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PLAN INTERNATIONAL AUSTRALIA

ACN 004 875 807
ABN 49 004 875 807

*As approved by the members at the Annual
General Meeting held on 9 December 2019*

CONSTITUTION

A public company limited by guarantee under
the *Corporations Act 2001* (Cth)

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CONSTITUTION

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Constitution:

Board means the board of Directors of the Company with a quorum to transact business;

Business Day means a weekday which is not a public holiday in the state or territory of the Company's registered office;

Chair means the Director and office bearer under clause 8.7.1;

Company means the company named on page 1 of this Constitution;

Company Secretary means a secretary appointed under clause 9.4;

Constitution means this constitution of the Company;

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

Developing Country means countries declared from time to time by the Foreign Affairs Minister to be a developing country for the purposes of the ITAA section 30-85(2)(b);

Director means a person for the time being who performs the role of director of the Company;

ITAA means *Income Tax Assessment Act 1997* (Cth);

Law includes statute, regulation, legislative instrument, rules, standards, proclamation, ordinance or by-law which, by or under statute, bind a person from time to time;

Liability includes cost, charge, loss, damage, expense or penalty;

Member means a person who is a member of the Company pursuant to clauses 5 and 6, but a patron or ambassador pursuant to clause 4 does not automatically become a Member;

Ordinary Member means a Member who is not a member of the Board;

Purpose has the meaning given in clause 2;

Regulations means regulations made by the Board under clause 9.5;

Relevant Laws means Laws regulating the registration, reporting or governance obligations of the Company and includes *Australian Charities and Not-for-profits Commission Act 2012* (Cth), *Charities Act 2013* (Cth) and ITAA;

Representative of a Member means:

- (a) a proxy appointed in accordance with clause 7.9;

- (b) an attorney of the Member, whose instrument of appointment has been provided to the Company,

and includes a Representative appointed on a standing basis.

Year, in relation to a Director's term of office, means the period of approximately one calendar year between annual general meetings.

1.2 Interpretation

In this Constitution, unless the contrary intention appears:

- 1.2.1 the singular includes the plural and vice versa;
- 1.2.2 words importing one gender include other genders;
- 1.2.3 a reference to an individual or person includes a partnership, body corporate, government authority or agency and vice versa (whether or not incorporated);
- 1.2.4 a reference to a person includes that person's executors, administrators, successors, substitutes and permitted assigns;
- 1.2.5 a reference to a document or instrument, including this Constitution, includes that document or instrument as novated, altered or replaced from time to time;
- 1.2.6 a reference to a statute, code or other law includes regulations and other instruments made under it and includes consolidations, amendments, re-enactments or replacements of any of them;
- 1.2.7 other grammatical forms of defined words or expressions have corresponding meanings;
- 1.2.8 headings and the provision of a table of contents are for convenience only and do not affect the interpretation of this Constitution; and
- 1.2.9 a Member is to be taken to be present at a general meeting if the Member is present in person or by Representative.

1.3 Interpretation subject to Relevant Laws

- 1.3.1 This Constitution is to be interpreted subject to the Corporations Act and the Relevant Laws. If there is any inconsistency, Relevant Laws prevail.
- 1.3.2 To the extent that Relevant Laws require this Constitution to include provisions so that the Company can hold a registration or exemption status, those provisions are taken to form part of this Constitution.
- 1.3.3 Provisions which are optional replaceable rules under the Corporations Act do not apply to the Company.

