

# Constitution

Youth Off The Streets - Overseas

Relief Fund Limited

*ACN 119 036 501*

# Constitution of Youth Off The Streets - Overseas Relief Fund Limited

## ACN 119 036 501

<b>Preliminary.....</b>	<b>5</b>
1. Defined terms & interpretation .....	5
2. Objects .....	6
3. Income and property of Company .....	6
<b>Membership .....</b>	<b>7</b>
4. Admission .....	7
5. Subscriptions .....	8
6. Ceasing to be a Member.....	8
7. Powers of attorney .....	9
8. Representatives .....	9
<b>General meetings .....</b>	<b>9</b>
9. Calling general meeting .....	9
10. Notice of general meeting .....	10
<b>Proceedings at general meetings .....</b>	<b>10</b>
11. Member .....	10
12. Quorum .....	10
13. Chairperson .....	11
14. Adjournment .....	11
15. Decision on questions .....	11
16. Taking a poll .....	12
17. Casting vote of chairperson.....	12
18. Offensive material.....	12
<b>Votes of Members .....</b>	<b>12</b>
19. Entitlement to vote .....	12
20. Objections .....	12
21. Votes by proxy .....	13
22. Document appointing proxy.....	13
23. Lodgment of proxy.....	14
24. Validity .....	14

<b>Appointment and removal of Directors.....</b>	<b>14</b>
25. Number of Directors .....	14
26. Appointment and removal of Directors.....	14
27. Additional and casual Directors .....	15
28. Filling vacated Office.....	15
29. Nomination of Director.....	15
30. Vacation of Office.....	16
<b>Powers and duties of Directors.....</b>	<b>16</b>
31. Powers and duties of Directors .....	16
<b>Proceedings of Directors .....</b>	<b>17</b>
32. Directors' meetings .....	17
33. Decision on questions .....	17
<b>Payments to Directors .....</b>	<b>17</b>
34. Payments to Directors .....	17
35. Directors' interests .....	18
36. Remaining Directors .....	19
37. Chairperson .....	19
38. Delegation .....	19
39. Written resolutions .....	19
40. Validity of acts of Directors.....	20
41. Minutes and Registers.....	20
<b>Local management.....</b>	<b>20</b>
42. Local management .....	20
43. Appointment of attorneys and agents.....	20
<b>Secretary .....</b>	<b>21</b>
44. Secretary .....	21
<b>Seals</b>	<b>21</b>
45. Common Seal.....	21
46. Duplicate Seal .....	22
<b>Inspection of records .....</b>	<b>22</b>
47. Inspection of records.....	22
<b>Notices.....</b>	<b>22</b>

48. Service of notices ..... 22

49. Persons entitled to notice ..... 23

**Audit and accounts ..... 23**

50. Audit and accounts ..... 23

**Winding up ..... 23**

51. Winding up ..... 23

**Indemnity ..... 24**

52. Indemnity ..... 24

**Schedule 1      Objects and Rules of the Relief Fund ..... 25**

# Preliminary

## 1. Defined terms & interpretation

1.1 In this Constitution unless the contrary intention appears:

**Auditor** means the Company's auditor.

**Company** means ACN 119 036 501 Limited intended to be known as Youth Off The Streets - Overseas Relief Fund Limited.

**Constitution** means the constitution of the Company as amended from time to time.

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

**Business Day** means:

- (a) for receiving a notice under clause 48, a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the notice is received; and
- (b) for all other purposes, a day that is not a Saturday, Sunday, bank holiday or public holiday in New South Wales, Australia.

**Director** includes any person occupying the position of director of the Company.

**Directors** means all or some of the Directors acting as a board.

**Member** means a member under clause 4.

**Micro-enterprise** means small scale business.

**Micro-finance** means the supply of loans, savings, and other basic financial services to the poor.

**Office** means the Company's registered office.

**Register** means the register of Members of the Company.

**Registered Address** means the last known address of a Member as noted in the Register.

**Representative** means a person appointed as such under clause 8.

**Seal** means the Company's common seal (if any).

**Secretary** means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of such joint secretaries.

1.2 In this Constitution, unless the contrary intention appears:

- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
- (b) words importing natural persons include corporations;
- (c) words and expressions defined in the Corporations Act have the same meaning in this Constitution;
- (d) headings are for ease of reference only and do not affect the construction of this Constitution; and
- (e) a reference to the Corporations Act is a reference to the Corporations Act as modified or amended from time to time.

