



## CONSTITUTION FOR

### 1. NAME

1.1 The name of this Agency of the Church shall be .....

### 2. DEFINITIONS

- (i) "AGENCY" means .....
- (ii) "AGENCY BOARD OF GOVERNANCE" means the Board or Council having the responsibility for the governance of the Agency
- (iii) "ASSEMBLY" means the Assembly of the Uniting Church in Australia.
- (iv) "BY-LAWS" means the Synod Commission for Mission By-Laws as in force from time to time.
- (v) "CEO" means the chief executive officer (however styled) or supervisor of the Agency, as determined by the Board.
- (vi) "CFMB" means the Commission for Mission Board.
- (vii) "CHURCH" means The Uniting Church in Australia, Synod of Victoria and Tasmania.
- (viii) "COMMISSION" means the Commission for Mission of the Synod of Victoria and Tasmania.
- (ix) "COUNCIL OF THE CHURCH" associated with this Agency is .....
- (x) "DEPARTMENT" means any relevant government department.
- (xi) "FINANCIAL YEAR" means the year ended on the 30<sup>th</sup> June.
- (xii) "MEMBERS OF THE CHURCH" means baptised members, confirmed members or members in association of the Uniting Church.
- (xiii) "PROPERTY" means property of whatsoever nature whether real or personal.
- (xiv) "REGULATIONS" means the Regulations of The Uniting Church in Australia.
- (xv) "RULES" means the protocols established by the Board for the conduct of the Board and the Agency.
- (xvi) "STANDING COMMITTEE" means the body charged with the responsibility of undertaking the work of the Synod between meetings
- (xvii) "SYNOD" means the Synod of Victoria and Tasmania or its Standing Committee.
- (xviii) "TERMS OF REFERENCE" means the Terms of Reference defining the responsibilities of the UnitingCare Victoria and Tasmania Unit as approved by the Commission for Mission Board in accordance with the By-Laws.
- (ixx) "UNIT" means the UnitingCare Victoria and Tasmania Unit which is a Unit of the Commission for Mission responsible to the Commission for Mission Board through the Executive Director.

Terms which are not defined in this Constitution but are used in the Regulations or the By-Laws



have the same meaning in this Constitution, unless the context otherwise requires.

### **3. PREAMBLE                      THE INTER-RELATED MODEL**

At a meeting of the Synod in session in 2001, approval was given to implement the Inter-related model of governance and oversight of community services in Victoria and Tasmania. (Synod Minute 01.6.4.2).

- 3.1 The bodies involved in this governance and oversight of community services in Victoria and Tasmania are the agency board of governance, the council of the church associated with that particular agency (usually a presbytery or a congregation), and the Synod of Victoria and Tasmania or its Standing Committee which will normally act through the Commission for Mission Board.
- 3.2 Each body has allocated to it particular responsibilities in oversight and governance.
- 3.3 It is only when these bodies inter-relate, that the full governance and oversight is achieved.
- 3.4 This document, as a Model Constitution for agencies, defines the responsibilities of the Agency Board of Governance and the Council of the Church associated with each agency as two of these inter-related bodies.
- 3.5 The responsibilities of the Commission for Mission and the Commission for Mission Board are defined in the By-Laws. The Commission for Mission Board is assisted by the UnitingCare Victoria and Tasmania Unit. The responsibilities of the Unit are defined in the Terms of Reference.
- 3.6 In order to fully understand the Inter-Related model of governance, the By-Laws, the Terms of Reference and this document must be read together.
- 3.7 Any interpretation of this Constitution shall be consistent with
  - (a) the Constitution and Regulations of The Uniting Church in Australia;
  - (b) the By-Laws and the Terms of Reference; and
  - (c) Corporations Law or other relevant legislation.

In the event of any inconsistency, this Constitution shall to the extent of the inconsistency be invalid. In the event that any part of this Constitution is found to be invalid in law, the Constitution will be interpreted as being modified to the extent necessary to eliminate the invalidity, and the remainder of the Constitution will continue in force.

- 3.8 If disputes should arise between bodies then the dispute procedures approved by the Synod from time to time shall be used to resolve the dispute.

