Constitution

Parties AUSTRALIAN PEOPLE FOR HEALTH, EDUCATION AND DEVELOPMENT ABROAD LIMITED

A Company Limited by Guarantee

Date 17 December 2019

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THIS Constitution dated 17 December 2019

1. Name of Company

The name of the Company is Australian People for Health, Education and Development Abroad Limited

2. Type of Company

The Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity.

3. Limited Liability of Members

Each Member must contribute an amount not more than $10.00 (the guarantee) to the property of the Company if the Company is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:

(a) payment of debts and liabilities of the Company;

(b) payment of the costs, charges and expenses of winding up; and

(c) any adjustment of the rights of the contributories among Members.

4. Definitions

4.1 In this Constitution, unless there is something in the subject or context which is inconsistent:

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth).

Act means the *Corporations Act 2001* (Cth).

ACTU means the Australian Council of Trade Unions.

Association means Australian People for Health, Education, and Development Abroad Incorporated, the incorporation of which has been transferred to the Company.

Board means the Board of Directors.

Business Day means a day on which banks are open for business in Sydney.

Chairperson means the person elected by the Directors to be that Office-bearer in accordance with this Constitution.

Committee means a committee established in accordance with **clause 43**.

Community Organisation Member means a Member that is a non-trade union organisation (incorporated or unincorporated) and meets other requirements as specified by the Board from time to time.

Company means Australian People for Health, Education and Development Abroad Ltd.

Constitution means this Constitution as amended or supplemented from time to time by a Special Resolution of the Members in a general meeting.

Director means any person holding the position of a director of the Company and Directors means the directors for the time being of the Company or as the context permits such number of them as have authority to act for the Company.

External Advisor means the person appointed by the Board in accordance with **clause 35.3**.

Financial Year means the financial year of the Company ending on 30 June.

Honorary Secretary means the person elected by the Directors to be that Office-bearer in accordance with this Constitution.

Honorary Treasurer means the person elected by the Directors to be that Office-bearer in accordance with this Constitution.

ITAA 97 means *Income Tax Assessment Act 1997* (Cth).

Management Committee means the committee established to manage the Relief Fund in accordance with **clause 42.8**.

Member means a member of the Company.

Office means the registered office for the time being of the Company which must always be located in Australia.

Office-bears means the office-bearers of the Company as set out in **clause 35.2**.

Officer has the same meaning as given to that term in section 9 of the Act.

Ordinary Member means a Member who is a natural person and meets other requirements as specified by the Board from time to time.

Register means the register of Members to be kept pursuant to the Act.

Relief Fund means the developing country relief fund that is established pursuant to **clause 42**.

Replaceable Rules means the replaceable rules applicable to a public company limited by guarantee set out in the Act.

Representative means a person authorised in accordance with section 250D of the Act to act as a representative of a body corporate that is a Member of the Company.

Responsible Person means an individual who is a responsible person in accordance with the meaning of Taxation Ruling TR 95/27 or any subsequent taxation ruling or legislation redefining such expression.

Secretary means the person appointed as the secretary of the Company and includes any assistant or acting secretary.

Special Resolution means a resolution:

(a) of which notice has been given in accordance with the Act; and

(b) that has been passed by at least 75% of the votes cast by Members present and entitled to vote on the resolution.

Trade Union Member means a Member that is a trade union and meets other requirements as specified by the Board from time to time.

Vice Chairperson means the person elected by the Directors to be that Office-bearer in accordance with this Constitution.

4.2 In this Constitution, unless there is something in the subject or context which is inconsistent:

(a) the singular includes the plural and vice versa;

(b) each gender includes the other gender;

(c) the word "person" means a natural person and any partnership, association, body or entity whether incorporated or not;

(d) the words "writing" and "written" include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;

(e) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;

(f) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and a reference to any clause or schedule is to a clause or schedule of this Constitution; and

(g) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it.

4.3 An expression used in a particular Part or Division of the Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has, unless the contrary intention appears, in any clause that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division.

4.4 The provisions of this Constitution displace the Replaceable Rules (but not Replaceable Rules which mandatorily apply to a public company) contained in the Act.

4.5 Headings do not form part of or affect the construction or interpretation of this Constitution.

5. Objects and Powers

5.1 The objects for which the Company is established are to provide benevolent relief to people in developing countries who are afflicted by distress, poverty, suffering and misfortune by:

(a) assisting in the delivery of sustainable development programs in developing countries;

(b) providing support in times of crisis for humanitarian assistance and development activities, including those for refugees; and

(c) for the purpose of furthering the objects and the activities above:

(i) engaging the Australian public to build awareness, understanding and funding towards the objects and the activities of the Company;

(ii) working in partnership with individuals and organisations both in Australia and overseas for the achievement of dignity at work, social justice, economic equality and the realisation of human rights.

5.2 The Company can only exercise the powers in section 124(1) of the Act to:

(a) carry out the objects of the Company set out in **clause 5.1**; and

(b) do all things incidental or convenient in relation to the attainment of an object under clause **5.1**.

6. Not-For-Profit

6.1 The income and property of the Company will only be applied towards the promotion of the objects of the Company set out in **clause 5.1**.

