 The *Board* will appoint a properly qualified auditor in accordance with the *Corporations Act* or the *ACNC Act* (as applicable), whose duties and obligations are regulated by the appropriate law. For the avoidance of doubt, the auditor may only be removed by a members' resolution at a *GM*.

18. How can notices or documents be given or received?

- 18.1 Subject to the *Corporations Act* and any relevant law, any notice or document that is required by the *Constitution* or by law to be given by a *member*, the *Board*, a *director*, or *Compass* may be given by any of the following ways:
- (1) in the case of a notice or document to a *member* or a *director*:
 - (a) by giving that notice or document personally to them;

- (b) by sending that notice or document to their business or residential address last known to *Compass*; or
 - (c) by sending that notice or document to them by any electronic means, including (but not limited to) that *person's* email address or facsimile number last known to *Compass*.
- (2) in the case of a notice to *Compass*, the *Secretary*, or the *Board*, by sending that notice or document to the *CEO* (or *GMD* if appointed), the *Secretary* or the *Board* by any means permitted under clause 18.1(1).
- 18.2 If a notice or document is sent by prepaid post, it is deemed to have been received on 4th business day after it is sent.
- 18.3 No *person* is authorised to receive a notice or document under this clause unless authorised by law or the *Constitution*.

19. What happens if Compass has to be wound up?

- 19.1 *Compass* must transfer any surplus asset of any gift fund it operates to another gift fund it operates, or another institution, when the earlier of any of the following occur:
 - (1) a gift fund *Compass* operates is wound up,
 - (2) *Compass's* deductible gift recipient status is revoked, or
 - (3) *Compass* is wound up.
- 19.2 The gift fund and institution referred to in clause 19.1 must be endorsed by the Commonwealth Commissioner of Taxation as a deductible gift recipient before a transfer under clause 19.1 is made.
- 19.3 If it is necessary to wind up *Compass*, even after all of *Compass's* liabilities have been satisfied, no property owned by *Compass* can be paid to or distributed to any *member*.
- 19.4 Subject to clause 19.4A, if *Compass* is wound up or deregistered, all property owned by *Compass* must be given or transferred to an organisation that is:
 - (1) recognised by the Commonwealth Commissioner of Taxation as a public benevolent institution; and
 - (2) registered as a “community housing provider” under the *Community Housing Providers National Law* (or its successor or replacement law).
- 19.4A All *Compass's* remaining Community Housing Assets in a Participating Jurisdiction on its winding up are to be transferred to another Registered Community Housing Provider or to a Housing Agency in the jurisdiction in which the asset is located. For the purpose of this clause 19.4A, the words “Community Housing Assets”, “Participating Jurisdiction”, “Registered Community Housing Provider” and “Housing Agency” have their definitions under the Community Housing Provider National Law or its amending or repealing statute or statutory instrument.

- 19.5 An organisation to which clause 19.4 applies must also be endorsed as a deductible gift recipient under the *Income Tax Assessment Act 1997* (Cth) or other taxation legislation.
- 19.6 *Compass* must only give or transfer its property under this clause to an organisation that has objects similar to those set out under clause 1.56.
- 19.7 The *members* must, by resolution at any *meeting*, choose the organisation to which *Compass* will give or transfer its property under clause 19.4, unless otherwise required by law.

20. Severing invalid clauses

- 20.1 If a clause or clause of the *Constitution* is or becomes illegal, invalid, void, or unenforceable that clause or clause is to be read down to the extent necessary so that it is not illegal, invalid, void, or unenforceable.
- 20.2 If a clause or clause of the *Constitution* cannot be read down as set out in clause 20.1, that clause or clause is to be severed without affecting the legality or enforceability of the rest of the *Constitution*.

21. Conflicts of Interest

- 21.1 A *director* must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a *Board Meeting* (or that is proposed in a circular resolution):
- (1) to the other *directors*; or
 - (2) if all of the *directors* have the same conflict of interest, to the *members* at the next *GM*, or at an earlier time if reasonable to do so.
- 21.2 The disclosure of a conflict of interest by a *director* must be recorded in the minutes of the *meeting*.
- 21.3 Each *director* who has a material personal interest in a matter that is being considered at a *Board Meeting* (or that is proposed in a circular resolution) must not, except as provided under clause 21.4:
- (1) be present at the *meeting* while the matter is being discussed; or
 - (2) vote on the matter.
- 21.4 A *director* may still be present and vote if:
- (1) their interest arises because they are a *member* of *Compass*, and the other *members* have the same interest;
 - (2) their interest relates to an insurance contract that insures, or would insure, the *director* against liabilities that the *director* incurs as a *director* of *Compass* (see clause 11.2);

- (3) their interest relates to a payment by *Compass* under clause 11.1 (indemnity), or any contract relating to an indemnity that is allowed under the *Corporations Act*;
- (4) the Australian Securities and Investments Commission (ASIC) makes an order allowing the *director* to vote on the matter; or
- (5) 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 *Compass*; and
 - (b) says that those *directors* are satisfied that the interest should not stop the *director* from voting or being present.

