

Constitution of ChildFund
Australia
(ABN 79 002 885 761)
(ACN 002 885 761)

Charity registered by the
Australian Charities and Not-for-profits Commission

Incorporating amendments up to and including 30 Nov 2020

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1. Definitions

The following definitions apply in this Constitution unless the context otherwise requires.

Act means the *Corporations Act 2001* and the Corporations Regulations.

Annual Membership Fees means those monies, if any, required to be paid to the Company by each Member under Rule 12.1(e).

Board means the Directors for the time being of the Company.

CEO means Chief Executive Officer.

Company means Childfund Australia (ACN 002 885 761).

Constitution means this constitution as amended.

Director means a person appointed or elected to the office of director of the Company in accordance with this Constitution.

Member means any person who is admitted to the general membership of the Company and registered as a member of the Company.

Member Present means, in connection with a meeting, the Member present at the venue or venues for the meeting in person or by proxy, by attorney or, where the Member is a body corporate, by representative.

Nominations Committee means the committee appointed by the Board in accordance with Rule 15.9(e) to propose nominations for membership to the Company and in the absence of a Nominations Committee, it shall mean the Board.

Prescribed Rate means the standard base rate charged by the Company's principal banker to corporate customers from time to time for overdraft loans in excess of \$100,000 calculated on a daily basis and a year of 365 days.

Rules means the rules set out in this Constitution, as amended.

Seal means any common seal or duplicate common seal of the Company.

2. Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) A gender includes all genders.
- (b) The singular includes the plural and conversely.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a paragraph or sub-paragraph is to a paragraph or sub-paragraph, as the case may be, of the Rule or paragraph, respectively, in which the reference appears.

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- (e) 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.
- (f) All expressions in this Constitution shall have the same meaning as in the Act unless otherwise stated or defined.
- (g) Except in so far as a contrary intention appears in this Constitution, an expression has, in a provision of this Constitution which relates to a particular provision of the Act, the same meaning as in that provision of the Act
- (h) A reference to a person or persons includes an organisation as well as to an individual or body corporate.

3. Replaceable Rules

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

4. Actions authorised under the Act and compliance with the Act

Where the Act authorises or permits a company to do any matter or thing if so authorised by its constitution, the Company is and will be taken by this Rule to be authorised or permitted to do that matter or thing, despite any other provisions of this Constitution.

5. Transitional

- (a) This Constitution supersedes the constitution in force immediately before the adoption of this Constitution.
- (b) Everything done under any previous constitution of the Company continues to have the same operation and effect after the adoption of this Constitution as if properly done under this Constitution. In particular (without limitation) every Director, and secretary in office immediately before the adoption of this Constitution is taken to have been appointed and continues in force under this Constitution.

6. Mission Statement

The Company partners to create community and systems change which enables vulnerable children and young people, in all their diversity, to assert and realise their rights.

7. Objectives

The objectives for which the Company is established are:

- (a) to provide direct assistance to children and communities impacted by poverty by implementing sustainable development programs and activities that provide for health, water and sanitation, HIV/AIDS education and livelihood needs and that are aimed at improving economic and social circumstances, irrespective of nationality, ethnicity, gender or religious belief;

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- (b) to gather, collect and receive gifts and donations in kind and to send the same throughout the world for use by children and their communities in need;
 - (c) to give financial support, subject to the fulfilment of stipulated conditions, to charitable institutions or organisations, whether incorporated or not, whether in Australia or not, that provide assistance to the poorest children and their communities throughout the world or whose objects are altogether or in part similar to those of the Company;
 - (d) to issue appeals for, and collect money and goods in kind, and to organise concerts, exhibitions, sports events or entertainments of any kind for the purposes of raising funds for carrying out the objects of the Company or to promote or further any of the charitable or philanthropic purposes referred to herein;
 - (e) to raise funds through child sponsorship for carrying out the objects of the Company or to promote or further any of the charitable or philanthropic purposes referred to herein;
 - (f) to exercise the powers set forth in section 124(1) of the Act except where they are inconsistent with any other clauses contained in this Constitution;
 - (g) to solicit and to receive voluntary contributions and raise funds throughout the world, and transmit such funds and any income thereon throughout the world for the purpose of carrying out the objects of the Company; and
 - (h) to do all such other things as are incidental or conducive to the attainment of the objects of the Company and for such purposes to exercise any of the foregoing powers,
- to the extent that these objects are charitable under the laws of each State or Territory of Australia.