6.2 No income or assets of the Company will be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus or otherwise to any Member of the Company unless it is paid, transferred or distributed in carrying out the Company's business. However nothing in this Constitution will prevent payment in good faith to a Member:

(a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company;

(b) of interest at a rate not exceeding current bank overdraft rates of interest for money lent to the Company; or

(c) of reasonable and proper rent for premises leased by any Member to the Company,

for carrying out the Company's charitable purposes.

7. Amending the Constitution

The Members may amend this Constitution by passing a Special Resolution.

8. Membership

8.1 The Members of the Company are:

(a) the persons who are members of the Association at the time of this Constitution is adopted; and

(b) any other person that is admitted as a Member, in accordance with this Constitution.

8.2 A person is eligible for membership of the Company if that person:

(a) is a natural person, or is a company or registrable body; and

(b) in the opinion of the Board holds the ideals of the promotion of the objects of the Company as set out in clause **5.1**.

8.3 There are 3 classes of membership at the time when this Constitution is adopted:

(a) Ordinary Members;

(b) Trade Union Members; and

(c) Community Organisation Members.

8.4 The Board may, from time to time, pass by-laws which set out the eligibility standards for different classes of membership. The Board's decision regarding a person's class of membership shall be final.

8.5 The Members may, by a Special Resolution, create further or other classes of membership as they see fit from time to time.

9. Application for Membership

9.1 Every application for Membership of the Company must:

(a) be lodged with the Secretary and must set forth the name and address of the applicant;

(b) specify the relevant credentials of the applicant to qualify as a Member; and

(c) state that the applicant agrees to comply with the terms of the Company's Constitution.

9.2 An applicant will be admitted to membership of the Company if at least 51% of Directors entitled to vote at a Board meeting resolve to admit the applicant.

9.3 The Board may at its discretion develop and implement a by-law regarding procedures for membership application which may be amended by the Board from time to time.

10. Register of Members

10.1 The Company must establish and maintain a Register of Members. The Register of Members must be kept by the Secretary and must contain:

(a) for each current Member:

(i) name;

(ii) address (which may also include an electronic address such as email);

(iii) any alternative address nominated by the Member for the service of notices (which may also include an electronic address such as email);

(iv) class of membership; and

(v) date the Member was entered on to the Register.

(b) for each person who stopped being a Member in the last 7 years:

(i) name;

(ii) address (which may also include an electronic address such as email);

(iii) any alternative address nominated by the Member for the service of notices (which may also include an electronic address such as email);

(iv) class of membership; and

(v) dates the Membership started and ended.

10.2 The Company must give current Members reasonable access to the Register of Members.

10.3 Information that is accessed from the Register of Members must only be used in a manner relevant to the interests or rights of Members.

11. When a Person Stops Being a Member

A person immediately stops being a Member if:

(a) they die;

(b) they are wound up or otherwise dissolved or deregistered (for an incorporated Member);

(c) they resign, by writing to the Secretary;

(d) the Company, in a general meeting, resolves by a Special of the Members to terminate the membership of a Member whose conduct or circumstances in the opinion of the Company renders it undesirable that that Member continues to be a Member of the Company. The Member must be given at least 21 days' notice of the proposed Special Resolution and must be given the opportunity to be heard at the meeting at which the Special Resolution is proposed; or

(e) they have not responded within 3 months to a written request from the Secretary that they confirm in writing that they want to remain a Member.

12. Membership Entitlements Not Transferable

A right privilege or obligation which a person has by reason of being a Member of the Company:

(a) is not capable of being transferred or transmitted to another person; and

(b) terminates on cessation of the person's Membership.

13. Fee and Subscriptions

13.1 The Members must pay any fee and/or subscription as notified by the Company from time to time.

13.2 The Board may from time to time:

(a) determine at is discretion the fee and/or subscription for each class of membership;

(b) charge different fee and/or subscription to different classes of membership as it sees fit;

(c) determine at its discretion how and when a Member must pay the applicable fee and/or subscription;

(d) determine at its discretion that no fee and/or subscription (in full or in part) is payable by a Member or a particular class of membership; and

(e) review and revise the determinations made in accordance with **subclauses (a)** to **(d)** above from time to time as it sees fit.

13.3 The Board may at its discretion develop and make available to all Members a by-law regarding fee and/or subscription that Members are responsible for, which may be amended by the Board from time to time.

14. Members' Rights

14.1 Members of the Company will be entitled to:

(a) receive notice of and attend and vote at general meetings of the Company; and

(b) receive annual reports of the Company including financial reports in relation to each Financial Year.

14.2 All other rights, privileges and obligations of Members are in accordance with the Act.

15. Dispute Resolution

Any disputes (disagreements) under this Constitution between a Member or Director and:

(a) one or more Members;

(b) one or more Directors; or

(c) the Company,

must be resolved in accordance with the dispute resolution procedures as set out in the relevant by-law passed by the Board from time to time.

16. Disciplinary Procedures

In accordance with disciplinary procedures as set out in the relevant by-law passed by the Board from time to time, the Board may resolve to warn, suspend or expel a Member (or the Member's Representative, as appropriate) from the Company if the Board considers that:

(a) the Member has failed to comply with this Constitution; or

(b) the Member's behaviour brings the Company into disrepute and/or is causing, has caused, or is likely to cause harm to the Company.

