

PROPOSED CHANGES TO CONSTITUTION

CONSTITUTION

1 NAME

The name of the Association shall be “**Rembrandt Living Incorporated**”, and hereinafter called the “**Association**”.

1.1 Background

- 1.1.1 The Association was established with the support of the South Australian Dutch Community by a group of members of this community.
- 1.1.2 The Association has and continues to have high regard for the values and heritage of people of Dutch speaking origin.
- 1.1.3 The Association will operate in accordance with its Objectives and Guiding Principles. Thereby providing support to all people with whom it is associated, equally, regardless of ethnicity; sexual orientation; religion; status or position. In line with the current Equal Opportunity Act (SA).
- 1.1.4 The Association acknowledges its historical and identifiable link with and to the South Australian Dutch community.

2 OBJECTIVES

- 2.1 To establish, provide and administer aged care accommodation and support services for the welfare and enhancement of quality of life of aged persons or people with a disability (or their carers) in South Australia;
- 2.2 To provide services that meet the cultural needs of aged/disabled people with emphasis on those who are of Dutch-speaking descent;
- 2.3 To assist in the relief of sickness, suffering and disability by working for the benefit and treatment of all aged/disabled persons;
- 2.4 To promote the health and wellbeing and advance the interests of aged persons;
- 2.5 To undertake or facilitate research in the areas of ageing and aged care;
- 2.6 To do all such other things as may be incidental to the attainment of such objectives or those which the board determines.

3 MEMBERSHIP

- 3.1 Members shall be persons or organisations who have agreed to accept the above Objectives, applied in writing for membership and who are accepted as members by majority vote of the Board or of a General Meeting. Organisation members shall be organisations that have applied in writing for membership and expressed support for the above Objectives, and which are accepted by the majority vote of the Board or of a General Meeting.
 - 3.1.1 An organisation member may appoint from its members a representative who may speak and vote on its behalf.

3

- 3.2 Membership will be offered to all residents and clients.
- 3.3 Membership may be suspended by not less than two-thirds majority vote at a Board or a General Meeting.

- 3.3.1 Any suspended member may, on not less than 2 weeks' written notice, require the suspension to be reconsidered at one subsequent General Meeting.
- 3.3.2 The Association shall not be required to accept the renewal of membership of a suspended member when renewal next falls due.
- 3.4 The Board may resolve to suspend a Member where in the opinion of the Board:
 - 3.4.1 The conduct of that Member is discreditable or injurious to the character or interests of the Association.
 - 3.4.2 The Member commits an act or omits to act in a way that causes damage to the reputation of the Association or significantly hinders its operation.
- 3.5 In dealing with such suspension the Board or General Meeting will act according to the principles of natural justice and include an opportunity for the Member to be heard or to make a written submission.
- 3.6 Membership is perpetual and automatically renewed each year but shall cease on:
 - 3.6.1 The conduct of that Member is discreditable or injurious to the character or interests of the Association.
 - 3.6.2 Termination of membership after due process as per 3.3.1, at a General Meeting.
 - 3.6.3 Upon death of the member.

GOVERNANCE

- 4.1 The Board of Directors undertakes all governance responsibilities as stated in this Constitution and the current Associations Incorporation Act (SA), including the following:
 - 4.1.1 Exercising powers and discharging its duties with care and diligence.
 - 4.1.2 Making judgments in good faith and for a proper purpose.
 - 4.1.3 Not having a material personal interest in the subject matter of the judgment.
 - 4.1.4 Informing itself about the subject matter of the judgment to the extent it reasonably believes to be appropriate.
 - 4.1.5 Believing that the judgment is in the best interests of the Association.
- 4.2 All Board Directors will meet the governance and role requirements as specified in clause 4.1 and ensure that they are able to competently and consistently apply relevant skills in achieving these requirements.
- 4.3 Governance shall be vested in the Board of not fewer than 6 Directors and not exceeding 9 Directors comprising:
 - 4.3.1 Not fewer than 4 and not exceeding 9 persons elected at the Annual General Meeting as hereinafter provided; and
 - 4.3.2 Not greater than 2 persons co-opted by the Board subsequent to the Annual General Meeting. The cumulated total elected or co-opted shall not exceed 9.
 - 4.3.3 Cultural diversity of Board Directors; with Directors from Dutch-speaking descent being encouraged.