8. Application of Income and Property

- (a) The profits (if any) or other income and property of the Company shall be applied solely towards the promotion of the objects of the Company as set forth in this Constitution and no portion shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member of the Company.
- (b) Nothing in Rule 8(a) prevents any payment in good faith by the Company of:
 - (i) reasonable and proper remuneration to any Member for any services actually rendered or goods supplied in the ordinary and usual course of business to the Company;
 - (ii) out-of-pocket expenses incurred by a Member on behalf of the Company where the amount payable does not exceed an amount previously approved by the Board;
 - (iii) interest to any Member at a rate not exceeding the Prescribed Rate on money borrowed from the Member;
 - (iv) reasonable and proper rent for premises let or demised by any Member to the Company; or
 - (v) moneys to any Member, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the

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Board and is not more than an amount which commercially would be reasonable payment for the service.

9. Winding Up the Company: Contributions by Members

- (a) The liability of Members is limited.
- (b) Each Member undertakes to contribute to the property of the Company if the Company is wound up while he, she or it is a Member or within one year after he, she or it ceases to be a Member, for payment of the Company's debts and liabilities (contracted before he ceases to be a Member) and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, but not exceeding \$100.00.

10. Winding Up the Company: Distribution of Surplus Property

If upon winding up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property whatsoever, the property must not be paid to or distributed amongst the Members but must be given or transferred to some other organisation or organisations:

- (a) having purposes similar to the purposes of the Company set out in Rule 7;
- (b) which is eligible for tax deductibility of donations under the *Income Tax Assessment Act 1997* (Cth); and
- (c) which by its constitution is required to apply its profits (if any) or other income in promoting its purposes and is prohibited from paying any dividend to its Members,

such organisation or organisations to be determined by the Members before the time of dissolution or in default thereof by application to the Supreme Court of New South Wales for determination.

11. Section 150 of the Act

Rules 8, 9, 10 and 14.4 of this Constitution contain conditions upon which approval may be granted by the Australian Securities and Investments Commission to the Company to allow the Company to alter its registration by omitting "Limited" from its name as set out in section 150 of the Act. The Members shall not amend Rules 8, 9 10, and 14.4 in any manner which would result in the Company failing to be granted approval or failing to be accorded the status of a public benevolent institution pursuant to the *Income Tax Assessment Act 1997*.

12. Members

12.1 General Membership

- (a) The Company will have at least 3 Members.
- (b) The Members of the Company will be those persons the Board admits to the membership of the Company, who are eligible to be Members, and who have consented in writing to be a Member in the form set out in Schedule 1 (as amended by the Board from time to time).

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- (c) To qualify for admission to membership a person may be required to sign a written undertaking to comply with certain codes of conduct, core values of the Company and other documents reflecting the philosophy and purpose of the Company as prepared by the Board and amended from time to time.
- (d) ChildFund International, Incorporated, of Richmond, Virginia, U.S.A., or its successor, is entitled to be a Member of the Company. It may authorise a person to act as its representative at any meeting of the Company and that person shall exercise the same powers as if he or she were an individual Member of the Company.
- (e) All Members may be required to pay an annual membership fee, the amount and due date (if any) to be determined by the Board in its absolute discretion.

12.2 Nomination

- (a) New members must be nominated by the Nominations Committee.
- (b) Nominations proposed by the Nominations Committee must be submitted to the Board in writing, signed by a representative of the Nominations Committee and the nominee in a form prescribed by the Board from time to time, if any.
- (c) Upon receipt of the nomination for membership, the Board must, no later than at the next meeting of the Board, decide whether or not to admit the nominee in its absolute discretion. The Board is not required to give any reason for rejecting a nomination.
- (d) When a nomination for membership has been decided, the secretary (or any Director appointed by the Board for that purpose) must notify the nominee of the decision. The notification by the secretary may be given in the manner set out in Rule 19 as if the notification were a notice to a Member.
- (e) Upon the Board approving the admission of a person as a Member under this Rule, the nominee must immediately be registered in the Company's register of Members and will become a Member upon registration.

12.3 Resignation of a Member

A Member may at any time, by giving written notice to the secretary, resign as a Member of the Company. The resignation will be effective from the date of receipt of the written notice by the secretary, at which time that Member's name must be removed from the register of Members.

12.4 Misconduct of a Member

- (a) If any Member:
 - (i) is in breach of the provisions of this Constitution;
 - (ii) is in breach of any undertaking referred to in Rule 12.1(c); or
 - (iii) is guilty of any act or omission which, in the opinion of the Board is unbecoming of a Member or prejudicial to the interest of the Company,the Board may expel the Member from the company and remove the Member's name from the register of Members.