17. Right of Appeal Against Discipline Action

A Member has a right to appeal against the disciplinary action taken against them under **clause 16** in accordance with the appeal procedures as set out in the relevant by-law passed by the Board from time to time.

18. Convening of General Meetings

18.1 The Board may whenever the Board thinks fit convene a general meeting of the Company in accordance with the provisions of the Act.

18.2 No less than 5% of Members shall be entitled to require a general meeting to be convened in accordance with the provisions of the Act.

18.3 A general meeting of the Company may be convened at 2 or more venues using any technology that gives the Members a reasonable opportunity to participate in the meeting, including to hear and be heard.

19. Annual General Meeting

19.1 A general meeting, called the annual general meeting, must be held:

(a) within 18 months after registration of the Company; and

(b) after the first annual general meeting, at least once in every calendar year and within 6 months of the end of the Company's Financial Year.

19.2 The business of an annual general meeting may include:

(a) a review of the Company's activities;

(b) a review of the Company's finances;

(c) any auditor's report;

(d) the election of Directors if required; and

(e) the appointment and payment of auditors, if any.

19.3 Before or at the annual general meeting, the Directors must give information to the Members on the Company's activities and finances during the period since the last annual general meeting.

19.4 The Chairperson of the annual general meeting must give Members a reasonable opportunity at the meeting to ask questions or make comments about the management of the Company.

20. Notice of General Meetings

20.1 Notice of a general meeting must be given to:

(a) each Member entitled to vote at the meeting;

(b) each Director; and

(c) the auditor (if any).

20.2 Notice of a general meeting must be provided in writing at least 21 days before the meeting.

20.3 Subject to **clause 20.4**, notice of a meeting may be provided less than 21 days before the meeting if:

(a) for an annual general meeting, all the Members entitled to attend and vote at the annual general meeting agree beforehand; or

(b) for any other general meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.

20.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:

(a) remove a Director;

(b) appoint a Director in order to replace a Director who was removed; or

(c) remove an auditor.

20.5 Notice of a general meeting must include:

(a) the place, date and time for the meeting (and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);

(b) the general nature of the meeting's business;

(c) if applicable, that a Special Resolution is to be proposed and the words of the proposed resolution; and

(d) any other information required under the Act.

20.6 Where any general meeting is cancelled or postponed or the venue for the same is changed:

(a) the Board must endeavour to notify in writing each person entitled to receive notice of the meeting of the cancellation, the change of venue or the postponement of the meeting by any means permitted by this Constitution and in the case of the postponement of a meeting, the new place, date and time for the meeting; and

(b) any accidental failure to notify in writing any person entitled to receive notice of the meeting or failure of a person to receive a written notice shall not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

21. Right of Non-Members to Attend General Meeting

The Chairperson of a general meeting may invite any person who is not a Member to attend and/or address a meeting.

22. Quorum

22.1 No business may be transacted at any general meeting unless a quorum of Members is present at all times during the meeting.

22.2 When determining whether a quorum is present, a person may only be counted once (even if that person is a Representative or proxy of more than one Member).

22.3 20 Members who are entitled to vote and present in person constitute a quorum for all general meetings.

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

(a) the meeting if convened upon the requisition of Members shall be dissolved;

(b) in any other case:

(i) the meeting will stand adjourned to the same day in the next week at the same time and place or to such other day time and place as the Board may by notice to the Members appoint; and

(ii) if at such adjourned meeting a quorum is not present within 30 minutes after the time appointed for the holding of the meeting, the Members present at the adjourned meeting (being not less than 3) shall constitute a quorum.

22.5 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

23. Chairperson of General Meetings

23.1 The Chairperson shall be entitled to preside as the chairperson at every general meeting.

23.2 Where a general meeting is held and:

(a) if:

(i) there is no Chairperson; or

(ii) the Chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or if present is unwilling to act as the chairperson of the meeting,

the Vice Chairperson shall preside as the chairperson at the meeting; and

(b) If:

(i) there is no Vice Chairperson; or

(ii) the Vice Chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or if present is unwilling to act as the chairperson of the meeting,

the other Directors present may choose another Director as the chairperson of the meeting by two-thirds majority, or if their number is not 3 or a multiple of 3, then the nearest number to one-third. If no Director is so chosen or if all the Directors present decline to act as the chairperson, the Members present may choose one of their number to be the chairperson of the meeting.

23.3 The rulings of the chairperson of a general meeting on all matters relating to the order of business, procedure and conduct of the meeting shall be final and no motion of dissent from such rulings shall be accepted.

24. Chairperson's Casting Vote

In the case of an equality of votes whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands is taken or at which the poll is demanded is entitled to a casting vote.

25. Adjournment of Meetings

25.1 The chairperson of a general meeting at which a quorum is present:

(a) may adjourn a meeting with the consent of the meeting; and

(b) must adjourn the meeting if the meeting so directs,

to a time and place as determined by the chairperson.

25.2 No business may be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.

25.3 A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.

25.4 It is not necessary to give any notice of an adjournment of a general meeting or of the business to be transacted at the adjourned meeting, except if the meeting is adjourned for 30 days or more in which case notice of the adjourned meeting must be given as in the case of an original meeting.