2 PURPOSE OF THE COMPANY

The Company is a benevolent, charitable and not-for-profit institution established and operated in Australia. The Company's purpose is to provide social, development and humanitarian services, and/or financial and material assistance to or for the benefit of disadvantaged children, young people and their families and communities in countries where such services and assistance will support them in the advancement of their rights. In pursuit of this purpose, the Company will:

- 2.1.1 empower children, young people and communities to tackle the root causes of poverty, discrimination, exclusion and vulnerability, including gender inequality;
- 2.1.2 drive change relating to children and young people at local, national and global levels and promote adherence to and support for national laws and international conventions relating to the rights of children and young people to ensure that their rights are fulfilled;
- 2.1.3 operate as a non-sectarian organisation which is purely humanitarian in character and which shall be free from any allegiance to any group having a party political interest of any kind;
- 2.1.4 raise, receive or procure funds, food, clothing and other goods, services and materials for the benefit of children, young people, families and communities in any part of the world or for any other charitable and benevolent purpose; and
- 2.1.5 provide development programs for the alleviation of poverty and discrimination and the advancement of the education, health, habitat, livelihood and well-being of disadvantaged children and their families and communities in all countries where such programs may be needed because of poverty, discrimination, war, strife, disaster or other major social conflict or inequality.

3 BENEVOLENT AND CHARITABLE AND NOT-FOR-PROFIT NATURE OF THE COMPANY

3.1 Powers

Solely to carry out the Purpose, the Company has all the powers of an individual and a company limited by guarantee under the Corporations Act.

3.2 Income applied for the Purpose

The Company's income and property:

- 3.2.1 must be applied solely towards the Purpose; and
- 3.2.2 must not be paid or given to a Member, directly or indirectly, by way of dividend, bonus or otherwise, unless permitted by clause 3.3 or 3.5.

3.3 Permitted payments to Members

The Company may pay a Member in good faith with prior Board approval up to a fair and reasonable amount for:

- 3.3.1 expenses properly incurred for the Company;
- 3.3.2 goods or services supplied to the Company;
- 3.3.3 interest on money lent to the Company; or
- 3.3.4 rent for premises let to the Company.

3.4 Winding up

Subject to clause 3.6, the Company's surplus assets, after satisfying all liabilities on wind up or dissolution:

- 3.4.1 must not be paid or given to current or former Members; and

3.4.2 must be paid to eligible recipients selected under clauses 3.5.

3.5 **Eligible recipients**

3.5.1 A fund, authority or institution is eligible to receive any surplus under clauses 3.4 and 3.6 if it:

- (a) has not-for-profit, charitable and benevolent purposes similar to the Purpose;
- (b) prohibits its income and property from being paid to members on at least the terms of this clause 2.1.5;
- (c) is a charity registered under Relevant Laws if the Company had been;
- (d) is income tax exempt under Commonwealth taxation Laws if the Company had been; and
- (e) can receive deductible gifts under the Commonwealth taxation Laws if the Company could and on the same basis.

3.5.2 Eligible recipients to receive any surplus must be selected:

- (a) by Member special resolution;
- (b) failing clause (a), by Board resolution; and
- (c) failing clause 3.5.2(b), by application to the Supreme Court in the state or territory in which the Company's registered office is located.

3.6 **Public fund**

3.6.1 There shall be maintained a public fund known as the "Plan International Australia Overseas Aid Account".

3.6.2 The rules of the public fund will be the rules in force for the time being, as amended from time to time by the Board.

4 **PATRONS & AMBASSADORS**

The Board may from time to time request a person or persons to act as patrons or ambassadors of the Company.

5 **MEMBERSHIP**

5.1 **Limited liability of Members / guarantee**

5.1.1 A Member's liability is limited to the guaranteed amount in clause 5.1.2.

5.1.2 If the Company is wound up, each Member and former Member in the previous year must contribute up to twenty dollars (\$20.00) towards:

- (a) the Company's liabilities contracted before the person ceased to be a Member; and
- (b) costs, charges and expenses to wind up and adjust the rights of the contributories among themselves.

5.2 Classes of Members and eligibility

The Members of the Company comprise:

- 5.2.1 the classes of Members with the eligibility and rights set out in the table below with such additional rights as determined by the Board from time to time; and
- 5.2.2 such other voting or non-voting categories whose rights, benefits, privileges, entitlements, obligations, liabilities, eligibility and status will be determined by the Board.

