

**Rules of the Kyneton and District Town Square Co-Op Ltd**

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

**Non-distributing Cooperative without share capital**

**Victoria**

Approved by the Registrar on:

Adopted by the Cooperative on:

These rules have been prepared using the Farming Together Co-op Builder.

Submitted by.....

*(Signature) (name in block letters)*

## **Rules of the Kyneton and District Town Square Co-Op Ltd**

### **CATEGORY ONE - Cooperative name, primary activities and active membership**

#### **1.1 COOPERATIVE NAME**

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

#### **1.2 DEFINITIONS**

In these rules:

- Either of the words ‘Law’ or ‘Act’ means the Cooperatives legislation applying in this jurisdiction.

- ***‘Cooperatives legislation applying in this jurisdiction’ means:***

- o for Cooperatives registered in Western Australia, the Cooperatives Act 2009 (WA).
  - o for Cooperatives registered in Queensland, the Cooperatives Act 1997 (Qld).
  - o for Cooperatives registered in all other States and Territories, the Cooperatives

- National Law or CNL.

- The term ‘year’ means the Cooperative’s financial year as defined in these rules.

- The term ‘sortition’ means the use of random selection to populate assemblies or fill political positions to reflect the make-up of the base population. This can be achieved by using the biases of age, gender, ethnicity or whatever criteria deemed appropriate.

In the case of board or committee selection for the Co-Op, the process has two main stages. 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-Op. At the discretion of the board, the second round of random selection can use any criteria such as gender or age to create a better representation of the broad population.

- The term ‘poll’ refers to a secret ballot

- ‘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 where residents generally consider their main shopping or community centre, to be the town of Kyneton. This area and the town of Kyneton itself will then form the basis for sortition process distribution.

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 legislation applying in this jurisdiction, unless they are specifically defined elsewhere in these rules.

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### **1.3 PURPOSE**

The Cooperative 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 Cooperative are to:

1. Make affordable space available in the old Primary School buildings for use by community groups and individuals.
2. Develop commercial and entrepreneurial initiatives to create a strong cash flow to fund the upkeep and development of the town Square precinct for public good and benefit.
3. Extend practical and financial support to community driven, and socially worthwhile, initiatives in areas like education, the Arts, the natural environment and public welfare and need.
4. Maintain the viability of all the buildings and grounds and the protection of the blue-stone heritage building and trees.
5. Promote broad, inclusive use and shared community responsibility for the town square by active membership and publicly accessible space.

#### **1.3B ACTIVE MEMBERSHIP**

1. The Cooperative 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 Cooperative:
  - a. A member must do a minimum of one of the following:
    - i. Participate in at least two working bees of the Cooperative 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 Cooperative Rules.
    - iv. Apply to the Cooperative 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 Cooperative 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.

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iii. An organisational member in its second and subsequent years of membership can offset its membership subscription on a proportional basis by encouraging the individual members of that organisation to join the cooperative as individual members.

c. If an individual member of an organisational member of the Cooperative uses the facilities of the Cooperative as part of their group's activities more than three times in a twelve month period, they are required to take out individual membership of the cooperative. Maintaining this clause will be the part of organisational members active membership requirements.

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

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

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

*Note: Cancellation of a person's membership requires a procedure set out in the relevant Cooperatives legislation. Cancellation leads to a loss of rights and so requires notice to the member where possible. Cancellation will trigger an obligation to repay share capital to the member. The board of the Cooperative has a responsibility to cancel inactive members.*

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

#### **2.1 MEMBER QUALIFICATIONS**

A person qualifies for membership of the Cooperative if the person is able to use and contribute to the services of the Cooperative.

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

1. Applications for membership must be lodged electronically by email, through the Cooperative's website or directly at the registered office of the Cooperative 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. Every application for membership must be considered by the board. 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.

*Note: The application fee is designed to cover the administrative costs of dealing with an application for membership. As well as being published at the registered office of the Cooperative it should also appear as part of the application for membership. The amount of the annual subscription should also be disclosed on the application for membership.*

#### **2.3 WHEN MEMBERSHIP CEASES**

1. A person will cease to be a member of the Cooperative 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 ground of misrepresentation or mistake; 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 cooperative 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.