26. How Voting Is Carried Out

26.1 At any general meeting a resolution to be considered at the meeting shall be decided on a show of hands unless a poll is demanded by:

(a) the chairperson of the meeting; or

(b) at least 3 Members entitled to vote on the resolution.

26.2 Before a vote is taken, the chairperson of the general meeting must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.

26.3 On a show of hands, the decision of the chairperson of the general meeting is conclusive evidence of the result of the vote.

26.4 The chairperson of the general meeting and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

27. Polls at General Meetings

27.1 At a general meeting, a poll may be demanded:

(a) before a vote on a resolution is taken;

(b) before the voting results on a show of hands are declared; or

(c) immediately after the voting results on a show of hands are declared.

27.2 If a poll is demanded it must be taken in such manner and at such time and place as the chairperson of the general meeting directs subject to **clause 27.5**.

27.3 The result of the poll shall be taken to be the resolution of the general meeting at which the poll was demanded.

27.4 The demand for a poll shall not prevent the continuance of a general meeting for the transaction of any business other than the question on which a poll has been demanded.

27.5 A poll demanded on the election of a chairperson of the general meeting or any question of adjournment of the general meeting must be taken immediately.

27.6 The demand for a poll at a general meeting may be withdrawn.

28. Members' Voting Rights

28.1 An Ordinary Member or a Community Organisation Member is entitled to 1 vote at a general meeting.

28.2 A Trade Union Member is entitled to:

(a) 1 vote for the first 1000 financial members of the Trade Union Member; and

(b) 1 vote for every subsequent 5,000 financial members of the Trade Union Member.

For the purpose of this clause, the number of financial members of a Trade Union Member is based on the number confirmed by the secretary of the ACTU.

28.3 A Member is not entitled to vote at any general meeting until all the money the Member owes to the Company and becomes due has been paid.

29. Challenge to a Member's Right to Vote

29.1 A Member or the chairperson of the general meeting may only challenge a person's right to vote at a general meeting at that meeting.

29.2 If a challenge is made under **clause 29.1**, the chairperson of the general meeting must decide whether or not the person may vote. The decision of the chairperson of the general meeting is final.

30. Right to Appoint Proxies

A Member who is entitled to attend and vote at a general meeting of the Company may appoint a person as the Member's proxy to attend and vote for the Member at the meeting and such person must also be a Member. However, no person other than the chairperson of the general meeting may hold more than 5 proxies at one meeting.

31. Appointing a Proxy

31.1 The instrument appointing a proxy must be in writing signed by the appointor or the appointor's attorney duly authorised in writing or if the appointor is a corporation signed by an authorised Officer or attorney of the corporation.

31.2 The instrument of proxy is valid if it contains the information required by the Act which at the date of this Constitution is the following information:

(a) the name and address of the Member;

(b) the name of the Company;

(c) the proxy's name or the name of the office of the proxy; and

(d) the meetings at which the instrument of proxy may be used.

31.3 An instrument of proxy may be expressed to be a standing appointment. An instrument of proxy for a specified meeting is only valid for that meeting and any postponement or adjournment of that meeting.

31.4 An instrument of proxy shall not be treated as invalid merely because it does not specify all of the information required by this **clause 31**.

31.5 An instrument of proxy may be revoked at any time by notice in writing to the Company.

32. Lodgement of Proxies

32.1 An instrument appointing:

(a) a proxy and the power of attorney or other authority (if any) under which it is signed or executed or a certified copy of that power or authority; or

(b) an attorney to exercise a Member's voting rights at a general meeting or a certified copy of that power of attorney,

must be deposited at the Office or at such other place as is specified for that purpose in the notice convening the general meeting not less than 24 hours (or such period as the Board may allow) before the time appointed for the holding of the meeting or adjourned meeting as the case may be, at which the person named in the instrument proposes to vote and in default the instrument of proxy or the power of attorney will not be treated as valid.

32.2 For the purposes of this clause, it will be sufficient that any document required to be lodged by a Member be received in legible form by facsimile at the place at which the document is required to be delivered by the Member and the document shall be regarded as received at the time the facsimile was received at that place.

32.3 For the purposes of this clause, it will be sufficient that any document required to be lodged by a Member be received in legible form by email if the notice of meeting so permits at the address and in the form specified in the notice and the proxy shall be regarded as received at the time of the receipt of the email transmission by the Company.

33. Validity of Proxies

33.1 A vote exercised pursuant to an instrument of proxy, a power of attorney or other instrument of appointment is valid notwithstanding:

(a) the death or unsoundness of mind of the Member;

(b) the bankruptcy or liquidation of the Member; or

(c) the revocation of the instrument of proxy or the power of attorney or any instrument under which the instrument or the power was granted,

unless the Company has received at its Office written notice of the death, unsoundness of mind, bankruptcy, liquidation or revocation at least 48 hours (or such shorter period as the Board may allow) prior to the time appointed for the holding of the general meeting or adjourned meeting, as the case may be, at which the instrument of proxy or the power of attorney is exercised.

33.2 A proxy who is not entitled to vote on a resolution as a Member may vote as a proxy for another Member who can vote if the appointment specifies the way the proxy is to vote on the resolution and the proxy votes that way.