### **4. OBJECTS AND AIMS**

- 4.1 The Agency is established for the principal objective of relieving poverty, suffering, sickness, disability, helplessness and distress by providing welfare programs for the benefit of people in need of relief as specified in the Schedule.
- 4.2 The Agency aims to:
  - (a) develop programs which enable those in its care to develop positive relationships with each other and their community.
  - (b) deliver high quality services in ways which promote human dignity.
  - (c) ensure that the programs are non-discriminatory and are planned, implemented, managed and evaluated in a consultative and participative manner.
  - (d) provide or encourage innovative services.
  - (e) liaise and cooperate with other community service agencies in developing accessible and relevant services; and
  - (f) advocate publicly on behalf of those who require services.

- 4.3 The Agency may do all such other things which are both lawful and in accordance with the *Basis*



of Union, the Constitution of the Uniting Church in Australia, the policy, regulations and By-Laws of the Church as the Agency Board of Governance may determine to be incidental or conducive to the achievement of any of the objects or aims or which are charitable at law.

## **5. THE AGENCY BOARD OF GOVERNANCE**

- 5.1 The Agency shall work under the direction of an Agency Board of Governance unless exemption is granted by CFMB to a body, agency or program, and approved by the Standing Committee.
- 5.2 Membership
- 5.2.1 The Agency Board of Governance shall govern the Agency and:
- be made up of persons with appropriate expertise appointed by the Agency Board of Governance and approved by the Synod or its Standing Committee on the recommendation of the CFMB.;
  - consist of not fewer than eight members (including any ex officio members);
  - consist of not more than thirteen persons (including any ex officio members);
  - at least one third of the members of the Agency Board of Governance shall be members of the Church.
- 5.2.2 If a nomination is not approved the Synod shall advise the Agency Board of Governance within thirty (30) days during which time the Agency Board of Governance Board may discuss the matter with the CFMB and the Synod and/or submit another nomination..
- 5.2.3 The Agency Board of Governance shall determine whether
- (a) the CEO is a member of the Agency Board of Governance;
  - (b) the CEO is entitled to vote at meetings of the Agency Board of Governance.
- 5.2.4 Appointed members of the Agency Board of Governance:
- (a) shall be entitled to hold office for up to three years from the date of appointment until the conclusion of the Annual General Meeting held in the third year of their appointment;
  - (b) shall be eligible for re-appointment up to a total period in office of nine consecutive years;
  - (c) shall not then, without the written permission of the CFMB, be eligible for appointment until a period of twelve months has elapsed.
- 5.2.5 The position of any member of the Agency Board of Governance shall be reviewed by that board and may be declared vacant by the board if for three consecutive meetings the member has been absent without leave of the Agency Board of Governance.
- 5.3
- (a) The Agency Board of Governance shall appoint the Chairperson of the Agency Board of Governance from its membership. No member of staff of the Agency or of the Commission for Mission will be eligible for appointment to this office. The term of appointment for a Chairperson will be three years with the possibility for re-nomination.
  - (b) The Agency Board of Governance shall appoint from its members a Deputy Chairperson, and any other office bearers as determined by it.
- 5.4 A person shall cease to be a member of the Agency Board of Governance if:
- (a) The person
    - (i) resigns in writing and the resignation is received by the Agency Board of Governance; or
    - (ii) dies;
  - (b) The Agency Board of Governance declares that in its reasonable opinion the person
    - (i) is incapable of acting; or
    - (ii) whilst a member of the Agency Board of Governance has engaged in unacceptable conduct; or
    - (iii) has ceased or refused to act; or
    - (iv) has moved to such a distance as to make that person's continued membership of



the Agency Board of Governance impracticable or inexpedient.

- 5.5 In the event of a casual vacancy occurring in the membership of the Agency Board of Governance, the process of appointment set out in 5.2.1 shall apply. The appointee holds office for the remainder of the term of the member replaced.