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### **2.4 MEMBER RESIGNATION**

A member may resign from the Cooperative 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 Cooperative by special resolution to the effect:

a. that the member has seriously or repeatedly failed to discharge the member's obligations to the Cooperative 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 Cooperative in carrying out its primary activity or

one or more of its primary activities; or ii. brought the Cooperative into disrepute; or iii. been contrary to one or more of the Cooperative principles and has

caused the Cooperative 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 Cooperative may decide to expel the

member concerned; d. the Cooperative 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 Cooperative, 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

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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 Cooperative 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 Cooperative, whether under these rules, a contract

or memorandum of understanding; or c. acts detrimentally to the interests of the Cooperative.

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 Cooperative. 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

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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 may (but need not) be a member of the Cooperative, unless the member is 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 not more than 6 months before the dispute occurred.

### **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 Cooperative 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 Cooperative under these rules.

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### **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.

*Note: If a member becomes bankrupt (natural person) or insolvent (corporation) or mentally or physically unfit and unable to manage their affairs, then various laws provide that another qualified person will take charge of that person's financial affairs. For a bankrupt it is usually a trustee in bankruptcy, for a person who is mentally or otherwise incapable, it will be a legal personal representative or a trustee, for a corporate member it will be either an administrator or liquidator who is substituted as the person with authority to deal with that person's financial affairs.*

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

#### **3.1 MEMBER SUBSCRIPTIONS**

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 of \$10.00 per year for pensioners, disability, unemployed, youth, and health care cardholders.

Organisational members must pay an annual subscription as determined by the Cooperative 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.

An organisational member in its second and subsequent years of membership can offset its membership subscription on a proportional basis by encouraging the individual members of that organisation to join the cooperative as individual cooperative members.

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.

Membership dues may be varied by a special resolution passed at the annual general meeting and published at the Cooperative's registered office or on its website.

*Note: The annual subscription is a key cost of membership and may in some Cooperatives constitute the only obligation for an active member. Members must be given information about the subscription amount in any material published by the Cooperative. Changes to the amount of the subscription require a special resolution (see rules 5.12 and 6.8). Rule 2.2 requires the first annual subscription to be paid at the time of making the application for membership. Cooperatives may adopt administrative procedures to collect subscriptions annually, monthly or at other intervals, provided that the amount collected annually does not exceed the amount nominated in this rule.*

#### **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 cooperative 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

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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 Cooperative 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 Cooperative 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.

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

#### **4.1 BOARD OF DIRECTORS**

1. The business of the Cooperative 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 Cooperative in general meeting. 2. The board must have at least 7 and a maximum of 11 directors. Five directors are to be elected from the membership, 2 directors selected from the broader community by sortition and between 1 to 4 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.

*Note: A Cooperative board may establish committees to assist with particular functions in an advisory capacity or they can delegate specific functions to a committee. It is common to establish committees that can concentrate on specialist issues such as marketing, finance or member engagement committees. Committees with delegated power must be overseen carefully by the board where the delegation permits the committee to make arrangements binding on the Cooperative. This rule does not apply to a person who is employed by the Cooperative. An employee, such as a CEO or General Manager has delegated authority to carry out functions specified in their contract of employment.*

#### **4.2 QUALIFICATIONS OF DIRECTORS**

A person is qualified to be a director of the Cooperative if they are over the age of 18 years and an active member of the Cooperative. 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.

#### **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

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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.

### **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.

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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 form in alphabetical 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. c. 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 cooperative appoints board 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-Op. At the discretion of the board, the second round of random selection can use any criteria such as gender or age to create a better representation of the broad population.

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

1. The Cooperative 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

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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:

d. in similar circumstances or cases to those in which the principal director would

vacate office under these rules or e. 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 Cooperative 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.

*Note: Directors may also consider and pass resolutions by circulating papers that require each director to record their vote and sign without a physical meeting. The Law provides a process for circulating resolutions.*

### **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





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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 Cooperative 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 cooperative in a timely fashion.

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### **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 Cooperative'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.