1.3 Unless the contrary intention appears in this Constitution, an expression in a clause of this Constitution has the same meaning as in a provision of the Corporations Act that deals with the same matter as the clause.

1.4 To the extent permitted by law, the replaceable rules in the Corporations Act do not apply to the Company.

## **2. Objects**

2.1 The Company is a not-for-profit, non-denominational, non-political entity established and located in Australia for charitable purposes to provide relief outside Australia of poverty, sickness, suffering or distress and to promote education primarily of disadvantaged youths outside Australia.

2.2 The principal objects of the company stated in clause 2.1 may be undertaken by the Company by (among other things):

- (a) the establishment of a relief fund (or a number of relief funds) for the purposes of raising money both through public donations and through government assistance to provide and to fund sustainable development and relief aid projects in developing countries (as declared by the Minister for Foreign Affairs for the purposes of the Overseas Aid Gift Deduction Scheme established by the *Income Tax Assessment Act 1997*) (**Relief Fund**); and
- (b) the establishment of a fund similar to a Relief Fund should appropriate circumstances and recognised necessity give rise to the need to do so and to create the necessary rules for such fund in accordance with any applicable laws.

2.3 The objects and rules of the Relief Fund are set out in Schedule 1.

2.4 In the course of achieving the objects set out in clause 2.1, the Company may:

- (a) develop partnerships with indigenous organisations in countries in which the Company works;
- (b) do all things as are incidental or conducive to the attainment of any and all of the objectives and purposes specified in the foregoing provisions of this clause.

## **3. Income and property of Company**

3.1 The income and property of the Company will only be applied towards the promotion of the objects of the Company set out in clause 2.

3.2 No income or property will be paid or transferred directly or indirectly to any Member of the Company except for payments 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 moneys lent; or
- (c) of any salary or wage due to the Member as an employee of the Company where the terms of employment have been approved by the Directors of the Company.

# Membership

## 4. Admission

- 4.1 The Company must at all times have at least fifteen (15) Members.
- 4.2 The Members of the Company are:
- (a) the persons who consented to become Members in the application for registration of the Company; and
  - (b) any other persons, corporations or organisations whom or which the Directors admit to membership in accordance with this Constitution.
- 4.3 Applications for membership of the Company must be in writing, signed by the applicant and in a form approved by the Directors, and accompanied by such other documents as the Directors may require, in their absolute discretion.
- 4.4 The Directors will consider each application for membership at the next meeting of Directors after the application is received.
- 4.5 An application for membership must not be approved unless the Directors consider the applicant to be suitable to be a member. Without limiting a discretion in determining suitability, regard may be had to all or any of the following:
- (a) the perceived ability of the applicant to assist in promoting the charitable objects of the Company as expressed in clause 2;
  - (b) the applicant's association with a community group that has contributed significantly to the Company either financially or in providing volunteer services;
  - (c) the applicant having been a member of a local area committee;
  - (d) the applicant having provided volunteer services to the Company on a long term basis;
  - (e) the applicant being, or having been, a community leader or high profile person such as a politician, media figure or business leader;
  - (f) the police and child protection check provided by the applicant in support of his or her application for membership; and
  - (g) suitability in general of the applicant to be a member.
- 4.6 In considering an application for membership, the Directors may:
- (a) accept or reject the application; or
  - (b) ask the applicant to give more evidence of eligibility for membership.
- 4.7 If the Directors ask for more evidence, their determination of the application for membership is deferred until the evidence is given.
- 4.8 The Directors do not have to give any reason for rejecting an application for membership.
- 4.9 As soon as practicable following acceptance of an application for membership, the Secretary will send the applicant written notice of the acceptance and request payment of the applicant's entrance fee and first annual subscription.
- 4.10 Subject to clause 4.11, an applicant for membership becomes a Member when the applicant's entrance fee is paid.

- 4.11 If the entrance fee of an applicant for membership is not paid within 30 days after the date the applicant is notified of acceptance of their application for membership, the Directors may cancel their acceptance of the applicant for membership of the Company.
- 4.12 The rights and privileges of every Member are personal to each Member and are not transferable by the Member's own act, by operation of law or otherwise.

## **5. Subscriptions**

- 5.1 The Directors may determine the entrance fee payable by each Member or each category of Member. Until otherwise determined by the Directors, the entrance fee will be \$20.
- 5.2 The entrance fee payable by persons who consented to become Members in the application for the Company's registration will be payable within 30 days after the date from the registration of the Company.
- 5.3 If a Member does not pay the entrance fee within 30 days after it becomes due, the Directors:
- (a) will give the Member notice of that fact; and
  - (b) if the entrance fee remains unpaid 21 days from the date of that notice, may declare that Member's membership forfeited.