## **6. DISCLOSURE OF PERSONAL INTEREST**

- 6.1 Any member of the Agency Board of Governance who has a financial or other interest in any contract or arrangement made or proposed to be made with the Agency shall disclose his/her interest at the first meeting of that board at which the contract or arrangement is first considered. If he/she becomes interested in a contract or arrangement after it is made or entered into, he/she shall disclose his/her interest at the first meeting after he/she becomes so interested.
- 6.2 No member of the Agency Board of Governance shall either participate in any discussion or debate nor vote as a member of the Agency Board of Governance in respect of any contract or arrangement in which he/she is so interested as aforesaid. If he/she does so vote his/her vote shall not be counted.

## **7. MEETINGS**

- 7.1. The Chairperson or, in his/her absence, or inability to act, the Deputy Chairperson, shall convene all ordinary meetings of the Agency Board of Governance on such dates and in such manner as the Agency Board of Governance determines.
- 7.2. The Agency Board of Governance shall meet not less than six times in any calendar year and the interval between any two consecutive meetings shall not exceed three months.
- 7.3 The Agency Board of Governance shall fix the date, time and place of its meetings
- 7.4 A special meeting of the Agency Board of Governance may be convened by the Chairperson, the Council of the Church associated with that Agency, or the CFMB or shall be convened at the written request of four members. Not less than seven days notice shall be given in writing (by mail or confirmed fax or email) to all members, stating the date, time, place and the general nature of the business for the meeting, and no other business shall be discussed.
- 7.5 A Quorum for a meeting of the Agency Board of Governance shall be that number next above one half of the number of its membership.

## **8. RESPONSIBILITIES AND FUNCTIONS OF THE BOARD**

The Agency Board of Governance shall be responsible for the governance of the Agency including strategic planning, policy development, compliance and management oversight as follows:

- 8.1 In matters relating to a Strategic Plan the Agency Board of Governance will develop, implement, and monitor a long term strategic plan for the Agency having regard to the strategy and policies of the CFMB.
- 8.2 In matters relating to Policy Development the Agency Board of Governance will:
- (a) formulate and interpret policy for the Agency consistent with the policy statements and determinations of the CFMB, the Synod and Assembly;
  - (b) implement the objects and policy of the Agency Board of Governance;
  - (c) make Rules for the Agency, such Rules to be consistent with and to be read in conjunction with this constitution. Whenever Rules are adopted or altered an updated copy is to be forwarded to the CFMB.
- 8.3 In matters relating to Compliance the Agency Board of Governance will:



- (a) adhere to the policies or standards endorsed by the CFMB in the following areas including:
- Principles of Care
  - Accreditation (where appropriate)
  - Industrial relations policy and practice (including grievance procedures)
  - Occupational Health and Safety
  - Seeking input and feedback from community services users
  - Handling of Complaints
  - Building Certification (where appropriate);
- (b) control all funds of the Agency, subject to the requirements of the Regulations, the Synod, the By-Laws, Clause 9 of this Constitution and any relevant funding authority;
- (c) be responsible for all financial arrangements and accounting procedures and ensure that proper records and books of account are kept;
- (d) operate such bank accounts as it shall decide. All banking transactions shall be authorised by any two of the signatories approved by the Board;
- (e) provide financial and governance reports to the Unit within thirty days of the specified reporting period end for each Agency;
- (f) prepare and publish an Annual Report on the activities of the Agency;
- (g) conduct an annual general meeting at which a report on the activities of the Agency is presented;
- (h) prepare Annual Accounts in accordance with the accounting guidelines as approved by the CFMB in accordance with the By-Laws;
- (i) arrange and maintain appropriate insurances in accordance with Synod policy;
- (j) appoint an Auditor in accordance with the Regulations provided that the Auditor so appointed shall be a member of the Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants or any other agency prescribed pursuant to the Corporations Law of the Commonwealth;
- (k) send two copies of the Annual Report, Auditor's Report, and audited financial statements of the Agency to the Unit, within four months following the end of the financial year;
- (l) submit any proposal for dealing with real estate and or buildings as provided in section 9.4;
- (m) establish compliance policies and monitor performance in relation to government regulations and other legal obligations;
- (n) ensure that the Agency has in place risk assessment and management processes that comply with the Synod Risk Management Strategy and Framework for the Uniting Church in Victoria and Tasmania as relevant to the work of the Agency;
- (o) ensure proper minutes are kept of all meetings of the Board;
- (p) provide a response to such reporting surveys as may reasonably be required by the CFMB;
- (q) facilitate access for at least one site visit every two years by the CFMB, including access to all buildings, records, procedures, the CEO, staff and service users as required;
- (r) accede to any request from the CFMB to address a meeting of the Agency Board of Governance;



