

Constitution

Metropolitan Community Church of
Sydney Ltd

ACN 002 553 184

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CONSTITUTION OF METROPOLITAN COMMUNITY CHURCH OF SYDNEY LTD (ACN 002 553 184)

Metropolitan Community Church of Sydney Ltd welcomes all people, regardless of ethnicity, gender identity, sexual orientation, spiritual belief, socio-economic circumstances, or religious background to our worshipping community and Communion table.

1. NAME

The name of the company is Metropolitan Community Church of Sydney Ltd.

2. PURPOSE

2.1 Principal Purpose and powers

- (a) The Church is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity.
- (b) The Principal Purpose for which the Church is established is to advance the Christian faith, including by promoting Christian fellowship, worship, witness and service.
- (c) Solely for the purpose of furthering the Principal Purpose, the Church:
 - (i) may do all things incidental or conducive to furthering the Principal Purpose; and
 - (ii) has the capacity and powers of a company under the Act subject to the provisions of this Constitution.

2.2 Application of income and property

- (a) The income and property of the Church must be applied solely towards the Principal Purpose.
- (b) No portion of the profits, income or property of the Church may be paid or transferred directly or indirectly to Members or Directors by way of dividend, bonus or otherwise in their capacity as Members.
- (c) Sub-clause 2.2(b) does not stop the Church from doing the following things, provided they are done in good faith:
 - (i) paying a Member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Church, or
 - (ii) making a payment to a Member in carrying out the Church's charitable purpose(s).
- (d) The Church must not pay fees to a Director for acting as a Director.
- (e) The Church may:
 - (i) pay a Director for work they do for the Church, other than as a Director, if the amount is no more than a reasonable fee for the work done, or

- (ii) reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the Church.
- (f) Any payment made under sub-clause 2.2(e) must be approved by the Board.
- (g) The Church may pay premiums for insurance indemnifying Directors, as allowed for by law (including the Act) and this Constitution.

2.3 Distribution of assets on dissolution or winding up

- (a) Where on the winding up of the Church or dissolution of the Church, there is a surplus of assets after satisfying all the Church's liabilities and expenses, the surplus:
 - (i) must not be paid or distributed to the Members in their capacity as Members;
 - (ii) if permissible at law and consistent with the Principal Purpose of the Church, must be given or transferred to UFMCC; and
 - (iii) otherwise, will be given or transferred to such other fund, authority, institution or company which:
 - (A) is charitable at law; and
 - (B) has similar objects to those of the Church as described in this Constitution; and
 - (C) prohibits the distribution of profit or gain to its Members in their capacity as Members.
- (b) The identity of the fund, authority, institution or company in subclause 2.3(a)(iii) will be decided by the Members in consultation with UFMCC by ordinary resolution on or before the time of any winding up or dissolution. If the Members fail to decide, the fund, authority, institution or company shall be determined by application to the Supreme Court in the State of incorporation.

2.4 Affiliation

- (a) The Church is a member Congregation of UFMCC.
- (b) The Church subscribes to the government, doctrine, vision, mission, and values of UFMCC and agrees to abide by the UFMCC By-laws and decisions made by the General Conference of UFMCC.
- (c) The Church may only disaffiliate from the UFMCC in accordance with the requirements of the UFMCC By-laws and by resolution passed by a two thirds majority of Members present and voting at a Congregational Meeting called for the purpose of disaffiliating.
- (d) In the event of disaffiliation from the UFMCC:
 - (i) that complies with clause 2.4(c), the church's existing financial obligations to UFMCC will be met and remaining net assets will be retained by the Church;

- (ii) that does not comply with clause 2.4(c), all surplus assets after satisfying the Church's liability and expenses must be transferred to the UFMCC.

3. MEMBERSHIP

3.1 Eligibility

- (a) Any person committed to the Principal Purpose of the Church that has been regularly attending and participating in support of the Church and the ministry of the Church may apply to be a Member, provided they meet the following eligibility criteria:
 - (i) in the case of new Members, they:
 - (A) are a baptised Christian; and
 - (B) have completed a membership class; or
 - (ii) in the case of transferring Members, they are a member in good standing of any UFMCC affiliated church.
- (b) No person shall be denied membership into the Church on the basis of gender, race, national origin, political affiliation, sexual orientation or affectional preference.
- (c) The minimum number of Members is one.
- (d) The rights of any Member are not transferable.

3.2 Application

- (a) An application for Membership must be made in the form and manner (if any) approved by the Board.
- (b) An applicant must agree in writing to provide a guarantee of not less than the Guaranteed Amount to defray any liabilities and expenses of the Church upon its winding up or dissolution.

3.3 Admission

- (a) The Board must consider and resolve whether to accept or reject each application for Membership within a reasonable time.
- (b) The Board may accept or reject any application for Membership in its discretion, using such criteria as the Board alone may determine. The Board is not bound to give reasons for the acceptance or rejection of any application.
- (c) If the Board accepts an application, the Secretary must:
 - (i) enter the applicant's details into the Register as soon as practicable;
 - (ii) send to the Member written notice of the acceptance; and

- (iii) arrange for the Member to participate in the rite of membership.
- (d) A person is admitted as a Member of the Church when the person's application has been accepted by the Board and the person's name is entered into the Register.
- (e) If the Board rejects an application, the Secretary must send to the applicant written notice of the rejection as soon as practicable.

3.4 Register

- (a) The Secretary must maintain and update the Register annually prior to the Biannual Congregational Meeting and may update the Register at any other time.
- (b) Members must provide updated contact details to the Secretary if and when they change.
- (c) The Register must contain:
 - (i) the name, address, contact information and date of admission to Membership – for each Member;
 - (ii) the name, date of admission to Membership and date on which a person ceased to be a Member – for each former Member.
- (d) The Secretary may keep the entries regarding former Members separately from the rest of the Register.
- (e) The address of a Member in the Register may serve as the address of the Member for the purpose of service of any notices to the Member.
- (f) The Church must give current Members access to the Register.
- (g) Information that is accessed from the Register must only be used in a manner relevant to the interests or rights of Members.