## **6. Ceasing to be a Member**

- 6.1 A Member's membership of the Company will cease:
- (a) if the Member gives the Secretary written notice of resignation, from the date of receipt of that notice by the Secretary;
  - (b) if a majority of two thirds of the Directors present and voting at a meeting of Directors by resolution terminate the membership of a Member:
    - (i) whose conduct in their opinion renders it undesirable that that Member continue to be a Member of the Company; and
    - (ii) only after the Member has been given at least 21 days' notice of the proposed resolution and has had the opportunity to be heard at the meeting at which the resolution is proposed;
  - (c) if membership is forfeited under clause 5.3(b);
  - (d) where the Member is an individual, if the Member:
    - (i) dies;
    - (ii) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health;
    - (iii) becomes bankrupt;
    - (iv) is convicted of an indictable offence; or
    - (v) fails a police or child protection check.
  - (e) where the Member is not an individual, if:
    - (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.
- 6.2 Any Member ceasing to be a Member:
- (a) will not be entitled to any refund (or part refund) of a subscription; and



- (b) will remain liable for and will pay to the Company all subscriptions and moneys which were due at the date of ceasing to be a Member.

## **7. Powers of attorney**

- 7.1 If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the Attorney to the Company for notation.
- 7.2 If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- 7.3 The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

## **8. Representatives**

- 8.1 Any corporation or organisation which is a Member may by written notice to the Secretary:
  - (a) appoint a natural person to act as its Representative in all matters connected with the Company as permitted by the Corporations Act; and
  - (b) remove its Representative.
- 8.2 A Representative is entitled to:
  - (a) exercise at a general meeting all the powers which the corporation or organisation which appointed him or her could exercise if it were a natural person;
  - (b) stand for election as an office bearer or Director; and
  - (c) be counted towards a quorum on the basis that the Member corporation or organisation is to be considered personally present at a general meeting by its Representative.
- 8.3 A certificate executed in accordance with section 127 of the Corporations Act is rebuttable evidence of the appointment or of the removal of the appointment (as appropriate) of the Representative.
- 8.4 The chairperson of a general meeting may allow a Representative to vote on the condition that he or she subsequently establishes his or her status as a Representative within a period prescribed by and to the satisfaction of the chairperson of the general meeting.
- 8.5 The appointment of a Representative may set out restrictions on the Representative's powers.

## **General meetings**

### **9. Calling general meeting**

- 9.1 Any Director may, at any time, call a general meeting.
- 9.2 A Member may:
  - (a) only request the Directors to call a general meeting in accordance with section 249D of the Corporations Act; and
  - (b) not request or call and arrange to hold a general meeting except under section 249E or 249F of the Corporations Act
- 9.3 Any general meeting called in accordance with clause 9.2 may be cancelled or postponed by:
  - (a) members with at least 5% of the votes that may be cast at the general meeting; or

- (b) at least 100 members who are entitled to vote at the meeting.

## **10. Notice of general meeting**

- 10.1 Subject to the provisions of the Corporations Act allowing general meetings to be held with shorter notice, at least 21 days written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to Members of any general meeting.
- 10.2 A notice calling a general meeting:
  - (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this; and
  - (b) must state the general nature of the business to be transacted at the meeting; and
  - (c) may specify a place, facsimile number and electronic address for the purposes of proxy appointment.
- 10.3 A notice of an annual general meeting need not state that the business to be transacted at the meeting includes:
  - (a) the consideration of the annual financial report, Directors' report and the Auditor's report;
  - (b) the election of directors; or
  - (c) the appointment and fixing of the remuneration of the Auditor.
- 10.4 The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under clause 9.2).
- 10.5 The Directors must give notice of the postponement or cancellation of a general meeting to all persons referred to in clause 49.1 entitled to receive notices from the Company.
- 10.6 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

## **Proceedings at general meetings**

### **11. Member**

In clauses 12, 13, 17 and 19, **Member** includes a Member present in person or by proxy, attorney or Representative.

### **12. Quorum**

- 12.1 No business may be transacted at a general Members' meeting unless a quorum of Members is present when the meeting proceeds to business.
- 12.2 A quorum of Members is five (5) Members entitled to vote.
- 12.3 If a quorum is not present within 30 minutes after the time appointed for a general meeting:
  - (a) if the general meeting was called on the requisition of Members, it is automatically dissolved; or
  - (b) in any other case:
    - (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and

- (ii) if at the adjourned general meeting a quorum is not present within 30 minutes after the time appointed for the general meeting, the general meeting is automatically dissolved.