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- (b) At least 21 days before the Board holds a meeting to expel a Member the Board must send a notice to the Member which states:
 - (i) the allegations against the Member;
 - (ii) the proposed resolution for the Member's expulsion;
 - (iii) that the Member has an opportunity at the meeting to address the allegations either orally or in writing; and
 - (iv) that the Member may elect to have the question of expulsion dealt with by the Company in general meeting, provided that the Member notifies the secretary in writing, at least 48 hours before the meeting at which the resolution is to be considered by the Board.
- (c) The Company must expel a Member and remove the Member's name from the Register where:
 - (i) a general meeting is held to expel a Member; and
 - (ii) a resolution is passed at the meeting for the expulsion of the Member by a majority of two-thirds of those present and voting (such voting will be by ballot).
- (d) A Member expelled from the Company does not have any claim, monetary or otherwise upon the Company, its funds or property.

12.5 Cessation of membership

A Member's membership of the company shall automatically cease:

- (a) in the case of a Member who is a natural person:
 - (i) on the date that the Member dies;
 - (ii) if the Member becomes of an unsound mind or a person whose estate is liable to be dealt with in any way under the laws relating to mental health;
 - (iii) if the Member is an authorised representative of a Member that is an unincorporated association or organisation and that association or organisation ceases to exist; or
 - (iv) if the Member is convicted of an indictable offence,
- (b) in a case of a Member which is a body corporate, on the date that:
 - (i) a liquidator is appointed in connection with the winding up of the Member; or
 - (ii) an order is made by a court for the winding up or deregistration of the Member.

12.6 Liability for Annual Membership Fees and other amounts following cessation of membership

A Member who resigns from the Company, or whose membership otherwise ceases or terminates in accordance with this Constitution, shall remain liable for:

- (a) all Annual Membership Fees which have become due and payable and which remain unpaid at the date of resignation or termination of membership;

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- (b) any sum not exceeding \$100.00 for which that Member is liable to pay under Rule 9(b);
and
 - (c) all other monies due by that Member to the Company,
- and shall not be entitled to any full or partial refund of any Annual Membership Fees.

13. General Meetings

13.1 Power of directors to convene

- (a) Any 3 Directors may convene a general meeting whenever the Directors think fit.
- (b) Any 3 Directors convening a general meeting may cancel by notice in writing to all persons entitled to receive notice of that meeting, except that a meeting convened on the requisition of a Member or Members must not be cancelled without the consent of the relevant Member or Members.
- (c) The Directors may postpone a general meeting or change the place at which it is to be held by notice not later than 72 hours prior to the time of the meeting to all persons to whom the notice of meeting (the first notice) was given. The postponing notice must specify the place, date and time of the meeting. The meeting is taken to be duly convened under the first notice.
- (d) A Director must call and arrange to hold a general meeting at the request of Members in accordance with the Act.

13.2 Annual General Meeting

An annual general meeting must be held by the Company within 5 months of the end of the Company's financial year.

13.3 Notice of general meetings

- (a) Subject to the provisions of the Act relating to special resolutions and agreements for shorter notice, at least 21 days' notice (exclusive of the day on which notice is given) shall be given of a general meeting. The notice shall:
 - (i) specify the place, the day and the hour of meeting and shall state the general nature of the business to be transacted at the meeting; and
 - (ii) include all other information required by the Act.
- (b) The non-receipt of a notice convening a general meeting by, or the accidental omission to give notice to, any person entitled to receive notice shall not invalidate the proceedings at or any resolution passed at that meeting.
- (c) A notice of general meeting must specify the technology to be utilised in holding the meeting and, if so, specify the form of such technology and the venues at which Members may participate.

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13.4 Business of general meetings

Unless all Members are present as Members Present and agree otherwise, the only business to be transacted at a general meeting will be that as set out in the notice of meeting.

13.5 Quorum

- (a) Business must not be transacted at any general meeting unless a quorum of Members is present at the venue or venues of the meeting at the time when the meeting proceeds to business.
- (b) Except as otherwise provided in this Constitution, 3 Members Present constitute a quorum.

13.6 If quorum not present

If a quorum is not present within 30 minutes after the time appointed for the meeting:

- (a) where the meeting is convened on the requisition of Members, the proposed meeting is automatically dissolved (subject to Rule 13.8(a)); and
- (b) in any other case:
 - (i) the meeting stands adjourned to a day and at a time and place as the Directors decide or, if no such decision is made, to the same day in the next week at the same time and place; and
 - (ii) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting is automatically dissolved.

13.7 Chair of meetings

- (a) Subject to paragraph (b), the chair of the Board will preside as the chair at every general meeting.
- (b) Where a general meeting is held and:
 - (i) there is no chair; or
 - (ii) the chair is not present within 10 minutes after the time appointed for the holding of the meeting, or the chair does not wish to act as chair of the meeting,

the Directors present may choose one of their number or, in the absence of all Directors or if none of the Directors present wish to act, the Members Present may elect one of their number to be chair of the meeting.