3.5 Expulsion and suspension of Members

- (a) The Board may take disciplinary action against any member if the Board believes there are sufficient grounds to do so.
- (b) The Board has discretion to determine the procedure to be adopted to determine whether there are sufficient grounds for taking disciplinary action, subject to the following:
 - (i) The member who is the subject of the disciplinary procedure:
 - (A) must be informed in a timely manner of the grounds upon which the disciplinary action against the member is proposed to be taken; and
 - (B) be given an opportunity to be heard in relation to the matter – either by appearing in person and/or by providing a written statement according to the member's preference; and

- (ii) the outcome of the disciplinary procedure must be determined by an unbiased decision-maker; and
 - (iii) to the extent that doing so is compatible with paragraphs 3.5(b)(i)-(ii), the disciplinary procedure must be completed as soon as is reasonably practicable.
- (c) Disciplinary action under this rule includes, but is not limited to, suspension of any or all membership rights, or expulsion.

3.6 Cessation of Membership

- (a) A person ceases to be a Member on:
- (i) resignation;
 - (ii) termination of the person's Membership in accordance with this Constitution;
 - (iii) the Board deeming, in their sole discretion, the Member to be an untraceable Member because the person has not responded to correspondence sent to the contact details entered in the Register for that Member;
 - (iv) if:
 - (A) the Member has not been a Member in good standing within the past six months;
 - (B) the Board has placed the Member on a list of inactive Members;
 - (C) the Board has notified the Member that they are an inactive Member and not eligible to vote; and
 - (D) the Member does not satisfy the Board that it should be restored to the list of Members in good standing within 60 days following notification;

the Board resolving (in its sole discretion) to remove that Member from the Register;
 - (v) in the case of a natural person, death.
 - (vi) in the case of a body corporate:
 - (A) being dissolved or otherwise ceasing to exist;
 - (B) having a liquidator or provisional liquidator appointed to it; or
 - (C) being insolvent.
- (b) A Member whose Membership is terminated will be liable for all moneys due by that Member to the Church in addition to any sum not exceeding the Guaranteed Amount for which the Member is liable under this Constitution.

- (c) There will be no liability for any loss or injury suffered by the Member as a result of any decision made in good faith under this clause.
- (d) Any person who for any reason ceases to be a Member must not represent themselves in any manner as being a Member.
- (e) Any person who ceases to be a Member may at any time apply to the Board to be readmitted as a Member.

3.7 Friends of the Church

The Church may, in its sole discretion, accept into the Church person(s) who, for one reason or another, feel that they cannot become regular members of the Church but support the goals of the Church and want to be part of the work of the Church. These people will be designated "Friends of the Church". Friends may serve on appointed committees and may participate in all activities of the Church. Friends may not, however, serve on the Board and may not vote at Congregational Meetings. Friends shall not be considered in determining the number of Lay Delegates that the Church may send to meetings of the General Conference.

3.8 Annual Membership Fee and Joining Fee

There is no membership fee or joining fee payable by Members.

4. MEETINGS AND RESOLUTIONS OF MEMBERS

4.1 Proceedings of Members

A meeting of the Members is a Congregational Meeting and includes Biannual Congregational Meetings.

4.2 Biannual Congregational Meetings

- (a) The Board must call and arrange to hold two general meetings each year (the Biannual Congregational Meetings).
- (b) The business of a Biannual Congregational Meeting may include any of the following, even if not referred to on the notice of meeting:
 - (i) the consideration of the annual financial statements, Board's report, Pastor's report and any auditor's report;
 - (ii) the appointment of Directors;
 - (iii) the appointment of any auditor; and
 - (iv) the fixing of any auditor's remuneration.

4.3 Convening Congregational Meetings

- (a) A Congregational Meeting may only be called:
 - (i) by a Director; or
 - (ii) by a resolution of the Board.

- (b) If Members in good standing with at least 25% of the votes that may be cast at a Congregational Meeting make a written request to the Church for a Congregational Meeting to be held stating the nature and purpose of the meeting, the Board must:
 - (i) within 21 days of the Members' request, give all Members notice of a Congregational Meeting; and
 - (ii) hold the Congregational Meeting within two months of the Members' request.
- (c) If the Board does not call the meeting within 21 days of being requested under sub-clause 4.3(b), 50% or more of the Members who made the request may call and arrange to hold a Congregational Meeting.
- (d) To call and hold a meeting under sub-clause 4.3(c) the Members must:
 - (i) as far as possible, follow the procedures for Congregational Meetings set out in this Constitution;
 - (ii) call the meeting using the list of Members on the Register, which the Church must provide to the Members making the request at no cost; and
 - (iii) hold the Congregational Meeting within three months after the request was given to the Church.
- (e) The Church must pay the Members who request the Congregational Meeting any reasonable expenses they incur because the Board did not call and hold the meeting.

4.4 Changes to Congregational Meeting arrangements

- (a) The Board may change the venue for, postpone or cancel a Congregational Meeting, subject to this clause.
- (b) If a Congregational Meeting was not called by a resolution of the Board, then it may not be postponed or cancelled without the prior written consent of the persons who called or requisitioned the meeting.
- (c) If the venue of a Congregational Meeting is changed, or if the Congregational Meeting is cancelled or postponed under this clause:
 - (i) notice of the change, cancellation or postponement must be given to all persons entitled to receive notices of a Congregational Meeting under this Constitution;
 - (ii) a notice of postponement must specify the date, time and place to which the Congregational Meeting has been postponed;
 - (iii) the provisions of the clause in this Constitution under clause 4.7 do not apply to a notice of postponement or change of venue;

- (iv) in the case of a Congregational Meeting called under sub-clause 4.3(c) the Congregational Meeting may not be postponed beyond the date by which meetings called under such provisions are required to be held.
- (d) The only business that may be transacted at a Congregational Meeting which is postponed is the business specified in the notice convening the meeting.