### **13. Chairperson**

- 13.1 The chairperson of the initial general meeting of the Company will be Father Christopher Keith Riley.
- 13.2 At each successive general meeting, the chairperson, or in the chairperson's absence the deputy chairperson, of Directors' meetings will be the chairperson at every general meeting.
- 13.3 The Directors present may elect a chairperson of a general meeting if:
  - (a) there is no chairperson or deputy chairperson; or
  - (b) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the general meeting; or
  - (c) the chairperson and deputy chairperson are unwilling to act as chairperson of the general meeting.
- 13.4 If no election is made under clause 13.3, then:
  - (a) the Members may elect one of the Directors present as chairperson; or
  - (b) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.
- 13.5 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

### **14. Adjournment**

- 14.1 The chairperson of a general meeting at which a quorum is present:
  - (a) in his or her discretion may adjourn the general meeting with the meeting's consent; and
  - (b) must adjourn the general meeting if the meeting directs him or her to do so.
- 14.2 An adjourned general meeting may take place at a different venue to the initial general meeting.
- 14.3 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.
- 14.4 Notice of an adjourned general meeting must only be given in accordance with clause 10.1 if a general meeting has been adjourned for more than 21 days.

### **15. Decision on questions**

- 15.1 Subject to the Corporations Act in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.
- 15.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the Corporations Act.
- 15.3 Unless a poll is demanded:
  - (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
  - (b) an entry to that effect in the minutes of the meeting,

are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

15.4 The demand for a poll may be withdrawn.

15.5 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the general meeting was not entitled to do so.

## **16. Taking a poll**

16.1 A poll will be taken when and in the manner that the chairperson directs.

16.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.

16.3 The chairperson may determine any dispute about the admission or rejection of a vote.

16.4 The chairperson's determination, if made in good faith, will be final and conclusive.

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

16.6 After a poll has been demanded at a general meeting, the general meeting may continue for the transaction of business other than the question on which the poll was demanded.

## **17. Casting vote of chairperson**

The chairperson does not have a casting vote in addition to the chairperson's votes as a Member, proxy, attorney or Representative.

## **18. Offensive material**

A person may be refused admission to, or required to leave and not return to, a meeting if the person:

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:
  - (i) electronic or recording device;
  - (ii) placard or banner; or
  - (iii) other article,

which the chairperson considers to be dangerous, offensive or liable to cause disruption.

## **Votes of Members**

### **19. Entitlement to vote**

19.1 A Member is not entitled to vote at a general meeting if the member's annual subscription is more than one month in arrears at the date of the meeting.

19.2 A Member entitled to vote has one vote.

### **20. Objections**

20.1 An objection to the qualification of a voter may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote.

20.2 An objection must be referred to the chairperson of the general meeting, whose decision is final.

20.3 A vote which the chairperson does not disallow because of an objection is valid for all purposes.

## **21. Votes by proxy**

21.1 If a Member appoints a proxy, proxies or an attorney, the proxy, proxies or attorney may not vote on a show of hands.

21.2 A proxy must be a Member.

21.3 A proxy may demand or join in demanding a poll.

21.4 A proxy or attorney may vote on a poll.

21.5 A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If a proxy votes at all, the proxy will be deemed to have voted all directed proxies in the manner directed.

## **22. Document appointing proxy**

22.1 An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the information required by subsection 250A(1) of the Corporations Act. The Directors may determine that an appointment of proxy is valid even if it only contains some of the information required by section 250A(1) of the Corporations Act.

22.2 For the purposes of clause 22.1, an appointment received at an electronic address will be taken to be signed by the Member if:

- (a) a personal identification code allocated by the Company to the Member has been input into the appointment; or
- (b) the appointment has been verified in another manner approved by the Directors.

22.3 A proxy's appointment is valid at an adjourned general meeting.

22.4 A proxy or attorney may be appointed for all general meetings or for any number of general meetings or for a particular purpose.

22.5 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:

- (a) to vote on:
  - (i) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and
  - (ii) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting,  
even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
- (b) to vote on any motion before the general meeting whether or not the motion is referred to in the appointment.

22.6 If a proxy appointment is signed by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either cast as proxy or complete the appointment by inserting the name or names of one or more directors or the Secretary.