34. Voting By Proxy

34.1 When a vote in writing is held, a proxy:

(a) does not need to vote, unless the proxy appointment specifies the way they must vote;

(b) if the way they must vote is specified on the proxy form, must vote that way; and

(c) if the proxy is also a Member or holds more than one proxy, may cast the votes held in different ways.

34.2 A proxy will not be revoked by the appointor attending and taking part in any general meeting, but if the appointor votes on a resolution either on a show of hands or on a poll the person acting as proxy for the appointor shall not be entitled to vote in that capacity in respect of the resolution.

35. Composition of the Board

35.1 The Board shall consist of:

(a) the Office-bearers; and

(b) 5 ordinary Directors.

35.2 At the first Board meeting after the annual general meeting at which the Directors are elected, the Directors shall elect the following Office-bearers from themselves:

(a) Chairperson;

(b) Vice Chairperson;

(c) Honorary Treasurer; and

(d) Honorary Secretary.

For the avoidance of doubt, the above Officer-bearers shall hold office until the annual general meeting at which the next election of Directors occurs.

35.3 The Board may, from time to time, appoint an External Adviser to provide specialist expertise to the Board. Such appointment shall be made for a period up to 2 years and may be renewed by the Board from time to time. The External Adviser is entitled to receive notice of, attend and address Board meetings, but is not entitled to vote at a Board meeting.

36. Election and Appointment of Directors

36.1 The initial Directors of the Company shall be the committee members of the Association at the time when the Constitution is adopted.

36.2 Apart from the initial Directors and Directors appointed under **clauses 36.4**, **36.5** and **36.6**, at an annual general meeting, the Members may elect up to 4 Directors by a resolution subject to any election by-law passed by the Board from time to time.

36.3 A person is eligible for election or appointment as a Director of the Company if they:

(a) for election, are nominated by 2 Members entitled to vote in accordance with the nomination by-law passed by the Board from time to time;

(b) must be a Member of the Company;

(c) give the Company their signed consent to act as a Director of the Company; and

(d) are not ineligible to be a Director under the Act or the ACNC Act.

36.4 The secretary of the ACTU may:

(a) appoint up to 5 Directors;

(b) remove any Director appointed under **subclause (a)**; and

(c) if any Director appointed under **subclause (a)** ceases to be a Director, appoint another person instead,

by giving a written notice to the Company at its Office from time to time.

36.5 If the number of Directors is reduced to fewer than 3 or is less than the number required for a quorum, the continuing Directors may act for the purpose of increasing the number of Directors to 3 (or higher if required for a quorum) by appointing a person as a Director or calling a general meeting, but for no other purpose. If a person is appointed as a Director under this clause, the Company must confirm the appointment by Members' resolution at the Company's next annual general meeting. If the appointment is not confirmed, the person ceases to be a Director at the end of that meeting.

36.6 A Director may, with the approval of the Board, appoint an alternate to exercise some or all of the Director's powers for a specified period. If the appointing Director requests the Company to give the alternate notice of Board meetings, the Company must do so. When an alternate exercises the Director's powers, the exercise of the powers is just as effective as if the powers were exercised by the Director. The appointing Director may terminate the alternate's appointment at any time. An appointment and its terms or a termination must be in writing and given to the Company. The Board may resolve to remove an alternate provided that 14 days' prior notice is given to the appointing Director.

36.7 At least 4 Directors of the Board (if there are no fewer than 4 Directors) must be women.

37. Term of Office

37.1 The initial Directors must retire at the second annual general meeting of the Company.

37.2 Each Director other than an initial Director or a Director appointed under **clauses 36.4**, **36.5** and **36.6** must retire at the fourth annual general meeting following the annual general meeting at which he or she was elected.

37.3 Other than the initial Directors or a Director appointed under **clauses 36.4**, **36.5** and **36.6**, Director's term of office starts at the end of the annual general meeting at which they are elected and ends at the end of the annual general meeting at which they retire.

37.4 The term of office for a Director appointed under **clause 36.4** starts on the date as specified in the appointment notice and if not date is specified, the date of the appointment notice given (**Appointment Date**) and ends on the 4th anniversary of the Appointment Date (**Expiry Date**).The Director must retire on the Expiry Date.

37.5 A Director who retires under **clauses 37.1**, **37.2** and **37.4** may be nominated for re-election or re-appointment, subject to **clause 37.6**.

37.6 A Director who has held office for a continuous period of 12 years or more is not eligible for re-election or re-appointment unless otherwise resolved by a Special Resolution of Members.

38. When a Director Stops Being a Director

A Director stops being a Director if they:

(a) give written notice of resignation as a Director to the Office of Company and the vacancy shall take effect at the time expressed in the notice (provided the time is not earlier than the date of delivery of the written notice to the Company);

(b) die;

(c) cease to be a Member;

(d) are removed as a Director by a resolution of the Members;

(e) for a Director appointed under **clause 36.4**, are removed as a Director in accordance with **clause 36.4(b)**;

(f) are absent from all Board meetings held during a period of 6 months without approval from the other Directors and the other Directors resolve that his or her office be vacated;

(g) become ineligible to be a Director of the Company under the Act or the ACNC Act; or

(h) becomes of unsound mind or a person whose personal estate is liable to be dealt with in any way under the law relating to mental health.

