

**RULES OF Kyneton and District Town Square Co-Op Ltd**

**Non-distributing Co-operative without share capital**

**Victoria**

Approved by the Registrar on:

Adopted by the Co-operative on:

Submitted by.....

.....

*(Signature)*

*(name in block letters)*

## CATEGORY ONE - Co-operative name, primary activities and active membership

### 1.1 CO-OPERATIVE NAME

The name of the Co-operative is Kyneton and District Town Square Co-Op Ltd.

### 1.2 DEFINITIONS

In these rules:

1. Either of the words '**Law**' or '**Act**' means the Cooperatives National Law.
2. The term '**year**' means the Co-operative's financial year as defined in these rules.
3. The term '**sortition**' means the use of random selection to populate assemblies or fill political positions to reflect the makeup of the base population. This can be achieved by using the biases of age, gender, ethnicity or whatever criteria deemed appropriate.
4. The term '**poll**' refers to a secret ballot
5. '**Kyneton District**' refers to the area of Kyneton and district that will be defined geographically by the board from time to time, based on localities from which residents generally consider their main shopping or community centre to be the town of Kyneton.
6. '**Special resolutions**' – all resolutions of the cooperative are to be treated as ordinary resolutions according to the Law (section 239 of the National Cooperative Law) unless they are specified as special resolutions in either these rules or in the Law. Special resolutions cover any changes to these rules, changes to the membership fees, expulsion of a member or winding up of the cooperative.

Except so far as the contrary intention appears in these rules, words and expressions used in these rules have the same meanings as they have, from time to time, in the Cooperatives National Law, unless they are specifically defined elsewhere in these rules.

### 1.3 PURPOSE

The Co-operative will promote strong community, based on values of broad engagement and mutuality, by creating a publicly owned Town Square in the heart of Kyneton for the public benefit of Kyneton and District residents.

#### 1.3A PRIMARY ACTIVITIES

The primary activities of the Co-operative are to:

1. Make space available in the old Baynton Street Primary School buildings for use by community groups and individuals on such terms and conditions as are determined by the board.
2. Promote broad, inclusive use and shared community responsibility for the Town Square..

3. Maintain the viability of all the buildings and grounds and the protection of the bluestone heritage building and trees.
4. Develop socially entrepreneurial and commercially-focussed initiatives to create a strong cash flow to fund the upkeep and development of the town Square precinct for public good and benefit.
5. Extend practical and financial support to community driven, and socially worthwhile, initiatives in areas such as education, the arts, the natural environment and public welfare and need.
6. Liaise with government and non-government agencies and other organisations to build cooperative arrangements and work with others to achieve the purpose of the Co-operative.
7. Raise and receive money by any lawful method the co-operative approves.
8. Construct, improve, maintain, develop, work, manage, carry out, alter or control any buildings, grounds and/or conveniences or assist, in any way, such construction, improvement, maintenance, development, working, management, carrying out, alteration or control.
9. Undertake such other activities that are incidental to, and supportive of the above primary activities.

### **1.3B ACTIVE MEMBERSHIP**

1. The Co-operative recognizes two distinct types of membership:
  - a. Individual membership – held by a single individual person
  - b. Organisational membership – held by an organisation subject to approval by the Cooperative Board.
  
2. In order to establish and maintain active membership of the Co-operative:
  - a. An individual member must do a minimum of one of the following:
    - i. Participate in at least two working bees of the Co-operative as defined by the Board
    - ii. Contribute a minimum of six hours of voluntary work in the Cooperative as defined by the Board and as consistent with the primary activities.
    - iii. Pay an annual subscription as detailed in rule 3.1 - Member Subscriptions of the Co-operative Rules.
    - iv. Apply to the Co-operative Board for a special exemption to paying the subscription based on extenuating circumstances
  
  - b. An organisational member must do the following:
    - i. Pay an annual subscription as determined by the Co-operative Board of no more than \$1000.00 or as determined by special resolution at the annual general meeting as detailed in rule 3.1.
    - ii. Coordinate and run a minimum of one working bee per year or perform other work as negotiated with the Board or relevant Committee.

- c. If an individual member of an organisational member of the Co-operative uses the facilities of the Co-operative as part of their group's activities more than three times in a twelve month period, it is expected that they will be encouraged by their organisation, to take out individual membership of the cooperative. Maintaining this clause will be part of organisational members active membership requirements. Successful recruitment of of the organisation's members could see the organisational fee fully or partially waived altogether at the board's discretion.

### **1.3C CANCELLATION OF MEMBERSHIP FOR INACTIVITY**

The board must declare the membership of an individual or organisational member cancelled if:

1. The whereabouts of the member are not presently known to the Co-operative and have not been known to the Co-operative for a continuous period of at least 3 years; or
2. The member is not presently active and has not been active within the meaning of rule 1.3B in the past 2 years.

## **CATEGORY TWO - Membership status, rights and obligations**

### **2.1 MEMBER QUALIFICATIONS**

A person qualifies for membership of the Co-operative if the person is able to use and/or contribute to the services of the Co-operative and fulfils any other criteria established by the board.

### **2.2 MEMBER APPLICATIONS, FEES, AND ANNUAL SUBSCRIPTIONS**

1. Applications for membership must be lodged by the use of technology such as email or directly at the registered office of the Co-operative using the application form approved by the board and should be accompanied by payment of the annual subscription under rule 3.1 where appropriate.
2. The board must consider every application for membership.
3. If the board approves of the application, the applicant's name and any other information required under the Law must be entered in the register of members within 28 days of the board's approval.
4. The applicant must be notified in writing or by email of the entry in the register and the applicant is then entitled to the privileges attaching to membership.
5. The board may, at its discretion, refuse an application for membership.
6. The board need not assign reasons for the refusal. On refusal, any amounts accompanying the application for membership, other than the application fee referred to in paragraph 1.a of this rule, must be refunded within 28 days without interest.