## **23. Lodgment of proxy**

23.1 The written appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:

- (a) the time for holding the general meeting or adjourned general meeting at which the appointee proposes to vote; or
- (b) the taking of a poll on which the appointee proposes to vote.

23.2 The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:

- (a) the Office;
- (b) a facsimile number at the Office; or
- (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

## **24. Validity**

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) died;
- (b) became mentally incapacitated; or
- (c) revoked the proxy or power,

unless any written notification of the death, unsoundness of mind or revocation was received by the Company before the relevant general meeting or adjourned general meeting.

## **Appointment and removal of Directors**

### **25. Number of Directors**

25.1 There will not be less than **three** nor more than **ten** Directors unless the Company in general meeting by resolution changes the maximum number.

25.2 A Director holds office for a period of three years, after which time, he or she is eligible for re-election.

25.3 The initial Directors of the Company are the persons who have consented to act as directors and are set out in the Company's application for registration as a Company. Those persons hold office subject to the Constitution.

### **26. Appointment and removal of Directors**

26.1 The Company may by resolution passed in general meeting:

- (a) appoint new Directors;
- (b) subject to clause 25.1 increase or reduce the number of Directors;
- (c) remove any Director before the end of the Director's period of office; and
- (d) appoint another person in the Director's place.

- 26.2 The Company must not appoint a person as a Director unless:
- (a) that person has provided a certified copy of a recent police and child protection check to the Company; and
  - (b) the Company considers that person to:
    - (i) have a degree of responsibility to the community (as defined in the Australian Taxation Office Taxation Ruling 95/27); and
    - (ii) be suitable to be a Director.
- 26.3 Without limiting a discretion in determining suitability, regard may be had by the Members to all or any of the following:
- (a) the applicant being, or having been, a community leader or high profile person such as a politician, business leader or church authority;
  - (b) the police and child protection check provided by the person in support of his or her appointment as a Director; and
  - (c) suitability in general of the person to be a director.
- 26.4 A person appointed under clause 26.1 will hold office for the period for which the Director replaced would have held office if the Director had not been removed.
- 26.5 If the conduct or position of any Director is such that continuance in office appears to the majority of the Directors to be prejudicial to the interests of the Company (including, but not limited to, where the Director is convicted of an indictable offence), a majority of Directors at a meeting of the Directors specifically called for that purpose may suspend that Director.
- 26.6 Within 14 days of the suspension, the Directors must call a general meeting, at which the Members may either confirm the suspension and remove the Director from office in accordance with clause 26.1(c) or annul the suspension and reinstate the Director.

## **27. Additional and casual Directors**

- 27.1 Subject to clause 25.1, the Directors may appoint any person as a Director to fill a casual vacancy or as an addition to the existing Directors.
- 27.2 A Director appointed under clause 27.1 will hold office until the next general meeting of the Company when the Director may be re-elected.

## **28. Filling vacated Office**

- 28.1 When a Director retires at a general meeting, the Company may by ordinary resolution elect a person to fill the vacated office.
- 28.2 If the vacated office is not filled and the retiring Director has offered himself or herself for re-election, the retiring Director will be deemed to have been re-elected unless, at the meeting at which he or she retires:
- (a) it is resolved not to fill the vacated office; or
  - (b) the resolution for the re-election of the Director is put and lost.

## **29. Nomination of Director**

- 29.1 A person other than a retiring Director is not eligible for election as a Director at a general meeting unless the person, or a Member who intends to propose the person, has left at the Office a written notice signed by him or her:

- (a) giving the person's consent to the nomination; and
  - (b) stating either that the person is a candidate for the office of Director or that the Member intends to propose the person for election.
- 29.2 A notice given in accordance with clause 29.1 must be left at the Office at least 30 days before the relevant general meeting.
- 29.3 A written notice referring to all Director vacancies and each candidate for election, must be sent to all Members at least seven days before every general meeting at which an election of a Director will take place.

### **30. Vacation of Office**

The office of a Director immediately becomes vacant if the Director:

- (a) is prohibited by the Corporations Act from holding office or continuing as a Director;
- (b) is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Directors incapable of performing his or her duties;
- (c) resigns by notice in writing to the Company; or
- (d) is removed by a resolution of the Company;
- (e) is absent from two consecutive Directors' meetings without leave of absence from the Directors, and the Chairperson determines that the absence should result in the vacation of the Director's office;
- (f) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Corporations Act; or
- (g) is the Chief Executive Officer (or equivalent) of a Member that ceases to be a Member under clauses 5.3 and 6.1.