39. Negotiable Instruments

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed as the case may be by at least 2 Directors. The Directors may determine that a negotiable instrument may be signed, accepted, drawn, endorsed or otherwise executed in a different way.

40. Power of Directors

All day-to-day control, management and conduct of the Company shall be vested in the Board who shall exercise all such powers of the Company as are not by the Act or by this Constitution required to be exercised in any other manner.

41. Delegation of Directors' Powers

41.1 The Directors may delegate any of their powers and functions to a Committee, a Director, an employee of the Company (such as a chief executive officer) or any other person, as they consider appropriate, on such terms and conditions and with such restrictions as it may think expedient.

41.2 Powers conferred under this clause may be exercised concurrently with the powers of the Board in that regard and the Board may from time to time withdraw, revoke or vary all or any of such powers.

41.3 The delegation must be recorded in the Company's minute book.

42. Relief Fund

42.1 To further the objects of the Company as set out in **clause 5.1**, the Board may resolve to establish and maintain the Relief Fund in accordance with **clause 42**.

42.2 The sole purpose of the Relief Fund is to provide relief to people in declared developing countries.

42.3 The Relief Fund is to solicit and receive gifts of money or property towards the carrying out of the purpose of the Relief Fund.

42.4 The Relief Fund must invite the public to contribute to the Relief Fund.

42.5 The Relief Fund must be not-for-profit. The assets and income of the Relief Fund shall be applied solely in furtherance of the purpose of the Relief Fund and no portion shall be distributed directly or indirectly to any individual except as bona fide compensation for services rendered or expenses incurred on behalf of the Relief Fund.

42.6 The Company must maintain an account, separate from the other accounts of the Company, which:

(a) must only receive gifts of money or property made to the Relief Fund or any money received because of such gifts; and

(b) does not receive any other money or property.

42.7 The Relief Fund must issue receipts in the name of the Relief Fund which must state:

(a) the name of the Relief Fund;

(b) that the receipt is for a gift made to the Relief Fund;

(c) the Australian Business Number of the Company; and

(d) any other matters required to be included on the receipt pursuant to the requirements of the ITAA 97.

42.8 The Fund must be managed by a Management Committee of no less than 3 persons, a majority of whom must be deemed to be Responsible Persons. The Board may form the Management Committee in accordance with **clause 43**. The release of money from the Relief Fund and the management of, and sale of the Relief Fund's assets, must be authorised by the Management Committee.

42.9 Notwithstanding any other provisions in this Constitution, if the Relief Fund is wound up or its endorsement as under item 9.1.1 of subsection 30-80(1) of the ITAA 97 is revoked, all surplus assets of the Relief Fund remaining after the payment of liabilities attributable to it must be transferred to another organisation or fund with similar purposes to which income tax deductable gifts can be made and which is endorsed under the overseas aid gift deduction scheme.

42.10 The Management Committee must notify the Australian Taxation Office of any alterations made to the rules of the Relief Fund as set out in this clause.

43. Board Committee

43.1 The Board may form and delegate any of its powers to a Committee consisting of such Directors and other persons as it thinks fit and may from time to time revoke such delegation. All such Committees must be chaired by a Director unless otherwise determined by the Board.

43.2 A Committee must, in exercise of the powers delegated to it, conform to any directions and restrictions that may be imposed on it by the Board. A power so exercised shall be taken to be exercised by the Board.

43.3 The meetings and proceedings of any Committee consisting of more than one person will be governed by the provisions for regulating the meetings and proceedings of the Board contained in this Constitution.

43.4 A minute 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 and this Constitution to be made, entered and signed. A copy of these minutes shall be tabled at the next Board meeting.

44. Payments to Directors

44.1 The Company must not pay fees to a Director for acting as a Director.

44.2 Despite **clause 44.1**, the Company may:

(a) pay a Director for any services rendered to the Company in a professional or technical capacity, other than as a Director, if the amount is no more than a reasonable fee for the work done; or

(b) reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the Company.

44.3 Any payment made under **clause 44.2** must be approved by the Board.

44.4 The Company may pay premiums for insurance indemnifying Directors, as allowed for by law (including the Act) and this Constitution.

45. Conflicts of Interest

45.1 A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a Board meeting (or that is proposed in a Circular Resolution):

(a) to the other Directors; or

(b) if all of the Directors have the same conflict of interest, to the Members at the next general meeting, or at an earlier time if reasonable to do so.

45.2 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.

45.3 A general notice given to the Board by a Director that the Director is an Officer, a Member of or otherwise interested in any specified corporation or firm stating the nature and the extent of the Director's interest in the corporation or firm shall, in relation to any matter involving the Company and that corporation or firm after the giving of the notice, be a sufficient disclosure of the Director's interest, provided that

the extent of the interest is no greater at the time of first consideration of the relevant matter by the Board than was stated in the notice.

45.4 Each Director who has a material personal interest in a matter that is being considered at a Board meeting (or that is proposed in a Circular Resolution) must not, except as provided under **clause 45.5**:

(a) be present at the meeting while the matter is being discussed; or

(b) vote on the matter.