*Note: There is a timing concession under Cooperatives legislation that allows 18 months for the Cooperative to hold its first AGM. Cooperatives with fewer than 50 members can vote on matters using a circulating resolution instead of a general meeting. A circulating resolution cannot replace the AGM.*

#### **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 Cooperative 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 Cooperative 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 2 months after the notice is served or taken to be served.

*Note: For a special resolution it is necessary to give at least 21 days' notice. See rule 5.12 for*

*special resolutions. If there is an auditor appointed, the auditor is entitled to receive notices of general meetings.*

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### **5.3 BUSINESS OF THE ANNUAL GENERAL MEETING**

1. The ordinary business of the annual general meeting of the Cooperative 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 Cooperative:

i. the financial reports or financial statements of the Cooperative for the financial year; ii. a report on the state of affairs of the Cooperative;

and iii. the board's solvency resolution stating whether or not there are reasonable grounds to believe that the Cooperative 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 co-operative. 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).

## **Rules of the Kyneton and District Town Square Co-Op Ltd**

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 Cooperative 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.





## **Rules of the Kyneton and District Town Square Co-Op Ltd**

### **5.9 PROXY VOTING**

Voting by proxy is not permitted at a general meeting.

### **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 Cooperative, 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.

*Note: Postal ballots are a convenient way to ensure a democratic vote in circumstances where it may be difficult for members to attend a meeting. They may also be used when a members' meeting is unable to properly consider a matter, and members need more time to decide how to vote. The matter for decision can be adjourned and conducted using a postal ballot.*

## **Rules of the Kyneton and District Town Square Co-Op Ltd**

### **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. a 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.

*Note: A Special Postal Ballot is a voting process reserved for important decisions under Cooperatives legislation, such as changing the type of Cooperative, disposing of major assets, and structural matters. The procedure for a special postal ballot is similar to a postal ballot, except that the Cooperative must give members a disclosure statement to inform their decision-making. This rule requires 28 days' notice of a special postal ballot to enable adequate time for members to consider their decision and the material in the disclosure statement.*

### **5.12 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.

## **Rules of the Kyneton and District Town Square Co-Op Ltd**

### **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 Cooperative, into which all amounts received by the Cooperative 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 Cooperative 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 Cooperative'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 Cooperative 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 Cooperative 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 Cooperative 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 Cooperative'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

Cooperative 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 Cooperative, 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).

## **Rules of the Kyneton and District Town Square Co-Op Ltd**

*Note: This rule is relevant only if the Cooperative obtains deductible gift recipient (DGR) status. It enables the Cooperative to ensure that money or gifts received as a result of its DGR status are maintained and accounted for separately from any general funds.*

### **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 Cooperative 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 Cooperative 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 Cooperative 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 Cooperative'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 Cooperative's solvency.

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

1. The Cooperative must not give returns or distributions to members from any operating surplus or reserve. 2. If the Cooperative 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.

*Note: The Law also prohibits the giving of any return or distribution to members. Any surplus*

*assets after winding up must be transferred to another organisation with the same or similar objects.*

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## **Rules of the Kyneton and District Town Square Co-Op Ltd**

### **6.6 SAFEKEEPING OF SECURITIES**

Shares, debentures, charges and any other certificates or documents or duplicates of them pertaining to securities owned by the Cooperative must be safely kept by the Cooperative in the way and with the provision for their security as the board directs.

### **6.7 COOPERATIVE SEAL**

1. This rule applies if the Cooperative chooses to authenticate a document under the common seal of the Cooperative. 2. The Cooperative'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 Cooperative 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 Cooperative 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 Cooperative may be given by the cooperative to any member by any form of technology (for example, by email), where the member has given consent and notified the Cooperative 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 Cooperative 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:

## **Rules of the Kyneton and District Town Square Co-Op Ltd**

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 Cooperative must be in accordance with the Law. 2. If the Cooperative 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 Cooperative must be satisfied from such other

assets of the Cooperative 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 Cooperative as required by these rules.

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

1. If the Cooperative 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 Cooperative, 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 Cooperative 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 Cooperative'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 Cooperative may apply to the Supreme Court to make this decision.

*Note: Rules 6.10 and 6.11 together preserve the integrity of purpose of any funds received by the Cooperative as a result of DGR status. Non-distributing Cooperatives must give any surplus assets from any general operations to another organisation with a similar purpose.*