## **Powers and duties of Directors**

### **31. Powers and duties of Directors**

- 31.1 The business of the Company is managed by the Directors who may exercise all powers of the Company that this Constitution and the Corporations Act do not require to be exercised by the Company in general meeting.
- 31.2 Without limiting the generality of clause 31.1, the Directors may exercise all the powers of the Company:
- (a) to borrow money;
  - (b) to charge any property or business of the Company;
  - (c) to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person;
  - (d) to guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person; and
  - (e) to enter into a contract of insurance permitted by section 199B of the Corporations Act.



## **Proceedings of Directors**

### **32. Directors' meetings**

- 32.1 A Director may at any time, and the Secretary must on the request of a Director, call a Directors' meeting.
- 32.2 A Directors' meeting must be called on at least 48 hours written notice of a meeting to each Director.
- 32.3 It is not necessary to give notice of a meeting of the Directors to an Australian resident whom the Secretary, when giving notice to the other Directors, reasonably believes to be temporarily outside Australia.
- 32.4 Subject to the Corporations Act, a Directors' meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- 32.5 The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- 32.6 Subject to clause 35, a Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.
- 32.7 Clauses 32.4 to 32.5 apply to meetings of Directors' committees as if all committee members were Directors.
- 32.8 The Directors may meet together, adjourn and regulate their meetings as they think fit.
- 32.9 A quorum is three Directors.
- 32.10 Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, the chairperson may call a general meeting to deal with the matter.
- 32.11 Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

### **33. Decision on questions**

- 33.1 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to clause 35, each Director has one vote.
- 33.2 The chairperson of a meeting does not have a casting vote in addition to his or her deliberative vote.

## **Payments to Directors**

### **34. Payments to Directors**

No payment will be made to any Director of the Company other than payment:

- (a) of out of pocket expenses incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;
- (b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Directors of the Company and where the amount payable is

approved by the Directors of the Company and is not more than an amount which commercially would be reasonable payment for the service;

- (c) of any salary or wage due to the Director as an employee of the Company where the terms of employment have been approved by the Directors of the Company; and
- (d) relating to an indemnity in favour of the Director and permitted by section 199A of the Corporations Act or a contract of insurance permitted by section 199B.

### **35. Directors' interests**

- 35.1 No contract made by a Director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 35.2 No Director contracting with or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 35.3 A Director is not disqualified merely because of being a Director from contracting with the Company in any respect.
- 35.4 Subject to clause 34, a Director or a body or entity in which a Director has a direct or indirect interest may:
- (a) enter into any agreement or arrangement with the Company;
  - (b) hold any office or place of profit other than as auditor in the Company; and
  - (c) act in a professional capacity other than as auditor for the Company,
- and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.
- 35.5 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:
- (a) be present while the matter is being considered at the meeting; or
  - (b) vote on the matter,
- unless permitted by the Corporations Act to do so, in which case the Director may:
- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
  - (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
  - (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- 35.6 A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise and is not accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.

## **36. Remaining Directors**

- 36.1 The Directors may act even if there are vacancies on the board.
- 36.2 If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to:
- (a) appoint a Director; or
  - (b) call a general meeting.

## **37. Chairperson**

- 37.1 The chairperson of the initial Directors' meeting will be Father Christopher Keith Riley.
- 37.2 At each successive Directors' meeting, the Directors may elect a Director as chairperson of Directors' meetings and may determine the period for which the chairperson will hold office.
- 37.3 If no chairperson is elected or if the chairperson is not present at any Directors' meeting within ten minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.
- 37.4 The Directors may elect a Director as deputy chairperson to act as chairperson in the chairperson's absence.

## **38. Delegation**

- 38.1 The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to a committee or committees.
- 38.2 The Directors may at any time revoke any delegation of power to a committee.
- 38.3 At least one member of each committee must be a Director.
- 38.4 A committee must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.
- 38.5 A committee may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.
- 38.6 Meetings of any committee of Directors will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each member was a Director.

## **39. Written resolutions**

- 39.1 The Directors may pass a resolution without a Directors' 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. The resolution is passed when the last Director signs.
- 39.2 For the purposes of clause 39.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 39.3 Any document referred to in this clause may be in the form of a facsimile or electronic transmission.
- 39.4 The minutes of Directors' meetings must record that a meeting was held in accordance with this clause 39.
- 39.5 This clause applies to meetings of Directors' committees as if all members of the committee were Directors.