45.5 A Director may still be present and vote if:

(a) their interest arises because they are a Member of the Company, and the other Directors have the same interest;

(b) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Company (see **clause 63**);

(c) their interest relates to a payment by the Company under **clause 64** (indemnity), or any contract relating to an indemnity that is allowed under the Act;

(d) the Australian Securities and Investments Commission makes an order allowing the Director to vote on the matter; or

(e) the Directors who do not have a material personal interest in the matter pass a resolution that:

(i) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company; and

(ii) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

46. Duties of Directors

The Directors must comply with their duties as Directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:

(a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the Company;

(b) to act in good faith in the best interests of the Company and to further the charitable purpose(s) of the Company set out in clause **5.1**;

(c) not to misuse their position as a Director;

(d) not to misuse information they gain in their role as a Director;

(e) to disclose any perceived or actual material conflicts of interest in the manner set out in **clause 46**;

(f) to ensure that the financial affairs of the Company are managed responsibly; and

(g) not to allow the Company to operate while it is insolvent.

47. When the Directors Meet

The Directors may decide how often, where and when they meet, provided that they shall meet together not less than 3 times each calendar year.

48. Calling Board Meetings

48.1 2 Directors or the Chairperson may at any time convene a Board meeting by giving at least 48 hours' notice of the meeting to all Directors.

48.2 Notice of a Board meeting need not be in writing and shall specify the general nature of the business to be transacted at the Board meeting and no business other than the business shall be transacted at the meeting, except business which the Directors present at the meeting unanimously agree to treat as urgent business.

49. Using Technology to Hold Board Meetings

49.1 The Directors may hold Board meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the Directors.

49.2 The Directors' agreement may be a standing one.

49.3 A Director may only withdraw their consent within a reasonable period before the meeting.

50. Quorum at Board Meetings

50.1 Unless the Directors determine otherwise, the quorum for a Board meeting is 4 Directors.

50.2 No business may be transacted at any Board meeting unless a quorum of Directors is present at all times during the meeting.

50.3 Directors who are personally present (or in conference in accordance with **clause 49**) form a quorum. A Director who is disqualified from voting on a matter pursuant to **clause 45** shall be counted in the quorum despite that disqualification.

50.4 All resolutions of the Directors passed at a Board meeting where a quorum is present but where notice of the meeting has not been given as required to each Director, or any act carried out pursuant to such resolution, shall, provided each Director to whom notice was not given subsequently agrees to waive the same, are valid as if notice of the meeting had been duly given to all Directors.

51. Chairperson of Board Meetings

51.1 The Chairperson shall, if present, preside as the chairperson of every Board meeting.

51.2 If a Board meeting is held and the Chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or, if present, does not wish to chair the meeting, then the Vice Chairperson shall preside as the chairperson of the meeting. If the Vice Chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or, if present, does not wish to chair the meeting, the other Directors present must elect one of their number to be the chairperson of the meeting.

52. Voting at Board Meetings

52.1 A resolution of the Board must be passed by a majority of votes of the Directors present at the meeting who vote on the resolution. A resolution passed by a majority of the votes cast by the Directors will for all purposes be taken to be a determination of the Board.

52.2 Each Director shall have one vote.

52.3 In case of an equality of votes at a Board meeting, the Chairperson is entitled to a casting vote in addition to a deliberative vote.

53. Resolutions By Directors

53.1 The Board may pass a resolution by way of a circular resolution without a Board meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. For this purpose, signatures can be contained in more than one document.

53.2 The resolution is passed when the last Director signs.

53.3 A transmission, via whatever technological means, which is received by the Company and which purports to have been signed by a Director shall for the purposes of this clause be taken to be in writing and signed by that Director at the time of the receipt of the transmission by the Company in legible form.

53.4 The Company may send a circular resolution by email to the Directors and the Directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.

54. Validation of Acts of Directors

All acts done:

(a) at any Board meeting; or

(b) by any person acting as a Director,

shall, even if it is discovered afterwards that there was a defect in the appointment or continuance in office of any such Director or person or that they or any of them were disqualified or were not entitled to vote, be as valid as if every such person had been duly appointed or had continued in office and was duly qualified to be a Director and had been entitled to vote.

55. Minutes and Records

55.1 The Company must make and keep the following records:

(a) minutes of proceedings and resolutions of general meetings;

(b) circular resolutions of Members;and

(c) a copy of a notice of each general meeting.

55.2 The Company must make and keep the following records:

(a) minutes of proceedings and resolutions of Board meetings (including meetings of any Committees); and

(b) circular resolutions of Directors.

55.3 To allow Members to inspect the Company's records:

(a) the Company must give a Member reasonable access to the records set out in **clause 55.1**; and

(b) the Directors may authorise a Member to inspect other records of the Company, including records referred to in **clause 55.2** and **clause 58.1**.

55.4 The Directors must ensure that minutes of a general meeting or a Board meeting are signed within a reasonable time after the meeting by:

(a) the Chairperson of the meeting; or

(b) the Chairperson of the next meeting.

55.5 The Directors must ensure that minutes of the passing of a circular resolution (of Members or Directors) are signed by the Chairperson within a reasonable time after the resolution is passed.