13.8 Adjournments

- (a) The chair may, with the consent of the meeting at which a quorum is present, adjourn the meeting from time to time and from place to place.
- (b) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (d) Except as provided by paragraph (c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

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13.9 Voting at general meetings

- (a) Any resolution to be considered at a meeting must be decided on a show of hands unless a poll is demanded.
- (b) If a meeting is conducted at more than one venue then a person at each venue must be appointed by the chair to act as returning officer and to report the results of the voting conducted at the respective venue.
- (c) A declaration by the chair that a resolution has, on a show of hands, been carried or lost and an entry to that effect in the minutes of the meeting are conclusive evidence of the fact without the need to show the number or proportion of the votes recorded in favour of or against the resolution.
- (d) Despite the Act, a poll for a resolution may be demanded by at least 2 Members Present and entitled to vote on the resolution or by the chair.

13.10 Procedure for polls

- (a) A poll on the election of a chair or on a resolution for adjournment must be taken immediately.
- (b) A poll demanded on any other question shall be taken in the manner and at the time the chair directs.
- (c) The result of the poll is a resolution of the meeting at which the poll was demanded.
- (d) Subject to paragraph (a), if a poll has been demanded at a meeting, the meeting may continue with the transaction of business other than the resolution on which the poll was demanded.

13.11 Chair's casting vote

In the case of an equality of votes on a show of hands or on a poll, the chair of the meeting has a casting vote in addition to any vote to which the chair may be entitled as a Member, proxy, attorney or body corporate representative.

13.12 Representation and voting of members

Subject to this Constitution:

- (a) at meetings of Members each Member entitled to attend and vote may attend and vote in person or by proxy, or attorney and where the Member is a body corporate, by representative;
- (b) a Member is not entitled to vote at a general meeting unless all sums presently payable by the Member in respect of membership in the Company have been paid (if any);
- (c) on a show of hands to decide a resolution, each person attending and entitled to vote has 1 vote; and
- (d) on a poll, each Member Present has 1 vote.

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13.13 Objections to qualification to vote

- (a) An objection to the qualification of a person to vote may be raised only at the meeting or adjourned meeting at which the vote objected to is tendered.
- (b) Any objection must be referred to the chair of the meeting, whose decision is final.
- (c) A vote allowed after an objection is valid for all purposes.

13.14 Number of proxies

- (a) A Member may appoint 1 proxy.
- (b) A proxy must be a Member.

13.15 Form of proxy

- (a) An instrument appointing a proxy must be in writing under the hand of the appointor or of the appointor's attorney duly authorised in writing.
- (b) An instrument appointing a proxy may specify the manner in which a proxy is to vote in respect of a particular resolution and the proxy is not entitled to vote except as specified in the instrument. Unless otherwise instructed a proxy may vote as the proxy thinks fit.
- (c) An instrument appointing a proxy may be in the following form, or another form which the Board may accept or stipulate:

I,..... ofbeing a member of Childfund Australia Ltd hereby appointor failing him/her the chair as my proxy to vote for me on my behalf at the (Annual General Meeting or General Meeting as the case may be) of the Company to be held on theday of20.. and at any adjournment thereof.

My proxy is hereby authorised to vote *in favour of/ *against the resolution(s).

SIGNED thisday of.....20...

*delete as appropriate. NOTE: In the event of a member desiring to vote for or against any resolution he/she shall instruct his/her proxy accordingly. Unless otherwise instructed the proxy may vote as he/she thinks fit.

13.16 Lodgement of proxies

An instrument appointing a proxy shall not be treated as valid unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, is or are deposited at the registered office, not less than 24 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or a shorter period as is specified in the notice convening the meeting or as the Directors permit.

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13.17 Validity of proxies

- (a) A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite:
 - (i) the previous death or unsoundness of mind of the principal; or
 - (ii) the revocation of the instrument (or of the authority under which the instrument was executed) or the power,if no notice in writing of the death, unsoundness of mind or revocation has been received by the Company at its registered office not less than 24 hours (or any shorter period as the Directors may permit) before the commencement of the meeting, or adjourned meeting at which the instrument is used or the power is exercised.
- (b) A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes at the meeting on the resolution for which the proxy is proposed to be used.

13.18 Where proxy is incomplete

- (a) No instrument appointing a proxy is treated as invalid merely because it does not contain:
 - (i) the address of the appointor or of a proxy;
 - (ii) the proxy's name or the name of the office held by the proxy; or
 - (iii) in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.
- (b) Where the instrument does not specify the name of a proxy, the instrument is taken to be given in favour of the chair of the meeting.