4.5 Entitlement to receive notice

Notice of a Congregational Meeting must be given to every Member and every Director.

4.6 Notice of Congregational Meetings

A notice of Congregational Meeting must:

- (a) be in writing:
- (b) specify the place, the day and the time of the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
- (c) state the general nature of the business to be transacted at the meeting, including:
 - (i) if the notice is a preliminary notice, a draft agenda; and
 - (ii) if the notice is a final notice, a final agenda and supporting documentation;
- (d) if a Special Resolution is to be proposed at the meeting – set out the wording of the resolution and state that it is proposed as a Special Resolution; and
- (e) include the information under clause 4.16.

4.7 Timing of notice

- (a) At least 30 days' preliminary notice (together with a draft agenda) of Congregational Meetings must be given to Members.
- (b) Members may ask the Board to add items to the agenda by providing written notice to the Secretary at least 21 days prior to the Congregational Meeting.
- (c) At least 14 days' final notice (together with a final agenda and supporting documentation) of Congregational Meetings must be given to Members.
- (d) A Congregational Meeting cannot be called with fewer than 21 days' notice if it is of a kind where a resolution will be moved to remove a Director or auditor, notwithstanding the preceding sub-clause.

4.8 Chairperson of Congregational Meetings

- (a) The Chair shall preside as chairperson at every Congregational Meeting.
- (b) If there is no Chair or the Chair is not present within 15 minutes after the time appointed for the holding of the Congregational Meeting a majority of the Directors present must appoint an acting chairperson.

4.9 Role of chairperson of Congregational Meeting

The chairperson of a Congregational Meeting:

- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting; and
- (b) must give the Members as a whole reasonable opportunity to make comments and ask questions.

4.10 Quorum for Congregational Meetings

- (a) No business may be transacted at any Congregational Meeting, other than the election of a chairperson or adjournment of a meeting, unless a quorum of Members is present at the time when the meeting proceeds to business.
- (b) A quorum of Members for a Congregational Meeting is 20% of Members in good standing.
- (c) If a quorum is not present within 15 minutes from the time appointed for a Congregational Meeting, then:
 - (i) in the case of a meeting called by, or at the request of Members, the meeting will dissolve;
 - (ii) in any other case:
 - (A) the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and
 - (B) if at the resumption of the meeting a quorum is not present within 15 minutes from the time appointed for the meeting, then the meeting will dissolve.
- (d) A Member that is suspended or is not a Member in good standing is not counted as a Member for the purpose of determining a quorum.

4.11 Adjournment of Congregational Meetings

- (a) The chairperson of a Congregational Meeting may at any time, and must if so directed by the meeting, adjourn the meeting or any business, motion, or discussion being considered or remaining to be considered by the meeting.

- (b) Only unfinished business is to be transacted at a Congregational Meeting resumed after an adjournment.
- (c) It is not necessary to give any notice of an adjournment, or of the business to be transacted at any adjourned meeting, unless a meeting is adjourned for one month or more.
- (d) A meeting adjourned under this clause stands adjourned to:
 - (i) such day, and at such time and place, as the Directors present decide; and
 - (ii) if no determination is made by the Directors, to the same day in the next week at the same time and place.

4.12 Method of Voting

- (a) At a Congregational Meeting, voting will occur by show of hands or voices or such other method as the chairperson determines, unless a poll is demanded.
- (b) A poll can be demanded by a Member (including a Member that is suspended) at any time prior to a vote being taken, or immediately after the declaration of a result of a vote conducted by means other than a poll.
- (c) A demand for a poll may be withdrawn.
- (d) If a poll is duly demanded, it shall be taken in such a manner as the chairperson directs.
- (e) A poll demanded on the election of the chairperson of the meeting or on a question of adjournment of a meeting must be taken immediately.
- (f) A Member may vote in person.

4.13 Voting rights

- (a) On a vote conducted at a Congregational Meeting by poll, each Member in good standing aged 16 or over has one vote.
- (b) On a vote conducted at a Congregational Meeting by other means, each person present who is a Member in good standing aged 16 or over has one vote.
- (c) However, a Member that is suspended is not entitled to vote during the period of suspension.

4.14 Decisions of the Members

- (a) Questions arising for determination by the Members shall be decided by a majority of votes cast, unless:
 - (i) the matter is being determined at a congregation meeting convened at the request of Members or by the Members

(pursuant to subclauses 4.3(b) and 4.3(c) respectively), in which case a two-thirds majority is required; or

- (ii) otherwise provided in this Constitution.
- (b) In a case of an equality of votes cast on a motion, the chairperson of the Congregational Meeting will not have a casting vote.
- (c) A declaration by the chairperson of the meeting that a resolution has been carried or lost, and an entry to that effect in the minutes is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution – unless a poll is demanded.
- (d) An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered. Any such objection shall be referred to the chairperson of the meeting whose decision is final. A vote not disallowed pursuant to such an objection is valid for all purposes.

4.15 Seconding

Motions must be seconded in order to be put to a vote.

4.16 Proxies

Proxy voting (and any other form of absentee voting) is not permitted.

4.17 Use of technology in meetings

- (a) The Board may resolve to hold a congregational meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.
- (b) A person participating through the use of technology will be deemed to be present at the meeting in person.