## **40. Validity of acts of Directors**

If it is discovered that:

- (a) there was a defect in the appointment of a person as a Director or member of a Directors' committee; or
- (b) a person appointed to one of those positions was disqualified in accordance with clause 26.1(c) as a result of clauses 26.5 and 26.6,

all acts of the Directors or the Directors' committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

## **41. Minutes and Registers**

41.1 The Directors must cause minutes to be made of:

- (a) the names of the Directors present at all Directors' meetings and meetings of Directors' committees;
- (b) all proceedings and resolutions of general meetings of Members, Directors' meetings and meetings of Directors' committees;
- (c) all resolutions passed by Directors in accordance with clause 39;
- (d) all appointments of officers;
- (e) all orders made by the Directors and Directors' committees; and
- (f) all disclosures of interests made under clause 35.

41.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.

41.3 The Company must keep all registers required by this Constitution and the Corporations Act.

## **Local management**

### **42. Local management**

42.1 The Directors may provide for the management and transaction of the affairs of the Company in any places and in such manner as they think fit.

42.2 Without limiting clause 42.1 the Directors may:

- (a) establish local boards or agencies for managing any of the affairs of the Company in a specified place and appoint any persons to be members of those local boards or agencies; and
- (b) delegate to any person appointed under clause 42.2(a) any of the powers, authorities and discretions which may be exercised by the Directors under this Constitution,

on any terms and subject to any conditions determined by the Directors.

42.3 The Directors may at any time revoke or vary any delegation under this clause 42.

### **43. Appointment of attorneys and agents**

43.1 The Directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the Corporations Act appoint any person to be the attorney or agent of the Company:

- (a) for the purposes;

- (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
  - (c) for the period; and
  - (d) subject to the conditions, determined by the Directors.
- 43.2 An appointment by the Directors of an attorney or agent of the Company may be made in favour of:
- (a) any member of any local board established under this Constitution;
  - (b) any company;
  - (c) the members, directors, nominees or managers of any company or firm; or
  - (d) any fluctuating body of persons whether nominated directly or indirectly by the Directors.
- 43.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.
- 43.4 The Directors may appoint attorneys or agents by facsimile transmission, telegraph or cable to act for and on behalf of the Company.
- 43.5 An attorney or agent appointed under this clause 43 may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

## **Secretary**

### **44. Secretary**

- 44.1 If required by the Corporations Act, there must be at least one secretary of the Company appointed by the Directors for a term and at remuneration (if any) and on conditions determined by them.
- 44.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.
- 44.3 The Directors may, subject to the terms of the Secretary's appointment, suspend, remove or dismiss the Secretary.

## **Seals**

### **45. Common Seal**

If the Company has a Seal:

- (a) the Directors must provide for the safe custody of the Seal;
- (b) the Seal must not be used without the authority of the Directors or a Directors' committee authorised to use the Seal;
- (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Directors to countersign the document.

## **46. Duplicate Seal**

If the Company has a Seal, the Company may have one or more duplicate Seals of the Seal each of which:

- (a) must be a facsimile of the Seal with the addition on its face of the words 'Duplicate Seal';
- (b) must not be used except with the authority of the Directors.

## **Inspection of records**

### **47. Inspection of records**

- 47.1 Except as otherwise required by the Corporations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.
- 47.2 Except as otherwise required by the Corporations Act, a Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

## **Notices**

### **48. Service of notices**

- 48.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution:
  - (a) by serving it on the person; or
  - (b) by sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person.
- 48.2 A notice sent by post is taken to be served:
  - (a) by properly addressing, prepaying and posting a letter containing the notice; and
  - (b) on the second Business Day after the day on which it was posted (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia).
- 48.3 A notice sent by facsimile transmission or electronic notification is taken to be served:
  - (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
  - (b) when the sender's facsimile system generates a message confirming successful transmission of the entire notice unless, within one Business Day after the transmission, the recipient informs the sender that it has not received the entire notice.
- 48.4 If the delivery, receipt or transmission of a notice sent by post, facsimile transmission or electronic notification is not on a Business Day or is after 5.00pm on a Business Day, the notice is taken to be received at 9.00am on the next Business Day.
- 48.5 If a Member has no Registered Address a notice will be taken to be served on that Member 24 hours after it was posted on a notice board at the Office.

- 48.6 A Member whose Registered Address is not in Australia may specify in writing an address in Australia to be taken to be the Member's Registered Address within the meaning of this clause.
- 48.7 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 48.8 Subject to the Corporations Act the signature to a written notice given by the Company may be written or printed.
- 48.9 All notices sent by post outside Australia must be sent by prepaid airmail post.