- (s) pay to the CFMB an annual levy as determined by the Synod Standing Committee.
- (t) comply with any policies approved by the CFMB or the Synod as in place from time to time concerning the use of "UnitingCare" or Uniting Church logos or other forms of visual identity or the name of the Uniting Church in its title, promotional material and other expressions of the identity of the Agency.

8.4 In matters relating to Management Oversight the Agency Board of Governance will:

- (a) appoint or terminate a CEO;
- (b) establish performance criteria for the CEO and ensure appropriate support and review processes are implemented;
- (c) determine the limits of delegation of responsibility to the CEO, (the detail of such delegation and any variation shall be documented by the Agency Board of Governance and signed off by both the Chairperson and the CEO);
- (d) approve and monitor an annual plan for the achievement of strategic goals;
- (e) obtain and consider reports on the management and programs of the Agency to ensure ongoing good governance;
- (f) implement procedures to conduct an evaluation of programs of the Agency to ensure best practice in service provision;
- (g) ensure the Agency meets or exceeds the expectations and standards required by the Uniting Church in Australia and funding bodies;
- (h) implement procedures to obtain financial support for the work of the Agency which may be obtained from endowments, grants, voluntary contributions, fund raising efforts and any other public appeals approved by the CFMB.

8.5 The Agency Board of Governance may appoint Committees and delegate to those Committees such powers and duties as are in accordance with the objects of the Agency except they shall not be given power to determine any matters under clauses 7.3, 8.2, 8.2, 8.3 (b), 8.3 (i), 8.4 (a), 8.4(c), and 8.4(d). The Agency Board of Governance shall determine the procedures of those Committees and may revoke powers and duties or terminate the appointment of the committees at any time.

## **9. ASSETS**

9.1 The assets and income of the Agency shall be applied solely in furtherance of its objects and aims and no portion shall be distributed directly or indirectly to any members of the Agency Board of Governance except as reimbursement of out-of-pocket expenses incurred by a member of the Board in performing a duty as a member of the Agency Board of Governance or as bona fide remuneration approved by the Agency Board of Governance for services rendered to the Agency, and subject to Clause 6 of this Constitution.

9.2 All property in the state of Victoria shall be held in trust by The Uniting Church in Australia Property Trust (Victoria) in accordance with The Uniting Church in Australia Act 1977 No. 9021 as amended and the Regulations. All property in the state of Tasmania shall be held in trust by the Uniting Church in Australia Property Trust (Tas.) in accordance with The Uniting Church in Australia Act 1977 No. 38 as amended and the Regulations.

9.3 The funds of the Agency not immediately required for the purposes of the Agency shall be lodged in the UCA Cash Management Fund Limited and/or UCA Growth Fund Ltd. of the Church or as otherwise determined by the Synod.

9.4 Any proposal for the purchase, sale, mortgage, lease or the granting, acquisition, disposition, or



surrender of any real estate or interest in any real property or the erection, demolition or enlargement of a church or other building shall be submitted to the Synod Property Board, for approval. Contractual documentation shall be in the name of either the Uniting Church in Australia Property Trust (Victoria) or the Uniting Church in Australia Property Trust (Tasmania) depending on the state where the transaction occurs.