4.18 Resolutions without meetings

- (a) This clause does not apply to a Special Resolution, a resolution to remove a Director from office, or a resolution by the Members to appoint or remove an auditor.
- (b) A resolution may be passed without a meeting in the following circumstances if:
 - (i) notice has been given of the resolution to all of the Members entitled to vote;
 - (ii) notice has been given to any auditor; and
 - (iii) a majority of the Members entitled to vote give their approval in writing.
- (c) For the purpose of this clause:
 - (i) the notice must include the wording of the resolution;

- (ii) approval in writing includes approval given by email and any other means of electronic communication; and
 - (iii) a resolution will be deemed to have passed if after a minimum of 48 hours after notice was given it achieves the requisite majority.
- (d) The resolution is passed at the time when approval is given to the Secretary of the last person necessary to constitute a majority.

5. DIRECTORS

5.1 Composition of the Board

The Board must comprise a minimum of five Directors and a maximum of nine Directors, including:

- (a) the Pastor, if there is one;
- (b) a Lay Delegate; and
- (c) at least three and up to seven Directors (if there is a Pastor) or up to eight Directors (if there is no Pastor).

5.2 Eligibility

- (a) Any natural person committed to the Principal Purpose is eligible to be appointed or elected as a Director provided:
 - (i) the person is aged 18 or over;
 - (ii) the person has been a Member in good standing for at least 12 months or is a member in good standing transferring from another UFMCC congregation;
 - (iii) the person is nominated and that nomination is seconded by a Member in good standing and received in writing by the Secretary no more than three months and at least 30 days prior to a Biannual Congregational Meeting;
 - (iv) the person has given written, signed consent to act as a Director;
 - (v) the person has suitable qualifications, skills and experience to discharge the functions of a Director, as determined by the Board from time to time; and
 - (vi) the person is not disqualified by:
 - (A) the Act; or
 - (B) the ACNC Legislation;

from being a Director, to the extent that either applies.

- (b) Sub-rule 5.2(a)(vi)(B) will not apply to disqualify a person if an exemption is obtained from the ACNC Commissioner.

5.3 Appointment of Directors

- (a) The Members may elect a person to be a Director of the Church by secret ballot held at a duly convened Congregational Meeting.
- (b) The Board shall have power at any time and from time to time to appoint a new Director to fill any casual vacancy.

5.4 Term of office

- (a) The term of office of a Director elected by the Members:
 - (i) is the period specified in the resolution, and if there is no period specified then a term of two years;
 - (ii) commences on the date of appointment and;
 - (iii) expires at the end of the period specified in the resolution or if there is no period specified then at the conclusion of the fourth Biannual Congregational Meeting following the appointment.
- (b) The term of office of a Director appointed by the Board to fill a casual vacancy pursuant to clause 5.6(b)(iii):
 - (i) commences on the date of appointment; and
 - (ii) expires at the conclusion of the first Congregational Meeting following the appointment.
- (c) A person may be appointed as a Director for more than one term of office, subject to a maximum tenure of six years (excluding any period during which the Director is filling a casual vacancy pursuant to clause 5.4(b)), unless the Members pass a Special Resolution to permit the re-appointment of a Director beyond that point (in which case the Director may only serve one further term).
- (d) The term of office of the Lay Delegate and the Pastor:
 - (i) commences on the date of their appointment to their respective positions; and
 - (ii) expires when they cease to hold their respective positions.

5.5 Casual vacancy in directorship

- (a) A casual vacancy is created in the office of a Director if the Director:
 - (i) resigns;
 - (ii) dies;
 - (iii) ceases to be a Member;
 - (iv) is removed by the Members under the Act;
 - (v) is absent without the consent of the Board and without leave of absence, from:

- (A) three consecutive Board meetings; or
- (B) at least four Board meetings over 12 months;
- (vi) becomes subject to a Court order to receive treatment or have his or her finances managed by another person due to the Director being of unsound mind or having a mental illness;
- (vii) fails to disclose any actual or perceived material personal interest as required by clause 7.2;
- (viii) becomes ineligible to be a Director by:
 - (A) the Act; or
 - (B) ACNC Legislation.
- (b) Clause 5.5(a)(viii)(B) will not create a casual vacancy if an exemption is obtained from the ACNC Commissioner.

5.6 Effect of casual vacancy

- (a) In the event of a casual vacancy in the office of a Director the remaining Directors may act, subject to this clause.
- (b) If the number of Directors in office at any time is not sufficient to constitute a quorum at a meeting of the Directors, or is less than the minimum number of Directors fixed under this constitution, the remaining Directors must act as soon as possible to:
 - (i) increase the number of Directors to a number sufficient to constitute a quorum and to satisfy the minimum number of Directors required under this constitution;
 - (ii) convene a Congregational Meeting of the Church for that purpose; or
 - (iii) appoint additional Directors.
- (c) Until the remaining Directors have acted in accordance with the preceding sub-clause, the Board may only act if and to the extent that there is an emergency requiring them to Act.

5.7 Defects in appointment of Directors

Each resolution passed or thing done by, or with the participation of, a person acting as a Director or Member of a committee is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or doing the thing.

5.8 Office Bearers

- (a) The Board must appoint the following Office Bearers from among the Board for a term of office of no more than two years:
 - (i) Chair;
 - (ii) Secretary; and
 - (iii) Treasurer.
- (b) The Chair may be, but is not required to be, the Pastor.
- (c) The description, number and duties of the Office Bearers may be determined by the Board from time to time.
- (d) An Office Bearer may be appointed for more than one successive term.
- (e) The Board may remove or suspend a person from holding any of the above offices by resolution passed at a Board meeting provided:
 - (i) the resolution is passed by not less than two-thirds of the Directors present;
 - (ii) at least 21 days' notice in writing of the resolution has been given to the Secretary and to the person that is the subject of the resolution.