### **2.3 WHEN MEMBERSHIP CEASES**

1. A person will cease to be a member of the Co-operative in each of the following circumstances and as otherwise provided by Law if:
  - a. The member's membership is canceled in accordance with these rules or the Law;
  - b. The member is expelled or resigns under these rules;
  - c. The contract of membership is rescinded on the grounds of misrepresentation;
  - d. For a member that is a corporation — the corporation is deregistered;
  - e. For a member who is a natural person — the member dies.
2. Except as otherwise provided by Law a member will not cease to be a member of a co-operative if the member:
  - a. Is an individual and becomes bankrupt and their property is subject to control under laws relating to bankruptcy, or
  - b. The member is a corporate member that becomes insolvent and subject to control under laws relating to the insolvency.

## 2.4 MEMBER RESIGNATION

A member may resign from the Co-operative by giving one month's notice in writing or such lesser period of time approved by a resolution of the board in a particular case.

## 2.5 EXPELLING A MEMBER

1. A member may be expelled from the Co-operative by special resolution to the effect:
  - a. That the member has seriously or repeatedly failed to discharge the member's obligations to the Co-operative under these rules, or any contract or memorandum of understanding entered into by the member with the Cooperative; or
  - b. That the member has acted in a way that has:
    - i. Prevented or hindered the Co-operative in carrying out its primary activity or one or more of its primary activities; or
    - ii. Brought the Co-operative into disrepute; or
    - iii. Been contrary to one or more of the Cooperative principles and has caused the Co-operative harm.
3. Written notice of the proposed special resolution must be given to the member at least 28 days before the date of the meeting at which the special resolution is to be moved, and the member must be given a reasonable opportunity of being heard at the meeting.
4. At the general meeting when the special resolution for expulsion is proposed the following procedures apply:
  - a. At the meeting, the member must be afforded a full opportunity to be heard and is entitled to call witnesses and cross-examine witnesses called against the member;
  - b. If the member fails to attend at the time and place mentioned, without reasonable excuse, the member's alleged conduct must be considered and the Cooperative may decide on the evidence before it, despite the absence of the member;
  - c. Once the alleged conduct is considered, the Co-operative may decide to expel the member concerned;
  - d. The Co-operative must not make a decision on the alleged conduct or on expulsion, except by vote by secret ballot of the members present, in person or represented by proxy or by attorney, and entitled to vote;
  - e. A motion for the decision is not taken to be passed unless two-thirds of the members present, in person or represented by proxy or by the attorney, vote in favour of the motion.
5. An expelled member must not be re-admitted as a member unless the re-admission is approved by special resolution.

## **2.6 FINANCIAL CONSEQUENCES OF RESIGNATION OR EXPULSION**

1. If a member is expelled or resigns from the Co-operative, all amounts owing by the former member to the Cooperative become immediately payable in full.
2. If a member who is expelled or who resigns from the Cooperative has prepaid an annual subscription, and
  - a. The amount of the annual subscription is less than \$200 the Cooperative may retain the whole of the prepaid annual subscription; or
  - b. The amount of the annual subscription is greater than \$200 the Cooperative must refund a pro-rata amount for the remainder of the subscription period less any reasonable costs incurred in administering a refund.

## **2.7 SUSPENDING A MEMBER**

1. The board of the Co-operative may suspend a member for not more than one year, who does any of the following:
  - a. Contravenes any of these rules;
  - b. Fails to discharge obligations to the Co-operative, whether under these rules, a contract or memorandum of understanding; or
  - c. Acts detrimentally to the interests of the Co-operative.
2. In order to suspend a member, the board must give written notice to the member of its intention to suspend membership. Such written notice must include the grounds for suspension and allow the member a reasonable time and opportunity to respond in writing to the notice.
3. The board may, of its own motion or on the request of the member, convene a board meeting to consider suspension of the member.
4. If the board resolves to suspend a member then it must provide the member with written notice of such suspension, the terms of the suspension and the reasons for suspension.
5. During the period of suspension, the member:
  - a. Loses any rights (except the right to vote) arising as a result of membership; and
  - b. Is not entitled to a refund, rebate, relief or credit for amounts paid or payable to the co-operative under these rules.
6. A member may appeal against the decision of the board to suspend membership within 14 days of the board's decision.
7. An appeal against suspension may be dealt with at a general meeting of the Cooperative called to consider a special resolution to confirm or overturn the suspension decision by the board.
8. An appeal against suspension shall follow the same procedure set out for the expulsion of a member under rule 2.5.3.
9. A decision by the board to suspend a member does not take effect until the time for appeal has expired or the appeal against such suspension has been determined.

## 2.8 DISPUTE RESOLUTION

1. The grievance procedure set out in this rule applies to disputes under these rules between:
  - a. A member and another member; or
  - b. A member and the Co-operative.
2. If a dispute arises, a party cannot commence any court or arbitration proceedings relating to the dispute unless it has complied with the provisions of this rule, except where a person seeks urgent interlocutory relief.
3. The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days of:
  - a. The dispute coming to the attention of each party; or
  - b. A party giving notice, to each of the other parties involved, of the dispute or grievance.
4. If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, the parties must, as soon as is practicable, hold a meeting in the presence of a mediator.
5. The mediator is, where possible, to be chosen by agreement between the parties, but, in the absence of agreement between the parties:
  - a. For a dispute between a member and another member, a person appointed by the board; or
  - b. For a dispute between a member (including a former member) and the Cooperative, a person appointed by the Australian Mediation Association or a similar organisation that provides alternative dispute resolution services.
6. The mediator does not need to be a member of the Cooperative, and must not be a party to the dispute.
7. The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
8. The mediator, in concluding the mediation, must:
  - a. Give the parties to the mediation process every opportunity to be heard; and
  - b. Allow due consideration by all parties of any written statement submitted by any party; and
  - c. Ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
9. The mediator cannot determine the dispute.
10. The mediation must be confidential and without prejudice.
11. The costs of the mediation are to be shared equally between the parties unless otherwise agreed.
12. Nothing in this rule applies to any dispute as to the construction or effect of any mortgage or contract contained in any document other than these rules.
13. Nothing in this rule applies to any dispute involving the expulsion or suspension of a member.
14. If the mediation process does not result in the dispute being resolved, each party may seek to resolve the dispute in accordance with the Law or otherwise at Law.