- 4.4 The position of each Board Director shall fall vacant on completion of a term of 2 years.
- 4.5 The CEO may be invited to attend Board and Executive meetings but may not vote.
- 4.6 Office Bearers of the Association shall be the Chairperson, Vice Chairperson, Secretary, and Treasurer who shall be elected for a two-year term by the Board, from its members, at a Board meeting held within 1 week following the Annual General Meeting. The Board may create and fill from its members any other position desirable for the management of the business of the Association.
- 4.7 The Board shall meet as often as may be required to conduct the business of the Association and not less than 10 times each calendar year.
- 4.8 The quorum is four Board Directors.
- 4.9 The Chairperson or two Board Directors shall have the power to call a meeting of the Board.
- 4.10 Notice of Board Meetings shall be given at the previous Board Meeting or by 7 days written notice distributed to all Board Directors, or in an emergency by such other notice as shall be ratified by the Board.
- 4.11 Minutes of the business conducted at any meeting of the Board will be:
 - (a) entered within 1 month after the relevant meeting in the Board minutes folder.
 - (b) confirmed at the next regular meeting and signed by the Chairperson of that meeting.
 - (c) so confirmed, will be conclusive evidence of the matters set out in those minutes.
- 4.12 An Office Bearer or a member of the Board shall cease to hold such office upon:
 - 4.12.1 Resignation in writing;
 - 4.12.2 Suspension or termination of membership of the Association;
 - 4.12.3 Absence for three Board meetings within the year following an Annual General Meeting, without explanation acceptable to the Board;
 - 4.12.4 Unanimous vote of all other members at a Board meeting or majority vote at a General Meeting that the position be declared vacant by reason of failure to perform duties in a proper and acceptable manner provided that prior notice of the motion to declare the position vacant has been given and that the person who is the subject of the motion shall be provided with an opportunity to speak on the motion.
 - 4.12.5 Becoming a disqualified individual pursuant to relevant legislation.
 - 4.12.6 Becoming insolvent under administration within the meaning of the Corporations Act.
- 4.13 Vacancies unfilled or arising in the positions of Office Bearers or other Board Directors may be filled by the Board by co-opting Directors for the unexpired remainder of the term.
- 4.14 The Board may function validly notwithstanding any vacancies as long as the number of Directors attending is not reduced below the quorum.

- 4.15 The Board may appoint committees of Directors, members and non-members for specific purposes who shall meet as they see fit or as directed by the Board and who shall report to the Board.
- 4.16 The Board may appoint a Chairperson, Vice Chairperson, Secretary and Treasurer who can deal with matters requiring urgent attention between Board meetings and which shall report to the subsequent Board meeting.
- 4.17 The Board shall appoint a Public Officer and shall notify the Corporate Affairs Commission of such appointment and who shall file such other returns and notices as shall be required by law. The Public Officer shall hold office until the Board appoints another person to the position.
- 4.18 The Board shall be entitled to appoint a notable member of the community to act as Patron of the Association.
- 4.19 Board Directors upon election become members of the Association in their own right. They may express the views and interest of any organisation which they represent but must vote in the interest of the Association and carry out its objectives and Guiding Principles.
- 4.20 Board members must register any conflict of interest, they perceive themselves to have, with the Association. Any changes to this information must be declared at the beginning of each Board Meeting. Additionally, they must not vote in any decision associated with a declared conflict of interest or in which they or a close associate have a financial interest. Also, they must not use their position to obtain any financial or other advantage for themselves or for close associates.
- 4.21 No Office Bearer shall hold the same office for more than 6 successive years with the option to renew subject to the annual agreement of the Board to a term of not greater than 6 years.
- 4.22 Appointment of Board Directors
 - 4.22.1 Applications for appointments to positions of Board Directors may be sought and considered in such manner as the Board may determine from time to time, provided that an applicant may only be appointed as a Board Director in accordance with the guidelines, in clauses 4.3.1 and 4.3.2.
 - 4.22.2 In seeking and/or considering an application of a Board Director the skill mix of the Board's needs must be reviewed and required skills identified. The candidate's skills, qualifications, personal and professional attributes need to fit with the Association's needs, Objectives and Guiding Principles.
 - 4.22.3 The cumulative maximum time a Board Director can be on the Board is 10 years unless the Board approves that the elected Board Director remain on the Board. This approval is to be undertaken before the expiry of each 12-month period for those identified Board Directors.
 - 4.22.4 The Board may develop, modify or replace from time to time, policies or guidelines for the desirable composition of the Board and the methodologies and procedures to be adopted in appointing Board Directors.
 - 4.22.5 Applications as a Board Director require the candidate to declare any perceived conflicts of interests that may have a bearing on the policies, Governance, Objectives or Guiding Principles of the Association.