5.9 Secretary

- (a) There must be at least one Secretary.
- (b) A person must not be appointed Secretary unless the person has given the Church a signed consent to act as Secretary.
- (c) The Board may suspend or remove a Secretary.
- (d) An act done by a person acting as a Secretary is not invalidated by reason only of:
 - (i) a defect in the person's appointment as a secretary; or
 - (ii) the person being disqualified to be a secretary,if that circumstance was not known by the person when the act was done.
- (e) The Secretary must identify whether a person is ineligible to be appointed as a Director under this Constitution as a result of disqualification by the Act or the ACNC Legislation. The Secretary must:
 - (i) perform a search of the publicly available registers as soon as practicable after becoming aware that a person has been, or may be, appointed as a Director; and

- (ii) must obtain a declaration from each Director to the effect that they are not disqualified by the Act or the ACNC Legislation, and that they will notify the Secretary as soon as possible in the event that they becomes disqualified.

5.10 Treasurer

- (a) There must be at least one Treasurer.
- (b) The Treasurer must:
 - (i) arrange for the collection and receipt of all moneys due to the Church and arrange for all payments authorised by the Church to be made; and
 - (ii) ensure that the financial records of the Church are kept in accordance with the requirements of the Act and the ACNC Legislation; and
 - (iii) coordinate the preparation of the financial statements of the Church and their certification by the Board prior to their submission to the Biannual Congregational Meeting of the Church.
- (c) The Treasurer must ensure that at least one other Board member has access to the accounts and financial records of the Church.

5.11 Lay Delegates

- (a) The Members must elect one lay person who is a Member in good standing for every one hundred Members in good standing to serve as Lay Delegate.
- (b) The term of office of a Lay Delegate:
 - (i) is three years;
 - (ii) commences on the date of their election; and
 - (iii) expires at the conclusion of the Congregational Meeting immediately following the first UFMCC General Conference after their appointment.
- (c) The Lay Delegate must represent the Church at UFMCC General Conferences and communicate with the Church regarding UFMCC concerns and policies.
- (d) To the best of its ability, the Church must fund the Lay Delegate's transportation, registration and a "pay a per diem rate" at Network Gatherings and General Conferences.
- (e) If there are two or more Lay Delegates:
 - (i) the Members must appoint a principal Lay Delegate to be the representative to the UFMCC and a Director of the Church;

- (ii) the Members may appoint up to two Alternate Lay Delegates from among the remaining Lay Delegates.
- (f) Alternate Lay Delegates may serve at the request of the Board in the event that the principal Lay Delegate is unable or unwilling to perform their duties at all or for a period of time.
- (g) Alternate Lay Delegates must stay informed of MCC concerns and policies and be prepared to assume the duties of the principal Lay Delegate in the event that they are unable or unwilling to perform those duties.

5.12 Pastor

- (a) The Members may elect a person to serve as Pastor who:
 - (i) has been called by God to serve as a Pastor;
 - (ii) is a clergy person with a licence to practice; and
 - (iii) is authorised by UFMCC to serve in the Church.
- (b) The Pastor will be the teacher, preacher and spiritual leader of the Church. The Pastor will have authority to:
 - (i) order all worship services of the Church;
 - (ii) determine when other worship services will be held;
 - (iii) appoint compensated and uncompensated church staff or committees, subject to the approval of the Board;
 - (iv) determine compensation, vacation periods, and titles of office of the Church staff, subject to approval of the Board.
- (c) The Pastor must serve as personnel director and as the primary spokesperson of the Church to the community. The Pastor may delegate any duties outlined in this clause.
- (d) The Board must develop a covenant or contract of employment with the Pastor, including a job description and reasonable remuneration.
- (e) To the best of its ability, the Church must fund the Pastor's transportation, registration and pay a per diem rate at Network Gatherings and General Conferences.
- (f) The Pastor's employment may be terminated as follows:
 - (i) by mutual agreement between the Pastor and the Church;
 - (ii) in the event of disloyalty, unbecoming conduct, dereliction of duty, irreconcilable differences or a breach of the contract of employment that would be serious misconduct warranting dismissal, the disciplinary process set out in clause 3.5 may be initiated by:

- (A) a resolution passed by a 75% majority of Directors present and voting; or
- (B) a petition signed by at least 25% of Members in good standing; and

if the disciplinary process set out in clause 3.5 results in the expulsion of the Pastor as a Member of the Church, the Board must terminate the Pastor's contract of employment.

- (g) The Secretary must send a copy of the completed petition or decision of the Board to UFMCC within three days.
- (h) The Church must continue to remunerate the Pastor until the Pastor is expelled as a Member of the Church and the Pastor's employment is formally terminated.

6. PROCEEDINGS OF THE BOARD

6.1 Powers of the Board

- (a) The Board is responsible for the management of the business of the Church and may exercise all the powers of the Church (in accordance with the provisions of this Constitution) that are not, by the Act or by this Constitution, required to be exercised by the Members.
- (b) The Board may (without limiting the previous paragraph):
 - (i) borrow money;
 - (ii) charge any property or business of the Church;
 - (iii) issue debentures or give any other security for a debt, liability or obligation of the Church or of any other person; and
 - (iv) decide how negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed (as applicable) by or on behalf of the Church.
- (c) The Board cannot remove a Director or auditor.

6.2 By-laws

- (a) The Church has power to make, revoke and amend by-laws for the general conduct and management of the Church, subject always to approval by UFMCC.
- (b) A resolution to make, revoke or amend a by-law must be passed:
 - (i) if the change is necessitated by amendments to the UFMCC by-laws – by the Board; and
 - (ii) in any other case – by a two-thirds majority of Members in good standing present and voting.