*In this rule the word **member** includes any person who was a member in the 6 months prior to the dispute.*



## **2.9 FINES PAYABLE BY MEMBERS**

No fines are to be imposed on members in any circumstances but they may be required to reimburse for damage for which they are responsible

## **2.10 LIABILITY OF MEMBERS**

A member is liable to the Co-operative for the amount, if any, unpaid by the member in respect of entry fees and regular subscriptions, together with any charges payable by the member to the Co-operative under these rules.

## **2.11 VALUE OF INTEREST OF DECEASED MEMBER**

The value of the interest of a deceased member, is the amount that would have been payable to the member if the member had resigned.

## **2.12 RIGHTS AND LIABILITIES OF MEMBERS WHO ARE BANKRUPT, INSOLVENT OR OTHERWISE INCAPABLE**

1. The interests of an individual member who becomes bankrupt or a corporate member who becomes insolvent may be transferred to the member's trustee, administrator or liquidator, as the case may be, in accordance with the laws dealing with such events.
2. A person appointed under a law of a State or Territory to administer the estate of a person who, through mental or physical incapacity, is incapable of managing their affairs, may be registered as a member and the rights and liabilities of membership vest in that person during the period of the appointment.
3. Upon application by a person appointed to manage the affairs of a member referred to in paragraph 2 of this rule, the board may decide to suspend some or all active membership obligations if there are grounds to believe that the member's mental or physical incapacity is temporary.

## **CATEGORY THREE - FINANCE AND SECURITIES**

### **3.1 MEMBER SUBSCRIPTIONS**

1. ..Where the member is choosing to pay the annual subscription as per rule 1.3B section 2, the annual subscription is \$52.00 per year (\$1.00 per week) or at the discounted rate, as set by the board, for pensioners, people with a disability, unemployed, children, and health care cardholders.
2. Organisational members must pay an annual subscription as determined by the Co-operative Board on a case-by-case basis of no more than \$1000.00 unless this figure is altered by special resolution at the annual general meeting.
3. An organisational member in its second and subsequent years of membership can, at the discretion of the board, be granted a membership subscription reduction by encouraging the individual members of that organisation to join the co-operative as individual cooperative members.
4. At the Board's absolute discretion, the Board may establish, on an equitable basis, rebates and discounts for members commensurate with their economic contribution to the primary activities of the cooperative.
5. Membership dues may be varied by a special resolution passed at the annual general meeting and published at the Co-operative's registered office or on its website.

### **3.2 TRANSFER OF DEBENTURES AND OTHER SECURITIES**

1. Debentures and other securities may be transferred using an instrument or form approved by the board that is executed by or on behalf of the transferor and the transferee.
2. The transferor is taken to remain the holder of the security until the transferee's name is entered in the register that records the holders of these securities.
3. The board may decline to register an instrument or form transferring a security:
  - a. If the transfer would be contrary to the terms of issue of such security, or
  - b. If the transfer fee (as noted on the transfer form or instrument) is not paid to the co-operative for the transfer of registration.
4. The board of the Cooperative may require the instrument or form of transfer to be accompanied by:
  - a. The relevant security certificate(s) and any other evidence the board reasonably requires (in particular, evidence showing the right of the transferor to make the transfer); and
  - b. Evidence of the payment of any government duty where such duty is payable.
5. If the Co-operative refuses to register a transfer of securities under this rule, it must, within 28 days after the date on which the transfer was lodged with it, send to the transferee notice of the refusal.

### **3.3 ISSUE OF COOPERATIVE CAPITAL UNITS (CCUs)**

1. The board may confer an interest in the capital of the Co-operative by issuing CCUs in accordance with the Law.
2. At a meeting of CCU holders, each CCU holder is entitled to one vote per CCU held.
3. The rights of the holders of CCUs may be varied only in the way and to the extent provided by their terms of issue and only with the consent of at least 75% of those holders of CCUs who, being entitled to do so, cast a formal vote to accept the variation at a meeting.
4. The holder of a CCU has, in the person's capacity as a holder of a CCU, none of the rights or entitlements of a member of the Cooperative.
5. The holder of a CCU is entitled to receive notice of all relevant meetings of the Cooperative and all other documents in the same manner as the holder of a debenture of the co-operative.

## **CATEGORY 4 - Board of directors and board meetings**

### **4.1 BOARD OF DIRECTORS**

1. The business of the Co-operative is to be managed by or under the direction of the board of directors, and for that purpose the board has and may exercise all the powers of the co-operative that are not required to be exercised by the Co-operative in general meeting.
2. The board must have at least 7 and a maximum of 9 directors. Five directors are to be elected from the membership, 2 directors selected from the broader community by sortition (as set out in rule 4.4) and 1 or 2 additional directors can be appointed directly by the board from time-to-time to address identified needs.
3. The board may, by resolution, delegate any of the board's powers (other than this power of delegation) provided that the delegation:
  - a. Is in writing,
  - b. Is only a delegation of power to a committee that includes a minimum of 1 director, and
  - c. The instrument of delegation clearly describes the power delegated and any limitations on the exercise of such delegated power.