13.19 Right of secretary and others to attend general meeting

- (a) A secretary who is not a Member is entitled to be present and, at the request of the chair, to speak at any general meeting.
- (b) Any other person (whether a Member or not) requested by the Directors to attend any general meeting is entitled to be present and, at the request of the chair, to speak at that general meeting.

14. Board of Directors

14.1 Directors

- (a) The number of Directors of the Company shall be at least 3 and not more than 12.
- (b) The Directors shall hold office for a term of four years, commencing from the end of the annual general meeting at which their election is announced and ending at the end of the fourth annual general meeting following their appointment. At the expiration of that time the Director may submit himself or herself for re-election.

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- (c) Directors having served two consecutive four year terms must wait for one year before seeking re-election, unless the Director is a member of the Board of the ChildFund Alliance.
- (d) A Director must be a Member or a director, officer or member of a Member that is a body corporate.
- (e) A Director must remain a Member throughout their term of office.
- (f) If ChildFund International, Incorporated of Richmond, Virginia, U.S.A., or its successor is a Member it may appoint a representative to be a Director of the Company.
- (g) A person is only eligible to be appointed as a Director at a general meeting if they are nominated in writing to be a Director by a Member and if they consent in writing to that nomination, at least 28 days before the meeting (unless the Board permits a shorter time).
- (h) A nominee must comply with any police checks (or similar) requested by the Board regarding the nominee's criminal history (including any offences against children).
- (i) All Directors shall, in addition to the requirements set out in Rule 12.1:
 - (i) sign an undertaking to be bound to the mission statement set out in Rule 6 and objects set out in Rule 7;
 - (ii) sign an undertaking to adhere to Board policies (as amended from time to time) including, but not limited to, policies relating to conflicts of interest of Directors;
 - (iii) be of good moral character;
 - (iv) have no legal impediment to serve as a director;
 - (v) have satisfied any police check requested by the Board;
 - (vi) comply with any additional criteria established by resolution of the Board.
- (j) A Director agrees, while he or she is on the Board, to disclose to the Board:
 - (i) any conversation he or she may have with police in any jurisdiction that relates to them and any offence involving children; and
 - (ii) if they are charged with a criminal offence of any nature in any jurisdiction.

14.2 Powers

- (a) Subject to the Act and this Constitution, the business of the Company is managed by the Board, which may exercise all powers of the Company which are not, by the Act or this Constitution, required to be exercised by the Company at general meeting.
- (b) Without limiting the generality of paragraph (a), the Directors may exercise all the powers of the Company:
 - (i) to borrow money, to charge any property or business of the Company; or
 - (ii) to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- (c) The Directors may delegate any of their powers in accordance with the Act.

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14.3 Vacation of office

The office of Director shall become vacant if the Director:

- (a) ceases to be a Member of the Company;
- (b) ceases to be a Member by virtue of the Act;
- (c) is removed from office by the Members in accordance with this Constitution and the Act;
- (d) is prohibited from being a Director of the Company by reason of any order made under the Act;
- (e) resigns his or her office by notice in writing given to the Company;
- (f) becomes bankrupt or makes any arrangement or composition with her or his creditors generally or becomes of unsound mind or a person whose estate is liable to be dealt with under the law relating to mental health;
- (g) is convicted of an indictable offence;
- (h) holds any office of profit under the Company unless approved by the Minister responsible for administering the Charitable Fundraising Act 1991 (NSW) and any other approval required under any equivalent State or Territory legislation is granted;
- (i) dies;
- (j) applies for any executive position within the Company; or
- (k) fails to attend three consecutive Board meetings without leave of absence as determined by the Board at its discretion.

14.4 Remuneration of Directors

- (a) No Director is entitled to be paid a fee for his or her service as a Director.
- (b) No Director shall be appointed to any salaried or remunerated office in the Company and no remuneration or other benefit shall be paid or given to any Director except for:
 - (i) out-of-pocket expenses incurred by a Director in the performance of any duty as a Director where the amount payable does not exceed an amount previously approved by the Board;
 - (ii) moneys to any Director, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
 - (iii) an insurance premium in respect of a contract of insuring a Director of liability incurred as an officer of the Company where the Board has approved the payment of the premium; or
 - (iv) any amount to a Director in respect of the indemnity given under Rule 20 where such payment has been approved by the Board.

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- (c) Any amount paid under Rule 14.4(b) or otherwise to a Director must be approved by the Board.

14.5 Appointment of attorneys

- (a) The Board may, by power of attorney, appoint any person to be the attorney of the Company for the purposes, and with the powers, authorities and discretions vested in or exercisable by the Board for any period and subject to any conditions as they think fit.
- (b) Any appointment under paragraph (a) may be made on terms 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 the attorney.