Schedule 1 - Interpretation

1. Definitions

The following words and expressions have these meanings in the *Constitution*:

ACNC Act	means the <i>Australian Charities and Not-for-Profits Commission Act 2015 (Cth)</i> .
AGM	means an Annual General Meeting of <i>Compass</i> held in accordance with the <i>Corporations Act</i> .
Board	means the current <i>directors</i> of <i>Compass</i> .
Board Meeting	means a <i>meeting</i> of the <i>Board</i> held in accordance with the <i>Corporations Act</i> .
business day	means a day other than: <ul style="list-style-type: none"> (a) A Saturday, Sunday or public holiday in New South Wales; or (b) 27, 28, 29 30 or 31 December.
CEO	means the Chief Executive Officer of <i>Compass</i> .
Chair	means a <i>director</i> elected as such under clause 9.10(1).
CLG	means Company Limited by Guarantee
Compass' Office	means the ASIC registered office of <i>Compass</i> .
Constitution	means this document, as amended from time to time.
Corporations Act	means the <i>Corporations Act 2001 (Cth)</i> .
Deputy Chair	means a <i>director</i> elected as such under clause 9.10(2).
director	means a current <i>member</i> of <i>Compass</i> who is appointed or elected as either the <i>GMD</i> or a <i>NED</i> in accordance with the <i>Constitution</i> .
General Member	means a <i>member</i> who is not a <i>Life Member</i> .
GM	means a general meeting of <i>Compass</i> as defined, and held in accordance with, the <i>Corporations Act</i> .
GMD	means the Group Managing Director of <i>Compass</i> (if appointed), who will be the <i>CEO</i> and whose role includes both management and governance of <i>Compass</i> .

Life Member	means a <i>person</i> who is recognised as <u>providing substantial service to Compass</u> and is appointed as a Life Member under clause 2.12.
majority	means a number which is equal to or more than fifty-one percent (51%).
meeting	means an <i>AGM</i> , a <i>Board Meeting</i> , or a <i>GM</i> .
member	means: <ul style="list-style-type: none"> (a) a current <i>General Member of Compass</i> who is a <i>person</i> and has paid their annual membership fee by the time required under clause 2.11; or (b) a <i>Life Member</i> appointed as such under clause 2.12.
Nominations Committee	means the committee created under clause 12.3.
NED	means a non-executive <i>director</i> of <i>Compass</i> who is not an employee of <i>Compass</i> and whose position is concerned with the governance of <i>Compass</i> and, to the extent permissible at law, is not concerned with the day to day management of <i>Compass</i> .
person	means a natural person.
Related Body Corporate	has the same meaning given to it in the <i>Corporations Act</i> .
Secretary	means a natural person appointed as company secretary of <i>Compass</i> and specified as company secretary in the ASIC register.
Special Resolution	means a resolution of <i>members</i> , of which notice has been sent in accordance with the <i>Corporations Act</i> , that can only be passed when at least seventy-five percent (75%) of the votes cast by <i>members</i> entitled to vote on the resolution vote in favour of the resolution.
Term	means a period of three (3) continuous years.
Triennial Rotation Rule	has the meaning given to in clause 13.3.

2. Interpretation

In interpreting the *Constitution*, the following apply unless it is inappropriate in the context or otherwise stated in the *Constitution*:

- (1) The *Constitution* must be interpreted in accordance with the *Acts Interpretation Act 1901 (Cth)*.
- (2) Nothing in the *Constitution* is intended to derogate from the *Corporations Act* or the *ACNC Act*. These Acts impose numerous obligations on *Compass*, which are not all reproduced in the *Constitution*.
- (3) The *Corporations Act* and the *ACNC Act* prevail over anything in the *Constitution* to the extent the *Constitution* is inconsistent with the *Corporations Act* or the *ACNC Act*.
- (4) The *Constitution* replaces the replaceable rules in the *Corporations Act*.
- (5) Words used in the *Constitution* have the same meaning as those same words used in the *Corporations Act* or the *ACNC Act*.
- (6) Words importing the singular include the plural and vice versa.
- (7) A reference to a person includes that party's executors, administrators, substitutes, successors, and permitted assigns and vice versa.
- (8) Circumstances, conditions and stipulations expressed apply whenever the circumstance arises or the condition or stipulation has to be, or has been, satisfied or performed.
- (9) A reference to any legislation, whether to the whole or part of that legislation, includes any modification, consolidation or amendment to that legislation as well as replacement or subordinate legislation issued under it.
- (10) The meaning of general words is not limited by specific examples introduced by 'including', 'such as', 'for example', or 'even if' or similar expressions.
- (11) Headings are included for convenience and do not affect interpretation.
- (12) Anything required to be written or in writing includes anything that is printed, typed, emailed, sent by facsimile or reproduced in any other mode of reproducing words in a visible form.