- (c) Any Member in good standing may propose a resolution to make, revoke or amend a by-law by written notice to the Secretary by submitting a proposed agenda item pursuant to clause 4.7(b).
- (d) A resolution of the Members to make, revoke or amend a by-law will have no effect unless and until it is approved by UFMCC.
- (e) The Board has power to make regulations or by-laws for the general conduct of the business of the Board.

6.3 Appointment of attorney

- (a) The Board may, by power of attorney, appoint any person or persons (either by name or by reference to position or office held) to be the attorney or attorneys of the Church for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Board), for such period and subject to such conditions as it thinks fit.
- (b) Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Board thinks fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him or her.

6.4 Meetings of the Board

- (a) The Board must meet together at least eight times a year.
- (b) The Board may meet together for the dispatch of business and adjourn and otherwise regulate its meetings as it thinks fit.
- (c) Members in good standing may attend Board meetings, but are not entitled to vote.
- (d) Members in good standing may make a statement at the beginning of each Board meeting, limited to two minutes per person with a total limit of ten minutes (i.e. five Members). The time for each individual and the total time limit may be extended by resolution of the Board.
- (e) The Board may close all or part of a Board meeting when the Board (in its sole discretion) deems it is necessary to discuss confidential matters.

6.5 Convening Board meetings

The Board may at any time, and a Secretary must on the requisition of a Director, convene a Board meeting.

6.6 Entitlement to receive notice of Board meetings

- (a) In the case of a Board meeting, notice must be:
 - (i) given to each Director entitled to vote at the meeting; and
 - (ii) advertised in Church bulletins, email newsletters and at Church services.

- (b) The Board will not be required to comply with clause 6.6(a)(ii) in relation to a Board meeting that it has resolved will be a closed meeting.
- (c) A Director may waive the requirement to receive notice of a Board meeting.

6.7 Content of notice of Board meetings

A notice of a Board meeting:

- (a) must specify the place, the day and the time of the meeting; and
- (b) if the meeting is to be held in two or more places, it must specify the technology that will be used to facilitate this; but
- (c) it does not need to specify the nature of the business to be transacted at the meeting.

6.8 Timing of notice of Board meetings

- (a) Subject to clause 6.8(b), at least 48 hours' written notice must be given of Board meetings (including proposed agenda) to all Directors.
- (b) The Board may unanimously waive the requirement to give 48 hours' notice of Board meetings.

6.9 Chairperson of Board meetings

- (a) The Chair shall preside as chairperson at every Board meeting.
- (b) Where a meeting of the Board is held and the Chair is not present within 15 minutes after the time appointed for the holding of the Board meeting or is unwilling to act as act as chairperson for all or part of the meeting then the Directors present may elect a Director to be chairperson of such meeting or part of it.

6.10 Quorum for Board meetings

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

6.11 Voting at Board meetings

- (a) A Board meeting at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the Board under this Constitution.
- (b) A question arising at a Board meeting is to be decided by a majority of votes of Directors present and entitled to vote, unless otherwise

provided in this Constitution. Such a decision is for all purposes a decision of the Board.

- (c) Where the votes cast on a motion are equal, the motion shall be lost.

6.12 Establishment of committees

- (a) The Board may establish one or more committees comprised of such persons as it thinks fit for such purposes as it sees fit. A committee may include, or be comprised of, non-Directors.
- (b) The meetings and proceedings of committees are:
 - (i) subject to any directions of the Board; and
 - (ii) otherwise governed by the provisions of this Constitution which regulate the proceedings of the Board, to the greatest extent practical.

6.13 Delegation of powers

- (a) The Board may delegate any of its powers to one or more Directors, a committee, an employee or any other person.
- (b) A delegation must be recorded in the Church's minute book.
- (c) The Board may revoke a delegation.
- (d) The Board may specify terms (including the power to further delegate).

6.14 Use of technology in Board meetings

- (a) The Board may hold their meetings by using any technology that is agreed to by the Board.
- (b) The Board's agreement may be a standing one.
- (c) A Director may only withdraw their consent within a reasonable period before the meeting.
- (d) A Director that is present at a Board meeting through the use of technology is be deemed to be present at the meeting.

6.15 Resolutions without meetings

- (a) A resolution of the Board may be passed without a meeting if all of the Directors entitled to vote on the resolution sign a notice stating that they are in favour of the resolution.
- (b) The resolution is passed at the time when the last Director signs.
- (c) For the purpose of this clause:
 - (i) the notice must include the wording of the resolution;

- (ii) the notice may be distributed by any means, including electronic communication;
- (iii) separate copies of the notice may be signed;
- (iv) an email to the Directors' ordinary email address will suffice for the purposes of a "signature"; and
- (v) a resolution will be deemed to have failed to have been passed as a resolution without a meeting if it has not achieved unanimous consent within 48 hours after the notice was given.

7. DIRECTORS' DUTIES AND INTERESTS

7.1 Duties of Directors

Directors must comply with any duties imposed on them, which includes any duties under the Act and the ACNC Legislation.

7.2 Disclosure of interests

- (a) A Director must disclose any perceived or actual material conflict of interest to the other Directors.
- (b) A Director must disclose any material personal interests in the manner and extent required by the Act.