14.6 Negotiable instruments

All negotiable instruments of the Company must be executed by the persons and in the manner the Board decides from time to time.

15. Proceedings of the Board

15.1 Proceedings

- (a) The Board may meet together for the dispatch of business and adjourn and otherwise regulate its meetings as it thinks fit.
- (b) Any 3 Directors may request at any time and, on the request of those Directors, a secretary must convene a meeting of the Board.
- (c) Reasonable notice must be given to every Director of the place, date and time of every meeting of the Board. Where any Director is for the time being outside of Australia, notice need only be given to that Director if contact details have been given.

15.2 Meetings by technology

- (a) For the purposes of the Act, each Director, on becoming a Director (or on the adoption of this Constitution), consents to the use of the following technology for calling or holding of a meeting of the Board:
 - (i) video;
 - (ii) telephone;
 - (iii) electronic mail;
 - (iv) any other technology which permits each Director to communicate with every other Director; or
 - (v) any combination of the technologies described in the above paragraphs.

A Director may withdraw the consent given under this Rule in accordance with the Act.

- (b) Where the Directors are not all in attendance at one place and are holding a meeting using technology and each Director can communicate with the other Directors:

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- (i) the participating Directors are, for the purpose of every provision of this Constitution concerning meetings of the Board, taken to be assembled together at a meeting and to be present at that meeting; and
- (ii) all proceedings of those Directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were present.

15.3 Quorum at meetings

At a meeting of the Board, the number of Directors whose presence is necessary to constitute a quorum is 3 Directors entitled to vote. No business may be conducted unless a quorum is present at the time the business is being considered.

15.4 Chair of the Board

- (a) The Directors may elect one of their number as their chair and vice chair.
- (b) The chair and vice chair will hold office for a term of one year and may nominate himself or herself for re-election the following year.
- (c) The chair and vice chair must not hold that office for more than four consecutive years unless:
 - (i) the Members, at an Annual General Meeting, unanimously vote in favour of a one-year extension to the term of office of the chair for good governance purposes, including but not limited to, supporting an effective transition to a new Chief Executive Officer appointed under Rule 16.1, and
 - (ii) the minute related to the vote records the good governance purpose upon which the Members voted in favour of the one-year extension.
- (d) Rule 14.1 (c) does not apply to the chair when a one-year extension is granted under Rule 15.4 (c) (ii).
- (e) Where a meeting of the Board is held and:
 - (i) a chair has not been elected as provided by paragraph (a); or
 - (ii) the chair is not present at the time appointed for the holding of the meeting or does not wish to chair the meeting,the vice chair will be chair of the meeting.
- (f) Where a meeting of the Board is held and:
 - (i) a chair and a vice chair have not been elected as provided by paragraph (a); or
 - (ii) the vice chair is not present at the time appointed for the holding of the meeting or does not wish to chair the meeting,the Directors present may elect one of their number to be a chair of the meeting.

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15.5 Proceedings at meetings

- (a) Subject to this Constitution, questions arising at a meeting of the Board are decided by a majority of votes of Directors present and voting and for all purposes any such decision is taken to be a decision of the Board.
- (b) In the case of an equality of votes, the chair of the meeting has a casting vote in addition to the chair's vote as Director.

15.6 Conflicts of Interests

- (a) A Director is not disqualified by the Director's office from contracting with the Company in any capacity by reason of holding the office of Director.
- (b) In relation to a contract or arrangement in which a Director is in any way interested:
 - (i) the fact that the Director signed the document on behalf of the Company evidencing the contract or arrangement will not in any way affect its validity; and
 - (ii) the Director will not be liable to account to the Company for any profit derived in respect of the contract or arrangement merely because of the Director's office or the fiduciary relationship it entails.
- (c) A contract or arrangement made by the Company or any related body corporate with a Director may not be voided merely because the Director is a party to the contract or arrangement or otherwise interested in it.

15.7 Material Personal Interest

- (a) Subject to paragraph (b), a Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of his or her interest in accordance with the Act.
- (b) A Director with a material personal interest in a matter that relates to the affairs of the Company is not required to give notice in the following circumstances:
 - (i) if all of the following conditions are met:
 - (A) the Director has already given notice of the nature and extent of the interest and its relation to the affairs of the company;
 - (B) if a person who was not a Director at the time the notice was given is appointed as a Director, the notice is given to that person; and
 - (C) the nature or extent of the interest has not materially increased above that disclosed in the notice;
 - (ii) if the Director has given a standing notice of the nature and extent of the interest in accordance with the Act and that standing notice is still effective in relation to the interest; or
 - (iii) as otherwise permitted under the Act.
- (c) A Director who has a material personal interest in a matter that is being considered at a Board meeting must not be present while the matter is being considered at the meeting or vote on the matter, except as permitted in accordance with the Act.