## **4.2 QUALIFICATIONS OF DIRECTORS**

1. A person is qualified to be a director of the Co-operative if they are over the age of 18 years and an active member of the Co-operative. Board members selected by sortition from the broader community or appointed directly by the board, automatically become members of the cooperative once they take up their board position.
2. A general meeting may establish other lawful qualifications for directors.

## **4.3 FIRST DIRECTORS AND TERMS OF OFFICE**

1. The first directors are the five directors who are elected at the formation meeting.
2. The two directors appointed by the board using sortition, must take up their positions on the board within three months after the date of the formation meeting.
3. The term of office for an elected director (other than a first director) is three years ending on the day of the third annual general meeting after the director's election. The term of office for directors selected by sortition is two years ending on the day of the director's selection. Board appointed directors are appointed for one year and may be renewed at the discretion of the board.
4. The term of office of the first directors shall be determined at the formation meeting in order to enable their retirement by rotation and in any event, shall be no more than three years ending on the day of the third annual general meeting after the formation meeting. The rotation for elected directors will be one in year 1, two in year 2 and two in year 3. The rotation for sortition directors is one in year 1 and one in year 2.
5. Any ordinary director who stands down by rotation is entitled to stand for re-election.

## **4.4 ELECTIONS and APPOINTMENT OF DIRECTORS**

1. The members of the board are to be appointed in the manner specified in this rule. Refer items 2 – 9 for the process for electing directors. Refer items 10 for the process for appointing a board appointed director. Refer items 2 and 11 for the process of appointing directors by sortition.
2. At an annual general meeting at which there are vacancies in the office of elected director as a result of retirement or due to a casual vacancy, the vacated office may be filled in the following manner:  
At least 6 weeks before the annual general meeting, the board must:

- i. Notify all members of the number of elected directors retiring at the annual general meeting and any casual vacancies to be filled; and
  - ii. Advise the members of:
    - a. Their eligibility to nominate as an elected director; and
    - b. The duties and responsibilities of an elected director; and
    - c. The nomination and election procedures.
3. A notice must also be displayed at the place of business of the Cooperative inviting nominations of persons to serve as elected directors.
4. A nomination for election of a director must:
  - b. Be signed by 2 or more members; and
  - c. Provide details of the qualifications and experience of the person nominated; and
  - d. Be accompanied by a notice in writing signed by the nominee consenting to their nomination.
5. The nomination and the notice of consent for the elected director position must be lodged with the secretary of the co- operative at least 30 days before the annual general meeting.
6. The secretary, or an officer nominated by the board, must give details of each person who has been nominated as an elected director to members with the notice of the annual general meeting. Details to be provided to members must include:
  - a. The nominee's name; and
  - b. The nominee's qualifications and experience; and
  - c. The nominee's length of any previous service as a director of the Cooperative or with any other Cooperative.
7. If the number of nominees equals the number of vacancies, the nominees for elected directors must be declared elected at the annual general meeting.
8. If there are insufficient nominees to fill all vacancies for elected directors, the nominees must be declared elected at the annual general meeting and any remaining vacancies will become casual vacancies.
9. If the number of nominees exceeds the number of vacancies, the election of directors must be conducted at the meeting by ballot as follows:
  - a. A returning officer is elected at the meeting. The directors, the secretary and anyone who has an interest in the election are not eligible to be the returning officer.
  - b. All nominees are to be listed on the ballot forms in rotating order.
  - c. The returning officer is responsible for determining the validity of and counting of the votes.
  - d. If there is an equality of votes, there must be a new ballot.
  - e. The returning officer is to declare the election results.
10. A nomination for a board appointed member must:
  - a. Be signed by 2 directors; and
  - b. Provide details of the qualifications and experience of the person nominated; and
  - c. Be accompanied by a notice in writing signed by the nominee consenting to their nomination.
  - d. The appointment must be confirmed by a board motion supporting the nomination and carried by a clear majority of the board.

11. The board will activate the process for appointment of board members by sortition after the Annual General Meeting. The board must complete the sortition process and the appointment of board member(s) chosen by sortition within three months of the General Annual Meeting.
12. The process by which the Co-operative appoints board or committee members by sortition is as follows. Initially invitations to participate are randomly distributed to a predetermined quota of households across Kyneton and district. A second round of sortition is then activated to process the positive responses and appoint representatives to positions in the Co-operative. At the discretion of the board, the second round of selection can use any criteria such as gender or age to create a better representation of the broad population..

#### **4.5 REMOVAL FROM OFFICE OF A DIRECTOR**

1. The Co-operative may by resolution under the Law, with special notice, remove a director before the end of the director's period of office, and may by a simple majority appoint another person in place of the removed director. The person appointed must retire when the removed director would otherwise have retired.
2. For the purposes of this rule, 'special notice' is a notice required under the Law to be given 2 months prior to the meeting at which the resolution is to be considered.

#### **4.6 WHEN A DIRECTOR VACATES OFFICE AND CASUAL VACANCIES**

1. In addition to the circumstances set out in *s179 of the CNL* a director vacates office if the director dies or becomes unable to manage their affairs by reason of mental illness.
2. The board may appoint a qualified person to fill a casual vacancy in the office of director that arises because of an event referred to in paragraph one of this rule or because there were insufficient nominees for election at an annual general meeting. The board can also appoint a person to fill a casual vacancy in the office of director using the sortition process.
3. A person appointed to fill a vacancy under paragraph 2 of this rule is appointed until the next annual general meeting unless the casual vacancy is a sortition appointee, in which case the person fills the vacancy until the day in which the original appointee's term would have expired.