## **49. Persons entitled to notice**

- 49.1 Notice of every general meeting must be given to:
- (a) every Member;
  - (b) every Director; and
  - (c) any Auditor.
- 49.2 No other person is entitled to receive notice of a general meeting.

## **Audit and accounts**

### **50. Audit and accounts**

- 50.1 The Directors must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the Corporations Act.
- 50.2 The Directors must cause the financial records of the Company to be audited in accordance with the requirements of the Corporations Act.

## **Winding up**

### **51. Winding up**

- 51.1 If the Company is wound up:
- (a) each Member; and
  - (b) each person who has ceased to be a Member in the preceding year, undertakes to contribute to the property of the Company for the:
    - (c) payment of debts and liabilities of the Company (in relation to clause 51.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
    - (d) adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding \$2.
- 51.2 If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to another corporation which, by its constitution, is required to pursue charitable purposes only and which has similar objects to the Company, such corporation to be determined by the Members at or before the winding up and in default, by application to the Supreme Court of New South Wales for determination.

# Indemnity

## 52. Indemnity

- 52.1 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act the Company indemnifies every person who is or has been an officer of the Company against any liability (other than for legal costs) incurred by that person as such an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).
- 52.2 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act, the Company indemnifies every person who is or has been an officer of the Company against reasonable legal costs incurred in defending an action for a liability incurred by that person as such an officer of the Company (including such legal costs incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).
- 52.3 The amount of any indemnity payable under clauses 52.1 or 52.2 will include an additional amount (**GST Amount**) equal to any GST payable by the officer being indemnified (**Indemnified Officer**) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.
- 52.4 For the purposes of this clause 52, **officer** means:
- (a) a Director; or
  - (b) a Secretary.



# Schedule 1      **Objects and Rules of the Relief Fund**

## **Part A - Objects**

### **1 Purpose**

The exclusive purpose of the Relief Fund is to solicit and receive gifts towards the carrying out of the objects of the Relief Fund.

### **2 Objects**

The objects of the Relief Fund is to aid in the provision, funding and promotion of development and relief aid projects in developing countries (as declared by the Minister for Foreign Affairs for the purposes of the Overseas Aid Gift Deduction Scheme established by the *Income Tax Assessment Act 1997*).

In these objects, the term **development and relief aid projects** in respect of developing countries means projects aimed at:

- (i) providing relief for disadvantaged youth and children;
- (ii) the development of, and assistance to, orphanages;
- (iii) facilitating the implementation of any agreement entered into with indigenous organisations;
- (iv) the prevention and control of violence and abusive behaviour against youth and children;
- (v) the advancement of health;
- (vi) the advancement of education, literacy and skills training;
- (vii) the development of leadership and governance skills;
- (viii) providing access to justice and human rights; and
- (ix) the alleviation of poverty through the advancement and improvement of livelihood capabilities including micro-enterprise and access to microfinance.

## **Part B - Rules**

### **3 Management**

The Board:

- (a) will appoint a management committee to manage the Relief Fund; and
- (b) must ensure that a majority of the persons appointed to the management committee have a degree of responsibility to the general community by reason of their occupation or standing in the community.

### **4 Bank account**

All gifts to the Relief Fund and including any money received by the Relief Fund as a result of such gifts (including, for example, interest paid on any gifts) must be deposited in a separate bank account in the name of the Relief Fund.

## **5 Receipts**

All receipts for gifts must be issued in the name of the Relief Fund and must include:

- (a) the name of the Relief Fund on behalf of the Company;
- (b) the fact that the receipt is for a gift; and
- (c) the Australian Business Number of the Company.

## **6 Contributions**

The general public will be invited to make gifts to the Relief Fund for the purposes of carrying out the objects in Part A above.

## **7 Not for profit**

The assets and income of the Relief Fund shall be applied solely in furtherance of the objects of the Relief Fund set out in Part A and may not be distributed directly or indirectly to any individual or a member of the management committee except as reimbursement for expenses incurred on behalf of the Relief Fund or as a proper remuneration for services provided to the Relief Fund.

## **8 Dissolution**

Subject to any approvals required at the time, in the event of the Relief Fund being wound up, any surplus assets remaining after the payment of liabilities of the Relief Fund shall be transferred to another organisation or fund with similar purposes to which income tax deductible gifts can be made.

## **9 Notification of change**

The Directors or Board must notify the Australian Taxation Office (ATO) of any alterations made to these rules and must abide by any response made by the ATO.