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- (d) Nothing in this Rule affects the duty of a Director:
 - (i) who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with the Directors' duties or interests as a Director, to declare at a meeting of Directors, the fact and the nature, character and extent of the conflict; or
 - (ii) to comply with the Act or any other law.

15.8 Written Resolutions

- (a) If a document:
 - (i) is sent to all those entitled to receive notice of a meeting at which a resolution could be put;
 - (ii) contains a statement that the signatories to it are in favour of that resolution;
 - (iii) the terms of the resolution are set out or identified in the document; and
 - (iv) has been signed by a majority of the Board entitled to vote on that resolution, a resolution in those terms is passed on the day on which and at the time at which the document was signed by a majority of the Board and the document has effect as a minute of the resolution.
- (b) For the purposes of paragraph (a):
 - (i) 2 or more separate documents containing statements in identical terms each of which is signed by one or more Directors shall together be taken to constitute one document containing a statement in those terms signed by those Directors at the time at which the last of those documents to be signed was signed by a Director; and
 - (ii) a fax which is received by the Company or an agent of the Company and is sent for or on behalf of a Director shall be taken to be signed by that Director not later than the time of receipt of the fax by the Company or its agent in legible form.

15.9 Committees

- (a) The Board may appoint one or more committees consisting of Directors and such other persons as the Board thinks fit.
- (b) Rules 15.1, 15.2 and 15.4 apply to any committee as if each reference in those Rules to the Board was a reference to the members of the committee and each reference to a meeting of the Board was to a meeting of the committee.
- (c) The number of members whose presence at a meeting of a committee is necessary to constitute a quorum is the number determined by the Board and, if not so determined, is 2. Unless the Board determines otherwise, the quorum need be present only at the time when the meeting proceeds to business.
- (d) The minutes of all the proceedings and decisions of every committee shall be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Act to be made, entered and signed.

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- (e) The Board shall appoint a Nominations Committee that will propose nominations for membership to the Company. The Nominations Committee may consist of Directors and such other persons as the Board thinks fit.

15.10 Defects in appointments

- (a) All acts done by any meeting of the Directors or person acting as a Director are as valid as if each person was duly appointed and qualified to be a Director or a member of a committee.
- (b) Paragraph (a) applies even if it is afterwards discovered that there was some defect in the appointment of a person to be a Director or to act as a Director or that a person so appointed was disqualified.

16. Chief Executive Officer

16.1 Power to appoint CEO

The Board may appoint a CEO for the period and on the terms as they think fit. Subject to the terms of any agreement entered into in a particular case, the Board may at any time terminate the employment of a CEO. The CEO shall not be a Director but may be required to be a Member as determined by the Board.

16.2 Remuneration

A CEO may, subject to the Act and the terms of any agreement between the CEO and the Company, receive remuneration as the Board decides.

16.3 Delegation of powers to CEO

- (a) The Board may, on the terms and conditions and with any restrictions as they think fit, confer on a CEO any of the powers exercisable by them.
- (b) Any powers so conferred may be concurrent with the powers of the Board.
- (c) The Board may at any time withdraw or vary any of the powers conferred on a CEO.

17. Secretaries and other officers

17.1 Secretaries

- (a) A secretary of the Company holds office on the terms and conditions, as to remuneration and otherwise, as the Board decides.
- (b) The Board may at any time terminate the appointment of a secretary.

17.2 Other officers

- (a) The Board may from time to time:
 - (i) create any other position or positions in the Company with the powers and responsibilities as the Board may from time to time confer; and

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- (ii) appoint any person, whether or not a Director, to any position or positions created under sub-paragraph (i).
- (b) The Board at any time may terminate the appointment of a person holding a position created under paragraph (a) and may abolish the position.