#### **4.7 ALTERNATE DIRECTORS**

1. The board may appoint a person to act as a director (an alternate director or deputy director) in the place of an absent director (the principal director).
2. A person appointed must meet the qualifications requirement to be a director.
3. An alternate or deputy director holds office until the next annual general meeting or until the next general meeting held to elect directors to fill any vacancies (whichever is earlier).
4. An alternate or deputy director for a director (the principal director) vacates office:
  - e. In similar circumstances or cases to those in which the principal director would vacate office under these rules or

- f. If the alternate or deputy director is removed from office by the board for failure to attend a meeting of the board without the board's leave, and at which the principal director is also absent.

#### **4.8 PROCEEDINGS OF THE BOARD**

1. Meetings of the board are to be held as often as may be necessary for properly conducting the business of the Co-operative and must be held at least every 3 months.
2. A meeting may be held with one or more of the directors participating by using a form of communication that allows timely and continuous communication between the directors taking part in the meeting.
3. Questions arising at a meeting must be decided by a majority of votes.
4. If votes are equal, the chairperson has a second or casting vote.
5. Other than in special circumstances decided by the chairperson, at least 48 hours' notice must be given to the directors of all meetings of the board, without which the meeting cannot be held.

#### **4.9 BOARD QUORUM**

The quorum for a meeting of the board is 70% of the number of directors (or if that percentage of the number of directors is not a whole number, the whole number next higher than 70%).

#### **4.10 CHAIRPERSON OF BOARD**

1. The chairperson of the board is to be elected by the board and may be removed by resolution of the board. On a resolution to remove the chairperson, the chairperson is not entitled to cast a vote.
2. If no chairperson is elected or the chairperson is not present within 15 minutes after the time fixed for holding the meeting or is unwilling to act as chairperson of the meeting, the directors present may choose one of their number to be chairperson of the meeting until the chairperson attends and is willing to act as chairperson.

#### **4.11 MINUTES OF BOARD AND OTHER MEETINGS**

1. The board must keep minutes of meetings and, in particular, of:
  - a. All appointments of officers and employees made by the directors; and
  - b. The names of the directors present at each meeting of the board and of a committee of the board; and
  - c. All resolutions and proceedings at all meetings of the Co-operative and of directors and

of committees of directors.

2. Minutes must be entered in the appropriate records within 28 days of the meeting to which they relate being held.
3. The minutes are to be signed and confirmed by the chairperson within a reasonable time after the meeting to which they relate.
4. Unless specified otherwise, the board minutes will be made public to members through the cooperative website in a timely fashion.

#### **4.12 Secretary of the Cooperative**

It is the duty of the Board to ensure that a suitable and qualified person is appointed to the role of secretary of the Co-operative in a timely fashion.



## CATEGORY 5 – MEMBER MEETINGS

### 5.1 GENERAL MEETINGS

1. An annual general meeting must be held on a date and at a time decided by the board within 5 months of the end of the Co-operative's financial year or within any further time allowed by the Registrar.
2. The board may, whenever it considers appropriate, call a special general meeting of the co-operative.
3. Calling of general meeting on requisition
  - (1) The board of the Co-operative must call a general meeting of the co-operative on the written requisition of the number of members who together are equivalent or greater than the quorum of members as specified in clauses 5.4.2 and 5.4.3 of these rules.
  - (2) A member cannot be a requisitioning member unless the member is an active member.
  - (3) The following provisions apply to a requisition for a general meeting:
    - (a) It must state the objects of the meeting;
    - (b) It must be signed by the requisitioning members (and may consist of several documents in like form each signed by one or more of the requisitioning members);
    - (c) It must be served on the co-operative by being filed at the registered office of the co-operative.
  - (4) The meeting must be called and held as soon as practicable and in any case must be held within 63 days after the requisition is served.
  - (5) If the board does not call the meeting within 21 days after the requisition is served, the following provisions apply:
    - (a) The requisitioning members (or any of them representing at least half their total voting rights) may call the meeting in the same way as nearly as possible as meetings are called by the board;
    - (b) For that purpose, they may ask the Co-operative to supply a written statement setting out the names and addresses of the persons entitled when the requisition was served to receive notice of general meetings of the co-operative;
    - (c) The board must send the requested statement to the requisitioning members within 7 days after the request for the statement is made;
    - (d) The meeting called by the requisitioning members must be held within 91 days after the requisition is served;
    - (e) Any reasonable expenses incurred by the requisitioning members because of the board's failure to call the meeting must be paid by the Co-operative;
    - (f) Any amount required to be paid by the co-operative under paragraph (e) must be retained by the co-operative out of any money due from the Co-operative by way of fees or other remuneration for their services to any of the directors that were in default.

## 5.2 NOTICE OF GENERAL MEETINGS AND MEMBER RESOLUTIONS

1. At least 14 days' notice of a general meeting must be given.
2. The period of notice is calculated from the day after the notice is served or taken to be served, and is taken to include the day on which the meeting is to be held.
3. Notice must be served on each member of the Co-operative and any other persons who are entitled to receive such notices under the Law.
4. The notice must state the place, day and hour of the meeting and if the meeting is to be conducted using technology, the notice must include instructions about how to attend the meeting.

**Note:** Refer also to rule 5.6 regarding attending meetings and rule 6.9 regarding notices and other documents to members.

5. The notice must state what ordinary business is to be considered, and, if there is to be any special business, the general nature of any special business.
6. The notice must also include any business that members have notified their intention to move at the meeting provided that paragraph 7 of this rule has been complied with.
7. Members who have a resolution that requires a decision by the members at a general meeting, must serve written notice of it on the co-operative and identify a mover and seconder for the resolution who are both eligible to attend and vote at the meeting.
8. If the Co-operative has been served with notice under paragraph 7 of this rule the resolution is to be considered at the next general meeting that occurs more than 1 week after the notice is served or taken to be served.