56. Secretary

56.1 The Company must have at least one Secretary, who may also be a Director.

56.2 The role of the Secretary includes:

(a) maintaining a Register of the Company's Members; and

(b) maintaining the minutes and other records of general meetings (including notices of meetings), Board meetings and circular resolutions.

56.3 A Secretary must be appointed by the Directors (after giving the Company their signed consent to act as Secretary of the Company) and may be removed from that role by the Directors. The Board may resolve that the Honorary Secretary be appointed to assume the role of the Secretary.

56.4 The Directors must decide the terms and conditions under which the Secretary is appointed, including any remuneration.

57. Execution of Documents

57.1 Without limiting the manner in which the Company may execute any contract, including as permitted under section 126 of the Act, the Company may execute a document without using a common seal if the document is signed by:

(a) two Directors of the Company, or

(b) a Director and the Secretary.

57.2 Nothing in this Constitution requires the Company to execute any agreement, deed or other document under common seal for the same to be effectively executed by the Company.

58. Financial and Related Records

58.1 The Company must make and keep written financial records that:

(a) correctly record and explain its transactions and financial position and performance; and

(b) enable true and fair financial statements to be prepared and to be audited.

58.2 The Company must also keep written records that correctly record its operations.

58.3 The Company must retain its records for at least 7 years.

58.4 The Board must take reasonable steps to ensure that the Company's records are kept safe in accordance with **clause 58** and may delegate this function to the Honorary Treasurer in accordance with **clause 41**.

59. Directors' Access to Documents

59.1 A Director has a right of access to the financial records of the Company at all reasonable times.

59.2 If the Directors agree, the Company must give a Director or former Director access to:

(a) certain documents, including documents provided for or available to the Directors; and

(b) any other documents referred to in those documents.

60. By-Laws

60.1 The Directors may pass a resolution to make by-laws to give effect to this Constitution. By-laws may not be inconsistent with this Constitution and, in the event of any inconsistency, the provisions of the Constitution will prevail.

60.2 Members and Directors must comply with by-laws as if they were part of this Constitution.

61. When Notice is Taken to be Given

Written notice under this Constitution may be:

(a) delivered in person, or left at a the recipient's address, and is taken to be given on the day it is delivered;

(b) sent by post, and is taken to be given on the third day after it is posted with the correct payment of postage costs; or

(c) sent by email, fax or other electronic method as agreed to by the recipient, and is taken to be given on the Business Day after it is sent.

62. Winding Up

62.1 The Company may be wound up by a Special Resolution of Members at a general meeting.

62.2 If any surplus remains following the winding up of the Company, the surplus will be given or transferred to one or more corporation(s) or institution(s) which:

(a) has charitable objects which are similar to, or inclusive of, the objects of the Company as set out in **clause 5.1**;

(b) is a deductible gift recipient within the meaning of the ITAA 97;

(c) has a governing document which requires its income and property to be applied in promoting its objects; and

(d) has a governing document which prohibits it from paying or distributing its income and property amongst its members to an extent at least as great as imposed on the Company by **clause 6**.

62.3 On the winding up of the Company, the Relief Fund will be wound up and distributed in accordance with **clause 42.9**.

62.4 In the event that the Company ever has its endorsement as a deductible gift recipient revoked (whether or not the company is to be wound up), any surplus gift funds must be transferred to one or more corporation(s) or institution(s) which meet the requirements set out at **clause 62.2**.

62.5 The identity of the corporation(s) or institution(s) is to be determined by a Special Resolution of the Members in writing at or before the time of dissolution or revocation of the endorsement of a deductible gift recipient. If no such determination is made, the Company may apply to the Supreme Court of New South Wales for determination.

63. Indemnity

To the extent permitted by law every Officer (and former Officer) of the Company shall be indemnified out of the funds of the Company against all costs, expenses and liabilities incurred as such an Officer (or former Officer). However, no such Officer (or former Officer) shall be indemnified out of the funds of the Company under this clause unless:

(a) it is in respect of a liability to another person (other than the Company or a related body corporate to the Company) where the liability to the other person does not arise out of conduct involving a lack of good faith; or

(b) it is in respect of a liability for costs and expenses incurred:

(i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the Officer (or former Officer) or in which the Officer (or former Officer) is acquitted; or

(ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the Officer (or former Officer) under the Act.

64. Payment of Indemnity Policy Premium

64.1 To the extent permitted by law, the Company may at the discretion of the Board enter into and pay a premium in respect of a policy of insurance insuring an Officer (or former Officer) of the Company against any liability incurred by such person in that capacity (whether in respect of acts or omissions prior to or after the date of the issue of the policy or both) except for:

(a) a liability arising out of conduct involving a wilful breach of duty in relation to the Company; or

(b) a contravention of sections 182 or 183 of the Act.

64.2 The Board shall have the discretion to approve the terms and conditions of any such policy of insurance.

64.3 Where an Officer (or former Officer) has the benefit of an indemnity pursuant to an insurance policy in respect of his actions or omissions then the Company shall not be required to indemnify the Officer under **clause 63** except to the extent that the indemnity affected by the insurance policy does not fully cover the persons liability.

65. Indemnity to Continue

The indemnity granted by the Company, contained in **clause 63**, shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring prior to the date of the deletion or modification.