## **10. RESPONSIBILITIES OF COUNCILS ASSOCIATED WITH AGENCIES.**

- 10.1 The Council of the Church associated with an agency or program shall be approved by the Standing Committee on the advice of the CFMB.
- 10.2 Unless otherwise approved by the Standing Committee this Council shall be a Church Council, a Presbytery or the Synod.
- 10.3 The functions of the Council shall be determined by the Regulations relating to that Council but shall include:
- (a) to work in partnership with the Agency Board of Governance towards achieving consistency between the work of the Agency and the *Basis of Union* and the Constitution of the Uniting Church in Australia;
  - (b) to promote the integration of the work of the Agency or program with the life and mission of the church;
  - (c) to liaise with the Agency Board of Governance in developing mission imperatives;
  - (d) in consultation with the Board and the CEO, to ensure personal pastoral care for the staff, residents, volunteers of the Agency, and members of the Board as appropriate;
  - (e) to facilitate the integration of the work of agencies within the life and mission of the church;
  - (f) to commission or induct the CEO and other personnel of agencies where appropriate;
  - (g) as required, to work in partnership with the Agency Board of Governance to bring nominations to the CFMB for membership of the Agency Board of Governance; and
  - (h) to participate in any review conducted by the CFMB of an Agency with whom they are associated.

## **11. DEDUCTIBLE GIFT RECIPIENT STATUS**

### **11.1 Deductible Gift Recipient Endorsement**

The Agency must obtain and comply with all relevant requirements to maintain, either as a whole or in respect of a fund, authority or institution that the Agency owns or includes, endorsement as a Deductible Gift Recipient (DGR) under Subdivision 30-BA of the Income Tax Assessment Act 1997 so as to ensure that it is an organisation which can receive income tax deductible gifts and contributions within the meaning of that Act.

### **11.2 Deductible Gift Recipient Accounting**

Without limiting the operation of clause 11.1, the Agency must:

- (a) ensure that all gifts and deductible contributions made to it for its principal purpose in relation to its status as an endorsed DGR are used for that purpose and that receipts issued contain all relevant information as required by the Australian Taxation Office (ATO) from time to time; and



- (b) maintain adequate accounting and other records that record and explain all transactions that are relevant to its status as an endorsed DGR as required by the ATO from time to time.

**11.3 Transfer on Dissolution or Cessation of Deductible Gift Recipient Endorsement**

In the event of the Agency being dissolved or ceasing to be endorsed as a Deductible Gift Recipient under Subdivision 30-BA of the Income Tax Assessment Act 1997, any remaining gifts, deductible contributions and any money received in respect of such gifts and contributions, acquired by the Agency by virtue of such endorsement, must be transferred to an institution:

- (a) which is charitable at law; and
- (b) gifts to which can be deducted under Division 30 of Income Tax Assessment Act 1997 due to it being characterised as a public benevolent institution under item 4.1.1 of section 30-45 of Income Tax Assessment Act 1997.

11.4 The identity of the institution referred to in clause 11.3 must be decided by the Synod on the recommendation of the CFMB.

**12. AMENDMENTS TO THE CONSTITUTION**

12.1 Amendments to the Model Constitution can only be made by the Standing Committee of the Synod.

12.2 Amendments to this Constitution can be made by the Synod Standing Committee on the recommendation of the agency and the CFMB.

**13. DISSOLUTION**

13.1 The Agency Board of Governance must obtain the approval of the CFMB and the Synod prior to the Agency ceasing to operate. The CFMB shall determine the procedure to dissolve the affairs of the Agency.

13.2 If, on the winding up or dissolution of the Agency, any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to an institution:

- (1) which is charitable at law; and
- (2) gifts to which can be deducted under Division 30 of Income Tax Assessment Act 1997 due to it being characterised as a public benevolent institution under item 4.1.1 of section 30-45 of Income Tax Assessment Act 1997.

13.3 The identity of the institution referred to in clause 13.2 must be decided by the Synod on the recommendation of the CFMB.

**14. STATUS**

14.1 This Constitution, once signed by the Agency, shall take effect on a date approved by the CFMB on behalf of the Standing Committee of the Synod, and shall supersede existing constitutions from that date.

Signed ..... Date:  
on behalf of the Agency Board.

Approved by the CFMB on behalf of the Synod Standing Committee on

Signed ..... Date:  
on behalf of the CFMB.



**Schedule – Types of welfare programs and types of persons assisted (clause 4.1)**

**Types of welfare programs** (eg. aged care, drug rehabilitation, youth homelessness)

**Types of persons assisted** (eg. the elderly, individuals with substance addictions, disadvantaged youth)