## 5.3 BUSINESS OF THE ANNUAL GENERAL MEETING

1. The ordinary business of the annual general meeting of the Co-operative must be:
  - a. To confirm minutes of the last preceding general meeting (whether annual or special);
  - b. To receive from the board, auditors or officers of the Co-operative:
    - i. The financial reports or financial statements of the Co-operative for the financial year;
    - ii. A report on the state of affairs of the Co-operative;  
and
    - iii. The board's solvency resolution stating whether or not there are reasonable grounds to believe that the Co-operative will be able to pay its debts as and when they become due and payable; and
  - c. To elect directors to fill any vacancies on the board.
  - d. To appoint the financial auditors of the cooperative for the ensuring year
2. The annual general meeting may also transact special business of which notice has been given to members under these rules.
3. All business of a general meeting, other than business of the annual general meeting that is

ordinary business, is special business.

#### **5.4 QUORUM AT GENERAL MEETINGS**

1. An item of business cannot be transacted at a general meeting unless a quorum of members is present when the meeting is considering the item.
2. If the number of active members is less than or equal to 10, the quorum is 5 active members.
3. If the number of active members is more than 10, then the greater of
  - a. 6 active members, or
  - b. 10% of the active membership where the total active membership is less than or equal to 300, or
  - c. Where the total active membership is greater than 300, at least 30 members constitutes a quorum
4. A member is present for the purpose of these rules if the member is entitled to vote and is physically present.
5. If a quorum is not present within half an hour after the appointed time for a meeting, the meeting, if called on the requisition of members, must be dissolved. In any other case it must be adjourned to the same day, time and place in the next week.
6. If a quorum is not present within half an hour after the time appointed for an adjourned meeting, the members present constitute a quorum.

#### **5.5 CHAIRPERSON AT A GENERAL MEETING AND ADJOURNMENTS**

1. The chairperson of the board may preside as chairperson at every general meeting of the cooperative.
2. If there is no chairperson, or if at a meeting the chairperson is either not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the members present must choose someone from their number to be chairperson (until the chairperson attends and is willing to act).
3. The chairperson may, with the consent of a meeting at which a quorum is present (and must if directed by the meeting) adjourn the meeting from time to time and from place to place.
4. The only business that can be transacted at an adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
5. It is not necessary to give notice of an adjournment or the business to be transacted at an adjourned meeting unless the meeting is adjourned for 14 days or more, in which case notice of the adjourned meeting must be given just as for the original meeting.

## **5.6 ATTENDANCES AND VOTING AT GENERAL MEETINGS**

1. The right to vote attaches to membership.
2. Each active member has only one vote at a meeting of the Co-operative
3. A resolution, other than a special resolution, must be decided by simple majority.
4. Subject to paragraphs (6) and (7) of this rule, a question for decision at any general meeting must be decided on a show of hands of members attending the meeting.
5. A poll may be demanded on any question for decision.
6. If before a vote is taken or before or immediately after the declaration of the result on a show of hands:
  - a. The chairperson directs that the question is to be determined by a poll; or
  - b. At least 5 members present demand a poll,The question for decision must be determined by a poll.
7. The poll must be taken when and in the manner that the chairperson directs.
8. A poll on the election of a chairperson or on the question of adjournment must be taken immediately and without debate.
9. Once the votes on a show of hands or on a poll have been counted a declaration by the chairperson that a resolution has been carried (unanimously or by a majority) or lost is evidence of that fact.
10. The result of the vote must be entered in the minute book.

## **5.7 VOTING ON A SHOW OF HANDS OR ON A POLL**

1. On a show of hands at a general meeting, each member who is present in accordance with rule 5.4.4 may only exercise one vote.
2. On a poll called at a general meeting, each member who is present in accordance with rule 5.4.4 may only exercise one vote.

## **5.8 DETERMINING THE OUTCOME WHEN VOTES ARE EQUAL**

1. This rule applies where the votes in favour and against a proposed resolution are equal.
2. The chairperson of the meeting may exercise a second or casting vote.

## **5.9 PROXY VOTING**

- (1) Voting may be by proxy at a general meeting.
- (2) The instrument appointing a proxy must be in writing (including by the use of technology such

as an online form) signed by the appointer or the appointer's attorney properly authorised in writing.

(3) An instrument appointing a proxy may direct the way the proxy is to vote in relation to a particular resolution and, if an instrument of proxy directs, the proxy is not entitled to vote on the resolution other than as directed in the instrument.

(4) A person may be appointed as a proxy by more than one member.

(5) An instrument appointing a proxy may be in the following form, or another form the board approves:

..... (name of co-operative)

I/We ..... (name) of ..... (address)

being a member(s) of the Co-operative appoint

..... (name) of .....  
(address)

as my/our proxy or, in that person's absence, the chairperson of the meeting or a person nominated by the chairperson as my/our proxy, to vote for me/us and on my/our behalf at the \*annual general/\*special general meeting of the co-operative, to be held on the .....

day of ..... 20..... and at any adjournment of the meeting.

#This form is to be used \*in favour/\*against the resolution.

Signed this ..... day of ..... 20.....

\*Strike out if not applicable.

#To be inserted if desired.

Note. The form may also set out the resolutions with provision for the member to give direction to the proxy.

(6) An instrument appointing a proxy is not valid until the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of the power or authority, are deposited, at least 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, at the registered office of the co-operative or at another place specified for the purpose in the notice calling the meeting.