18. Notices generally

- (a) Any Member who has not left at or sent to the registered office, a place of address or an electronic mail address (for registration in the register) at or to which all notices and documents of the Company may be served or sent is not entitled to receive any notice.
- (b) A notice may be given by the Company to any Member by:
 - (i) serving it on the Member personally;
 - (ii) sending it by post to the Member or leaving it at the Member's address as shown in the register or the address supplied by the Member to the company for the giving of notices;
 - (iii) serving it in any manner contemplated in this Rule (b) on a Member's attorney as specified by the Member in a notice given under Rule (c);
 - (iv) fax to the fax number supplied by the Member to the Company for the giving of notices; or
 - (v) transmitting it electronically to the electronic mail address given by the Member to the Company for giving notices.
- (c) A Member may, by written notice to the secretary left at or sent to the registered office, require that all notices to be given by the Company or the Directors be served on the Member's attorney at an address specified in the notice.
- (d) Notice to a Member whose address for notices is outside Australia must be sent by airmail, fax or electronic mail.
- (e) Where a notice is sent by post, service of the notice is taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected:
 - (i) in the case of a notice of a meeting, on the day after the date of its posting; and
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (f) Where a notice is sent by fax or electronic transmission, service of the notice is taken to be effected by properly addressing and sending or transmitting the notice and to have been effected on the day it is sent.

19. Notices of general meeting

Notice of every general meeting must be given:

- (i) in the manner authorised by Rule 13.3;
- (ii) to every Member and to each Director; and

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- (iii) to the auditor to the Company (if any).

No other person is entitled to receive notice of general meetings.

20. Indemnity

- (a) The Company is to indemnify each officer of the Company out of the assets of the Company to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer.
- (b) Where the Directors consider it appropriate, the Company may execute a documentary indemnity in any form in favour of any officer of the Company.
- (c) Where the Directors consider it appropriate, the Company may:
 - (i) make payments by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer; and
 - (ii) bind itself in any contract or deed with any officer of the Company to make the payments.
- (d) Where the Directors consider it appropriate, the Company may:
 - (i) give a former Director access to certain papers, including documents provided or available to the Directors and other papers referred to in those documents; and
 - (ii) bind itself in any contract with a Director or former Director to give the access.
- (e) In this rule 20:
 - (i) **officer** means:
 - (A) a Director, chief executive officer or secretary; or
 - (B) a person appointed as a trustee by, or acting as a trustee at the request of, the company,and includes a former officer.
 - (ii) **duties of the officer** includes, in any particular case where the Directors consider it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the Company or, where applicable, the subsidiary of the company to any other corporation.
 - (iii) **to the relevant extent** means:
 - (A) to the extent the Company is not precluded by law from doing so;
 - (B) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, a subsidiary or an insurer under any insurance policy); and

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- (C) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.

liability means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.

21. Seals and their use

- (a) The Company may have a common seal. If the Company has a common seal it may also have a duplicate common seal.
- (b) A Seal may be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal. Every document to which the Seal is affixed must be signed by:
- (i) 2 Directors; or
 - (ii) a Director and a secretary (or another person appointed by the Board to countersign that document or a class of documents in which that document is included).
- (c) This Rule does not limit the ways in which the Company may execute a document.

22. Gift Deductibility

22.1 Establishment of a fund

Subject to Rule 22.3, a fund established as a public fund and/or a gift fund in connection with the Company's status as a deductible gift recipient under the *Income Tax Assessment Act 1997* will satisfy the following requirements:

- (a) the fund will be established for the purpose of supporting the objectives of the Company;
- (b) gifts of money or property made for the fund's purpose will be deposited into the fund;
- (c) money received by the Company because of such gifts will be credited to the fund;
- (d) the fund will not receive any other money or property;
- (e) the Company will use gifts made to the fund, and any money received because of such gifts, for the sole purpose of the fund;
- (f) gifts to the fund will be kept separate from any other funds of the Company;
- (g) a separate bank account and clear accounting procedures will be implemented;
- (h) receipts will be issued in the name of the fund;

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- (i) the fund will be operated on a non-profit basis and moneys will not be distributed to Members of the Company except as reimbursement for out-of-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services; and
- (j) on the winding up of the fund or on the revocation of the endorsement (if any) of the Company as a deductible gift recipient, any surplus assets of the fund remaining after the payment of liabilities attributable to it will be transferred to a fund, authority or institution to which income tax deductible gifts can be made.

22.2 Public fund requirements

Subject to Rule 22.3, a fund established as a public fund pursuant to Rule 22.1 will satisfy the following additional requirements:

- (a) the public will be invited to contribute to the fund;
- (b) the fund will be managed by members of a committee, a majority of whom have a degree of responsibility to the general community; and
- (c) the Australian Taxation Office will be notified of any changes to the rules governing the fund.

22.3 Change in fund requirements

Notwithstanding the requirements set out in Rules 22.1 and 22.2, a fund established pursuant to Rule 22.1 will be maintained and operated in a manner which complies with the legislative and administrative requirements which apply from time to time for the maintenance and operation of a public fund and/or a gift fund.

23. Inspection of records

- (a) The Directors may authorise a Member to inspect books of the Company to the extent, at the time and places and under the conditions, the Board considers appropriate.
- (b) A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or as authorised by the Board.