5 POWERS

- 5.1 The powers of the Association shall be the powers contained in the Associations Incorporation Act, Division 4, and without limiting those powers the Association shall be entitled to hold real or personal property, open and operate bank accounts, invest in approved securities according to the Policy, and enter into any necessary or desirable contract including a contract of employment, in accordance with relevant Acts.
- 5.2 The Association must obtain the approval of the Board before borrowing money or securing any payment that changes the property of the Association.
- 5.3 The Association may invite and accept deposits of money from members, or subject to section 53 of the Associations Incorporation Act from other persons, on terms and conditions determined by the Board from time to time.
- 5.4 Subject to clauses 5.1 – 5.3, the Board shall be entitled to exercise the full powers of the Association, and without limiting those powers shall have the management and control of the funds and other property of the Association.

6 DONATIONS

- 6.1 The Association will maintain a Donations fund in accordance with relevant sections of the Income Tax Assessment Act:
 - (a) to which gifts of money or property for the principal purpose of the Association are to be made;
 - (b) to which any money received by the Association through such gifts is to be credited; and
 - (c) which does not receive any other money or property.
- 6.2 The Association must use donations given to the Donations fund and any money received through such donations, only for the principal purpose of the Association.

7 GENERAL MEETINGS

- 7.1 Annual General Meetings
 - 7.1.1 The Annual General Meeting shall be held at least once in each calendar year and not more than five months after the close of the financial year.
 - 7.1.2 The business of the Annual General Meeting shall be:
 - 7.1.2.1 To confirm the minutes of the preceding Annual General Meeting;
 - 7.1.2.2 To receive the Chairperson's report for the previous year;
 - 7.1.2.3 To receive the Treasurer's report and the audited financial statements for the previous financial year, together with the financial budget for the current financial year;
 - 7.1.2.4 To elect or re-elect relevant Board Directors who must complete and lodge a nomination form ten (10) working days prior to the Annual General Meeting;
 - 7.1.2.5 To fix the annual membership fee;
 - 7.1.2.6 To conduct any other business placed on the agenda before commencement of the meeting.
 - 7.1.2.7 Written notice of not more than 28 days and not less than 7 days of Annual General Meetings shall be displayed at the premises of the

Association and distributed to all members who do not visit the premises regularly.

7.1.2.8 Members shall each be entitled to one vote at the Annual General Meeting at which they are present.

7.1.2.9 A quorum at any Annual General Meeting shall be 10% of current financial members at the time the meeting is held.

7.1.2.10 If at the Annual General Meeting there is no quorum within 30 minutes of the time appointed for the meeting then a majority of members present may decide to adjourn the meeting for a period not exceeding 14 days. The quorum for such adjourned meeting shall be reduced to 5 failing which the meeting will lapse altogether.

7.2 Special General Meeting

7.2.1 A Special General Meeting shall be initiated by the Chairperson within 28 days of receipt of a directive of the Board or a written request of 3 Board Directors or 6 members specifying the business to be conducted at the meeting.

7.2.2 Written notice, of not more than 28 days and not less than 7 days of all Special General Meetings shall be displayed at the premises of the Association and distributed to all members, who do not visit the premises regularly.

7.2.3 Members shall each be entitled to one vote at any Special General Meeting at which they are present.

7.2.4 A quorum at any Special General Meeting shall be 10% of current financial members at the time the meeting is held.

7.2.5 If at any Special General Meeting there is no quorum within 30 minutes of the time appointed for the meeting then a majority of members present may decide to adjourn the meeting for a period not exceeding 14 days. The quorum for such adjourned meeting shall be reduced to 5 failing which the meeting will lapse altogether.