(7) A vote given in accordance with an instrument of proxy or a power of attorney is valid despite the previous death or unsoundness of mind of the principal, the

revocation of the instrument (or of the authority under which the instrument was executed) or the power, if no intimation in writing of the death, unsoundness of mind or revocation has been received by the co-operative at the registered office before the start of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

## 5.10 POSTAL BALLOTS

1. For the purposes of this rule:
  - a. **Postal ballot** includes a ballot conducted by the use of technology such as email or other voting software, and
  - b. **Ballot paper** means a ballot paper in paper or electronic form.
2. A postal ballot may be held in respect of any matter that may be decided by the members at a general meeting, under rule 5.3.
3. In determining whether to hold a postal ballot on a matter for decision by members, the board must consider:
  - a. Whether a postal ballot would facilitate a more democratic decision by members, and
  - b. Whether a postal ballot is time and cost effective.
4. A postal ballot must be held in respect of a matter that may be decided by members, when a majority of members who together constitute a quorum of a general meeting of the Co-operative, requisition the board to conduct the vote by postal ballot.
5. The board may determine in a particular case whether the matter to be decided by postal ballot should be a secret ballot and how the votes should be returned.
6. If electronic means for voting are used, members who have limited or no access to the electronic means, must not be prejudiced in any way and must have reasonable opportunity to be advised of the postal ballot and to consider, record and return their vote. When this situation arises, another member may be assigned by the board to support the member in question with the voting process.
7. The board is to appoint a returning officer to conduct the postal ballot. In default of such an appointment, the secretary is the returning officer.
8. Ballot papers (in such form and with such content as the board may approve) must be sent to all voting members giving:
  - a. Particulars of the business in relation to which the postal ballot is being conducted; and
  - b. An explanation of how to lodge a valid vote and the majority required to pass the vote; and

- c. Notice of the closing date and closing time of the postal ballot; and
  - d. Must be sent to members so that they arrive at least 21 days before the closing date of the postal ballot.
9. This rule does not apply in relation to special postal ballots.

## 5.10A SPECIAL POSTAL BALLOTS

1. For the purposes of this rule:
  - a. **Special postal ballot** includes a ballot conducted by the use of technology such as email or other voting software, and
  - b. **Ballot paper** means a ballot paper in paper or electronic form.
1. Where a special postal ballot is required under the Law, the board may determine in a particular case whether the special postal ballot should be a secret ballot.
2. If electronic means for voting is used, members who have limited or no access to the electronic means, must not be prejudiced in any way and must have reasonable opportunity to be advised of the special postal ballot and to consider, record and return their vote. When this situation arises, another member may be assigned by the board to support the member in question with the voting process.
3. The board is to appoint a returning officer to conduct the special postal ballot. In default of such an appointment, the secretary is the returning officer.
4. Ballot papers (in such form and with such content as the board may approve) must provide:
  - a. Particulars of the business in relation to which the special postal ballot is being conducted;
  - b. All documents required for special postal ballots as set out under the Law; and
  - c. An explanation of how to lodge a valid vote and the majority required to pass the vote; and
  - d. Notice of the closing date and closing time of the special postal ballot.
5. Ballot papers must be sent to all voting members so that they arrive at least 28 days before the closing date of the special postal ballot.

## 5.11 SPECIAL RESOLUTIONS

1. A special resolution is a resolution that is passed:
  - a. By a two-thirds majority of those active members who cast a vote in favour of the resolution at a general meeting or in a postal ballot of members; or
  - b. By a three-quarters majority of those active members who cast a vote in favour of the resolution in a special postal ballot of members.
2. A notice of special resolution is required to be given to members at least 21 days before the vote or ballot time (or 28 days in the case of a special postal ballot).
3. The notice of special resolution must state:
  - a. The intention to propose the special resolution;
  - b. The wording of the proposed special resolution;
  - c. The reasons for proposing the special resolution; and
  - d. The effect of the special resolution being passed.



## **CATEGORY SIX - Accounts and administration**

### **6.1 FINANCIAL YEAR**

The financial year of the Cooperative ends on 30 June.

### **6.2 BANK ACCOUNTS**

1. The board must have at least one financial institution account, electronic or otherwise, in the name of the Co-operative, into which all amounts received by the Co-operative must be paid as soon as possible after receipt.
2. All cheques drawn on the accounts, and all drafts, bills of exchange, promissory notes and other negotiable instruments of the Co-operative must be signed by two authorised persons.
3. Subject to paragraph 4 of this rule, the operation of any electronic accounts must be restricted so that there is a requirement for authorisation of any electronic transaction by 2 authorised persons.
4. The board may determine by resolution that the payment of money in respect of transactions conducted in the ordinary course of the Co-operative's business may be executed by 1 authorised person subject to a specified monetary limit set out in such resolution.
5. For the purposes of this rule, an authorised person is:
  - a. A director; or
  - b. A person approved by the board.

#### **6.2A GIFT FUND**

1. A Co-operative that is endorsed as a Deductible Gift Recipient for a particular purpose or purposes must, if required to do so by the Australian Tax Office, set up and maintain a separate fund to be called a 'Gift Fund' to which gifts of money or property for these purpose/s is to be credited, including:
  - a. Contributions made in relation to a fund-raising event held for these purpose/s and
  - b. Any money received by the Cooperative because of those gifts or contributions.
2. The Gift Fund must not receive any other money or property.
3. The Co-operative must only use the gifts or money in the Gift Fund in pursuit of the purpose/s for which Deductible Gift Recipient status is endorsed.
4. The Co-operative must not use any of the gifts or money in the Gift Fund to satisfy any other debts or liabilities of the Cooperative.
5. If the Co-operative's deductible gift recipient endorsement is revoked (whether or not the co-operative is to be wound up) all surplus assets in the Gift Fund must be transferred to one or more entities that meet the requirements of rule 6.11.1, as decided by the board.
6. The Co-operative must maintain a separate bank account for the Gift Fund, and all receipts issued for gifts made to the Gift Fund must state:
  - a. The name of the Co-operative,
  - b. The Australian Business Number of the Cooperative, and

- c. The fact that the receipt is for a gift.
7. For the purposes of this rule, 'contributions' and 'fund-raising event' have the same meaning as in Division 30 of the Income Tax Assessment Act 1997 (C'th).