7.3 Participation in decisions

- (a) A Director who has a material personal interest in a matter that is being considered by the Board must not:
 - (i) be present while the matter is being considered at a Board meeting; or
 - (ii) vote on the matter;
 unless permitted by the following sub-clause.
- (b) A Director may be present or vote if:
 - (i) the interest arises because the Director is a Member of the Church, and the interest is held in common with other Members of the Church;
 - (ii) the interest arises in relation to the Director's remuneration or proposed remuneration as a Director of the Church;
 - (iii) the interest relates to a contract the Church is proposing to enter into that:
 - (A) is subject to approval by the Members; and
 - (B) will not impose any obligation on the Church if it is not approved by the Members;

- (iv) the interest arises merely because the Director is a guarantor or has given an indemnity or security for all or part of a loan (or proposed loan) to the Church;
- (v) the interest arises merely because the Director has a right of subrogation in relation to a guarantee or indemnity referred to in paragraph 7.3(b)(iv);
- (vi) the interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as an officer of the Church (but only if the contract does not make the Church or a Related Body Corporate the insurer);
- (vii) the interest relates to any payment by the Church or a Related Body Corporate in respect of an indemnity permitted under section 199A of the Act or any contract relating to such an indemnity; or
- (viii) the interest is in a contract, or proposed contract, with, or for the benefit of, or on behalf of, a Related Body Corporate and arises merely because the Director is a director of the Related Body Corporate; or
- (ix) the Australian Securities and Investments Commission makes an order allowing the Director to vote on the matter; or
- (x) the Directors who do not have a material personal interest in the matter pass a resolution that:
 - (A) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Church, and
 - (B) states that those Directors are satisfied that the interest should not stop the Director from voting or being present.

7.4 Directors' interests

A Director may:

- (a) hold any other position in the Church, except that of auditor, unless being or becoming a Director would breach any law by reason of holding that office;
- (b) hold any office or place of profit in any other entity promoted by the Church or in which it has an interest of any kind;
- (c) enter into a contract or arrangement with the Church;
- (d) participate in any association, institution, fund, trust or scheme for past or present employees or Directors of the Church or persons dependent on or connected with them;
- (e) act in a professional capacity (or be a Member of a firm which acts in a professional capacity) for the Church, except as auditor;

- (f) sign or participate in the execution of a document by or on behalf of the Church; and
- (g) do any of the above despite the fiduciary relationship of the Director's office:
 - (i) without any liability to account to the Church for any direct or indirect benefit accruing to the Director; and
 - (ii) without affecting the validity of any contract or arrangement provided the Director complies with the clauses 7.2 and 7.3.

8. BIENNIAL CONGREGATIONAL MEETING

8.1 Minutes

- (a) The Board shall cause minutes of
 - (i) all proceedings and resolutions of meetings of Members;
 - (ii) all proceedings and resolutions of meetings of the Board, including meetings of a committee established by the Board;
 - (iii) all proceedings and resolutions of meetings of the CLC;
 - (iv) resolutions passed by Members without a meeting; and
 - (v) resolutions passed by the Board without a meeting,
 to be duly entered into the books kept for that purpose, within one month of the meeting being held or resolution being passed.
- (b) The Church must ensure that:
 - (i) minutes of a meeting are signed within a reasonable time after the meeting by one of the following:
 - (A) the chairperson of the meeting; or
 - (B) the chairperson of the next meeting; and
 - (ii) minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.
- (c) A minute recorded and signed as required by this clause is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.
- (d) The Church must keep its minute books at its registered office or its principal place of business in Australia.

8.2 Accounts and other records of the Church

- (a) The Church must make and keep written financial records that:

- (i) correctly record and explain its transactions and financial position and performance;
 - (ii) enable true and fair financial statements to be prepared and to be audited; and
 - (iii) are prepared in accordance with ACNC requirements.
- (b) The accounts will be held at the registered office or any other place as the Board thinks fit.
 - (c) A Director has a right of access to the financial records at all reasonable times.
 - (d) The Church must retain its financial records for at least seven years.
 - (e) The Board must take reasonable steps to ensure that the Church's records are kept safe.

8.3 Management of funds

- (a) The Board must present a budget to the Members for approval prior to each financial year. Following approval:
 - (i) items of the total budget (amended by up to 10% of the total budget) by resolution of the Directors passed by at least a two thirds majority, in which case the Members must be notified immediately that the amendment has been made; and
 - (ii) any amendment to the budget beyond 10% will require a vote of the Members.
- (b) The Pastor has authority to commit funds of the Church within the approved budget, subject to a limitation of 5% of the annual budget on a single expenditure item. Any greater expenditure requires the approval of the Board.
- (c) The Board has authority to commit funds of the Church within the approved budget, subject to a limitation of 10% of the annual budget on a single expenditure item. Any greater expenditure requires the approval of the Members.
- (d) The Board may, in its sole discretion, commit more than 10% of the annual budget on a single expenditure item without first obtaining the approval of the Members if:
 - (i) the expenditure is necessary to preserve the assets of the Church (such as the Church building or its contents) or to prevent risk of injury to individuals or damage to property; and
 - (ii) the Board determines that the expenditure must be incurred urgently and it is not feasible to convene a Congregational Meeting beforehand.
- (e) All payments must be made in accordance with a policy to be determined by the Board. The policy must cover authorised signatories and expenditure limits and must provide that any

withdrawals must be signed by two individuals including at least one Office Bearer.

- (f) The Board must report monthly to the UFMCC on income received. The Board must ensure that a percentage of funds (determined by the General Conference from time to time) is remitted monthly to UFMCC together with the report.
- (g) The Board must ensure that systems and procedures for the management of the Church's funds are appropriate for its size and circumstances, and the complexity of its financial affairs.

8.4 Members' access of Church records

To allow Members in good standing to access and inspect the Church's records:

- (a) the Church must give a Member access to the records set out in sub-clause 8.1; and
- (b) the Church may authorise a Member to inspect other records of the Church, including records referred to in sub-clause 8.2.

8.5 Financial Year

The financial year will begin on the first day of July and end on the thirtieth day of June, unless the Board passes a resolution to change the financial year.