8 PROXIES

8.1 Appointment of Proxies

8.1.1 The instrument appointing a proxy must be in writing. A Member will be entitled to instruct that proxy to vote in favour of or against all or any proposed resolutions. Unless otherwise instructed the proxy may vote as the proxy thinks fit.

8.2 Authority of Proxies

8.2.1 A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution except as specified in the document.

8.2.2 Except as expressly provided by the document appointing a proxy, an appointment of a proxy confers authority to do all things that the member can do in respect of a general meeting.

8.3 Verification of Proxies

8.3.1 Before the time for holding the meeting or adjourned meeting at which a proxy proposes to vote, the document appointing the proxy must be deposited with the Association.

8.4 Proof of Appointment of Proxy

8.4.1 The instrument appointing a proxy, under which it is signed or proof of that power or authority to the satisfaction of the Board must be deposited at the Association (or at such other place or places as the Board may determine from time to time) prior to the time for holding the meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy will not be treated as valid.

9 VOTING

9.1 Voting shall be by show of hands (including proxies) except that:

9.1.1 Any contested election at an Annual General Meeting or otherwise shall be by secret ballot;

9.1.2 The meeting may, by show of hands, require any other vote to be by secret ballot.

9.2 Persons with special interest or knowledge relevant to the Association may be invited to attend any meeting and to speak at the discretion of the Chairperson but such persons may not vote.

10 CHAIRPERSON

10.1 The Chairperson shall ensure the proper use of the Common Seal, which shall be affixed only by the resolution of the Board or of a General Meeting and in the presence of two Board Directors including at least one Office Bearer.

10.2 The Chairperson shall chair Executive, Board and General Meetings except that in the absence of the Chairperson or at the request of the Chairperson or of the majority of a meeting the Vice Chairperson or another member may be elected as chairperson for that meeting.

10.3 The Chairperson at any meeting shall have the casting vote if the votes are equal but shall not have a personal vote.

10.4 The Chairperson shall prepare the agenda for the Board meetings and General Meetings, in consultation with the Chief Executive Officer.

10.5 The Chairperson or the chairperson's delegate shall act as spokesperson with respect to media matters. The Spokesperson shall make statements in accordance with approved governance policy.

11 TREASURER

The Treasurer shall be responsible for:

11.1 Ensuring that the accounts of the Association are kept in the proper form, for the purpose of recording all of the financial transactions of the Association.

11.2 Ensuring that the annual financial statements of the Association as at 30th June of each year, are prepared and submitted to the Board, together with any report that may be reasonably necessary to explain same, by 30 November each year.

11.3 Ensuring that the Association complies with the provisions of Division 2 of the Associations Incorporation Act 1985 [or its successor].

- 11.4 Ensuring that the annual Financial Statements are audited before presentation to the Annual General Meeting by an independent auditor who shall be appointed by the Board Directors; provided that where the auditor is changed the Treasurer shall so inform the Annual General Meeting in the Treasurer's Report.

12 PUBLIC OFFICER

- 12.1 The Public Officer must:
- 12.1.1 Manage relevant compliance functions for the Association;
 - 12.1.2 Submit all notices that may be required under this Constitution; and
 - 12.1.3 Implement the directions of the Board.
- 12.2 The Board Directors may appoint the Chief Executive Officer as the Public Officer.

13 EMPLOYEES

- 13.1 The Chief Executive Officer will be appointed by the Board and, subject to the provisions of any contract between the Chief Executive Officer and the Association, will hold that position:
- (a) in accordance with terms and conditions determined by the Board; and
 - (b) until removed from that position by 75% majority resolution of the Board
- 13.2 The Chief Executive Officer will have the overall responsibility for the operation of the Association in accordance with the policies determined by the Board.
- 13.3 All employees will be under the direction of the Chief Executive Officer.
- 13.4 No employee may:
- (a) accept appointment as trustee or executor of the Will of any person who is a tenant, resident or client within the care of, or accommodated by, the Association at the time of such appointment: or
 - (b) witness the signing of any Will, Power of Attorney or other document, by any such tenant, resident or client, unless the Board authorises the employee to do so.
 - (c) be a Board Director.

14 AUXILIARIES

- 14.1 The Board may promote the formation of such Auxiliaries as it considers to be expedient and may authorise the raising of funds by such Auxiliaries.