### 6.3 MEMBER FINANCIAL STATEMENTS AND AUDIT

1. Subject to paragraph 2 of this rule and any other provisions of the Law, the Cooperative must provide members with **basic financial statements** no later than 7 days before the Annual General Meeting.
2. If the Co-operative is directed under the Law to prepare a financial report by members or by the Registrar and the direction requires that the financial report be audited or reviewed, the board must appoint an auditor within one month of the direction.
3. An auditor appointed under paragraph 2 of this rule holds office until the financial report prepared as a result of the direction has been audited or reviewed in accordance with the directions and sent to members or the Registrar as directed.
4. For the purposes of this rule **basic financial statements** includes:
  - a. An income and expenditure statement that sets out the appropriately classified individual sources of income and individual expenses incurred in the operation of the Co-operative and the assets and liabilities of the Cooperative,
  - b. A balance sheet (including appropriately classified individual assets and liabilities of the Cooperative),
  - c. A statement of changes in equity, and
  - d. A cash flow statement.
5. If the Co-operative is a large Cooperative under the Law, it must appoint an auditor to prepare financial statements in accordance with the Law.

### 6.4 PROVISION FOR LOSS

The board must make appropriate provision for losses in the Co-operative's accounts. When reporting to members the board must indicate whether a loss is expected to continue and whether there is any material prejudice to the Co-operative's solvency.

### 6.5 SURPLUS OR RESERVES NOT TO BE DISTRIBUTED TO MEMBERS

1. The Co-operative must not give returns or distributions to members from any operating surplus or reserve.
2. If the Co-operative is wound up, any surplus assets must not be distributed to a member or a former member of the Cooperative, unless that member or former member is an organisation or entity described in rule 6.11.

### 6.6 SAFEKEEPING OF SECURITIES

Shares, debentures, charges and any other certificates or documents or duplicates of them

pertaining to securities owned by the Co-operative must be safely kept by the Co-operative in the way and with the provision for their security as the board directs.

## **6.7 COOPERATIVE SEAL**

1. The Co-operative may choose to authenticate a document under the common seal of the Co-operative.
2. The Co-operative's name and registration number must appear on its common seal and any official seal. The common seal must be kept at the registered office in the custody that the board directs.
3. The seal of the Co-operative must not be affixed to an instrument other than under a resolution of the board. Two directors, or one director and the secretary, must be present and must sign all instruments sealed while they are present.

## **6.8 AMENDMENT AND COPIES OF RULES**

1. Any amendment of the rules must be approved by special resolution.
2. A proposal to amend any rules must be made in a form approved by the board which clearly shows the existing rule or rules concerned and any proposed amendment to those rules.
3. A member is entitled to a copy of the rules, including any amendments consolidated into the rules, on payment to the Co-operative of the following amount:
  - a. For a hard copy of the rules – \$10 or as determined by the board
  - b. For an electronic copy of the rules – Nil.

## **6.9 NOTICES AND OTHER DOCUMENTS TO MEMBERS**

1. In addition to any other requirements of the Law regarding notices to members, a notice or other document required to be given to a member of the Co-operative may be given by the co-operative to any member by any form of technology (for example, by email), where the member has given consent and notified the Co-operative of the relevant contact details.
4. If a notice is sent by post, service is taken to be effected at the time at which the properly addressed and prepaid letter would be delivered in the ordinary course of post. In proving service by post, it is sufficient to prove that the envelope containing the notice was properly addressed and posted.
5. A notice forwarded by some other form of technology is taken to have been served, unless the sender is notified of a malfunction in transmission, on the day of transmission if transmitted during a business day, otherwise on the next following business day.
6. A notice may be given by the Co-operative to the person entitled to a share in consequence of the death, incapacity or bankruptcy of a member by sending it through the post in a prepaid letter addressed to that person by name. Alternatively, it can be addressed to the person by the title of the representative of the deceased or incapacitated person, or trustee of the bankrupt, or by any like description, and:
  - a. The address should be that supplied for the purpose by the person claiming to be entitled; or
  - b. If no such address has been supplied, the notice can be given in the manner in which it

could have been given if the death, incapacity or bankruptcy had not occurred.

## **6.10 WINDING UP**

1. The winding up of the Co-operative must be in accordance with the Law.
2. If the Co-operative has established a Gift Fund any debts and liabilities that were incurred as a result of activities lawfully conducted as an acceptable use of the Gift Fund shall firstly be satisfied by assets in the Gift Fund. If there remains any surplus assets in the Gift Fund these must be distributed in accordance with rule 6.11.1.
3. All remaining debts and liabilities of the Co-operative must be satisfied from such other assets of the Co-operative that are not part of the Gift Fund.
4. If on the winding up or dissolution there is a deficiency, members are liable to contribute towards the deficiency to the extent of any amount unpaid on any guarantee made by the member and any charges payable by the member to the Co-operative as required by these rules.

## **6.11 DISTRIBUTION OF SURPLUS ASSETS ON WINDING UP**

1. If the Co-operative has obtained Deductible Gift Recipient status for a particular purpose, any surplus assets in a Gift Fund must be distributed to:
  - a. One or more organisations which prohibits the distribution of any surplus assets to its members to at least the same extent as the Co-operative, and
  - b. With similar purposes to the purpose for which the Gift Fund was established, and
  - c. to which income tax-deductible gifts can be made.
2. Subject to the Law and any other applicable Australian laws, or any court order, all other surplus assets remaining after the Co-operative is wound up must be distributed to:
  - a. One or more organisations which prohibit the distribution of any surplus assets to its members to at least the same extent as the Cooperative and
  - b. With similar purposes to, or inclusive of, the Co-operative's purposes as set out in rule 1.3.
3. The decision as to the organisations to be given any surplus assets must be made by a special resolution of members at or before the time of winding up. If the members do not make this decision, the Co-operative may apply to the Supreme Court to make this decision.