8.6 Audit

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

8.7 Common seal

The Church does not have a common seal.

8.8 Execution of documents

The Church may execute a document by the signature of:

- (a) two Directors; or
- (b) one Director and one Secretary; or
- (c) one Director and another person appointed by the Board for that purpose.

8.9 Alteration of Constitution

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

8.10 Notices

- (a) Notices can be served on Members or the Board by post, electronic mail, or such other means as may be generally accepted in business from time to time.
- (b) Notices directed to the last known address (including any virtual or electronic address) of a Member or Director are to be treated as duly served in such time as it would usually take for such notice to be delivered.
- (c) The non-receipt of notice of a Congregational Meeting or Board meeting, including notice of postponement or change of venue, does not invalidate anything done or any resolution passed at the meeting if the non-receipt of notice occurred by accident or inadvertent error.
- (d) A person who attends a Congregational Meeting or Board meeting waives any objection that person may have to non-receipt of notice of the meeting.
- (e) In calculating a period of notice to be given under this Constitution, both the days on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

8.11 Officers: indemnities and insurance

- (a) The Church indemnifies every person that is or has been an Officer of the Church, or of a wholly-owned subsidiary, against any liability (including without limitation liability for legal costs) incurred as a result of their position as Officer (other than to the Church or a Related Body Corporate) to the full extent permitted by law.
- (b) The Church may pay, or agree to pay, a premium in respect of a contract insuring its Officers, to the extent permitted by law.

8.12 Winding up

Subject to clause 2.3, the Church may be dissolved by a Special Resolution of Members.

8.13 Liability of Members

The liability of the Members is limited to the Guaranteed Amount, being \$50.

8.14 Contribution of Members on winding up

Every Member undertakes to contribute to the assets of the Church in the event of the Church being wound up while they are a Member, or within one

year of ceasing to be a Member such amount as may be required not exceeding the Guaranteed Amount, for:

- (a) the payment of the debts and liabilities of the Church contracted whilst the Member or past Member as the case may be was a Member;
- (b) the costs charges and expenses of winding up.

9. INTERPRETATION

9.1 Exclusion of replaceable rules

The replaceable rules contained in the Act do not apply to the Church.

9.2 Definitions

In this Constitution:

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

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

“**Act**” means the *Corporations Act 2001*.

“**Biannual Congregational Meeting**” means a meeting held twice in every calendar year at such time and place as may be determined by the Board, for the purposes of carrying out the business of the Church described in clause 4.2(b) or such of it as is thought necessary by the Board.

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

“**Board**” means the board of Directors for the time being of the Church.

“**Chair**” means the person appointed to that role by the Board in accordance with clause 5.8.

“**chairperson**” means the person chairing a meeting.

“**charity at law**” means charitable within the meaning of the *Charities Act 2013* (Cth), and “charitable at law” has the same meaning.

“**Church**” means Metropolitan Community Church of Sydney. “**CLC**” means Church Life Council.

“**Congregational Meeting**” means a meeting convened pursuant to clause 4.3 and includes a Biannual Congregational Meeting.

“**Directors**” means the Directors for the time being of the Church and

“**Director**” has a corresponding meaning.

“**Financial Year**” means the Financial Year set out in clause 8.4.

“**General Conference**” means the General Conference of UFMCC.

“Guaranteed Amount” means the amount set out in clause 8.13.

“Lay Delegate” means a person elected to that role by the Members in accordance with rule 5.11.

“Member” means a person whose name is entered in the Register as a Member of the Church in accordance with clause 3.4 and **“Membership”** has the corresponding meaning.

“Member in good standing” means a Member who:

- (a) registers their attendance (or submits an apology) at Congregational Meetings; or
- (b) is seen at worship services of the Church on a regular basis; or
- (c) provides identifiable financial support; or
- (d) makes definite service contributions; or
- (e) demonstrates interest and loyalty; or
- (f) is otherwise deemed, at the sole discretion of the Board, to be a Member in good standing.

“Office Bearer” means the Chair, Secretary or Treasurer appointed pursuant to clause 5.8(a).

“Officer” has the meaning given under the Act.

“Pastor” means the person appointed to the position of Pastor of the Church under clause 5.12.

“person” includes a natural person and a body corporate and a corporation within the meaning of s 57 of the Act.

“poll” means a method of voting where votes are cast in writing. It includes (but is not limited to) a vote conducted by secret ballot.

“Principal Purpose” means the purpose set out in clause 2.1.

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

“Related Body Corporate” means a body corporate that is a subsidiary of the Church.

“Secretary” means the secretary for the time being of the Church and if there are joint secretaries, any one or more of such joint secretaries.

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

- (a) of which notice has been given in accordance with clause 4.6(d); and
- (b) that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

“Treasurer” means the Treasurer appointed from time to time by the Board in accordance with rule 5.10.

“UFMCC” means the Universal Fellowship of Metropolitan Community Churches.

9.3 Interpretation

In this Constitution:

- (a) If an expression in the Constitution has a meaning in the Act, the meaning from the Act shall apply to the expression - except where a contrary intention appears in this Constitution.
- (b) Words importing any one gender are deemed and taken to include all genders and the singular to include the plural and the plural the singular unless the contrary as to gender or number is expressly provided.
- (c) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.

10. TRANSITIONAL PROVISIONS

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

10.1 Members

The Members immediately following the adoption of this Constitution will be those Members listed on the Register at the time of adoption.

10.2 Directors

- (a) The Directors immediately following the adoption of this Constitution will be those in office at the time of adoption.
- (b) Directors appointed prior to the adoption of this Constitution may complete their term of office under the previous Constitution. Time served prior to the adoption of this Constitution will be taken into account for the purposes of clause 5.4(c).