15 AMENDMENTS OF CONSTITUTION & RULES

- 15.1 This constitution may be repealed or amended by resolution of 75% of members present and voting or a General Meeting of which not less than 21 days' written notice including notice of the proposed repeal or amendment has been distributed to all Members.
- 15.2 Rules for the proper administration of meetings or business may be made, repealed or amended by a General Meeting, or by a Board Directors meeting subject to subsequent disallowance at a General Meeting, provided that not less than 21 days' written notice including notice of the proposed new rule, repeal or amendment has been distributed to all members.

16 LIABILITY, PROPERTY AND DISSOLUTION

- 16.1 Persons who with the authority of the Board incur any debt or other liability on behalf of the Association shall have such liability met by the Association so that they incur no personal loss.
- 16.2 The income property and funds of the Association shall be used solely towards the promotion of the Objectives and Guiding Principles and shall not be paid or transferred to any members or relatives of members provided that nothing herein shall prevent any payment in good faith to any person in return for services actually rendered or to any person in furtherance of the objectives of the Association and without undue preference.
- 16.3 On dissolution all property remaining after payment of all legal liabilities shall be transferred to such other body formed for promoting similar objectives or for charitable objectives as shall be approved by the Association provided that:
- 16.3.1 Such other bodies shall also prohibit the distribution of income and property to the members to the extent stated herein;
- 16.3.2 If the Association shall have been approved pursuant to Division 30 of the Income Tax Assessment Act then such other body shall also be so approved; and
- 16.3.3 The Association shall not be dissolved except by approval of not less than three-fourths of the members present and voting at a meeting called for that purpose of which not less than one calendar month's written notice including notice of the proposed dissolution has been distributed to all members.

17 OPPRESSIVE OR PREJUDICIAL CONDUCT

- 17.1 Neither the Association nor Board Directors may conduct their affairs in a manner that is oppressive or unfairly prejudicial to, or unfairly discriminatory against, a Member or Members, or in a manner that is contrary to the interests of the members as a whole.

18 PRESUMPTION OF VALIDITY

- 18.1 Subject to clause 16 all acts of and things done by Board Directors, for and on behalf of the Association and in good faith, are to be taken to have been done validly notwithstanding that it may afterwards be discovered that some defect or irregularity existed in the manner or circumstances of such act or thing or in the appointment or election of the Board of Directors or of any member thereof.

19 COMMENCEMENT, INTERPRETATION AND EFFECT OF THE CONSTITUTION

- 19.1 Nothing in this constitution shall affect the force or validity of any act or thing done by the Association, Board Directors any Committee of the Association or any Member prior to any amended constitution commencing.
- 19.2 Any question which may arise as to the interpretation or effect of this constitution or of any Association rules or by-laws made pursuant thereto may be determined by Board Directors and any such determination is to be final and binding upon the Members.
- 19.3 If any provision of the constitution is found to be contrary to or inconsistent with the Associations Incorporation Act 1985 (as amended) or any other applicable Act, regulation or law then this constitution is to be construed as if that provision had not been included and the remainder is to retain its full force and effect.
- 19.4 If any circumstances shall arise where this constitution is silent or is incapable of taking effect or being implemented according to its strict provisions, Board Directors shall, subject to any direction from time to time given to it by resolution of the Annual General Meeting or any General Meeting, have power to determine what action may be taken to best give effect to the objects of the Association and ensure its efficient

administration; and every act of Board Directors bona fide resolve upon pursuant to this clause shall be valid and effectual as if specifically authorised herein.

20 DEFINITIONS

In this constitution, unless the contrary intention appears:

Act means the Associations Incorporation Act 1985;

Association means Rembrandt Living Incorporated;

Board means the Board of Directors;

Chairperson means a person who is chairing a meeting of the Board of Directors or of a committee;

Chief Executive Officer means the Chief Executive Officer of the Association;

Committee means Committees established by the Board;

Board Director means a member of the Board of Directors;

General Meeting means any meeting of members and includes the Annual General Meetings and Special General Meetings;

Member means a person who is on the Register of members;

Membership means membership of the Association;

Notice means any form of communication including electronic communication;

Person means a natural person.

Treasurer means the Board Director appointed as an Office Bearer and takes the role and responsibilities as described in this Constitution.

Dated: November 2018