Class	Eligibility	Rights (see also clause 5.3)
Voting Member	Must be an individual	Voting
Non-voting Member	Must be an individual	Non-voting
Director Member	The Directors for the time being	Voting

5.3 Member rights and obligations

- 5.3.1 Members with voting rights have the right to receive notice of, participate in the requisition of, attend, speak at, vote at and join in the demand for a poll at general meetings. The right to participate in the requisition of, speak at, vote at or join in the demand for a poll at a general meeting is suspended while membership fees are unpaid.
- 5.3.2 Non-voting Members have the right to receive notice of and attend the annual general meeting, but may not participate in the requisition of, speak at, vote at or join in the demand for a poll at that meeting.
- 5.3.3 Members have the right to appoint a Representative to exercise all the Member's rights.

5.4 Limit on number of Members

The number of Members must be between 25 and 100, unless the Members vary the limit in general meeting. The Board cannot admit a new Member if this would cause the limit to be exceeded.

5.5 Rights not transferrable

A person's membership rights and privileges:

- 5.5.1 apply only whilst the person is a Member; and
- 5.5.2 are personal and may not be transferred or transmitted.

5.6 Membership period and fees

The Board may determine:

- 5.6.1 the membership period (including common expiry dates) as well as how and when membership is renewed;
- 5.6.2 fees payable by Members, including any fee to apply for membership or be admitted as a Member; and

5.6.3 whether fees are refundable or non-refundable.

5.7 **Register of Members, including closure of register**

5.7.1 The Company must maintain a register of Members in accordance with the Corporations Act which contains the name, addresses for notices, Membership conditions and membership start/end dates for current and recent former Members.

5.7.2 The Board may establish Regulations to close the register to new Members for up to 60 days per year.

5.7.3 The Company may maintain a database of other Member details which is separate to the register of Members.

5.7.4 A Member may inspect the Register free of charge, to be kept at the Company's principal place of business, between the hours of 9.00am and 5.00pm on any Business Day.

5.8 **Change of Member details**

A Member must notify the Company if the Member's addresses for notices change within 28 days of the change.

6 **BECOMING AND CEASING TO BE A MEMBER**

6.1 **Admission of Members**

6.1.1 The Board may admit in its absolute discretion a person as Member upon their application to the Company in accordance with the requirements specified in the Regulations from time to time.

6.1.2 The Board must consider membership applications as soon as reasonably practicable, and no later than the first Board meeting after an application has been received.

6.1.3 The Board need not provide reasons for refusing to admit a person as Member.

6.1.4 Applicants must support the Purpose, consent to becoming a Member, and agree to abide by this Constitution.

6.1.5 Successful and consenting applicants become Members when added to the Register of Members. Director Members are automatically deemed to be admitted.

6.2 **Resignation of Members**

6.2.1 A person may resign as Member by 30 days' prior written notice to the Company.

6.2.2 The resignation takes effect when the Company receives the Member's notice or on a later date specified in the notice.

6.3 **Ceasing to be a Member**

A person automatically ceases to be a Member if the person:

6.3.1 resigns their Membership in accordance with clause 6.2;

- 6.3.2 has not paid an amount payable to the Company for 3 months after the due date and the Board resolves to terminate the Membership of that Member;
- 6.3.3 is expelled as a Member in accordance with this Constitution;
- 6.3.4 ceases to be eligible to be a Member in the relevant class;
- 6.3.5 becomes untraceable for 6 months because the Member cannot be contacted using the address on the register of Members and the Board resolves that the person should cease to be a Member;
- 6.3.6 dies or, in the case of a body corporate, is wound up or deregistered;
- 6.3.7 becomes bankrupt, or makes any arrangement or composition with the Member's creditors generally; or
- 6.3.8 becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health.

6.4 **Expulsion of Members**

- 6.4.1 If the Board resolves that it is not in the best interests of the Company for a person to remain as a Member or that a Member has engaged in unsatisfactory Member conduct as determined by the Regulations, that person is thereupon expelled as a Member.
- 6.4.2 The Board must give notice to a Member of a meeting of the Board at which the resolution for the Member's expulsion is proposed:
 - (a) setting out the place, date and time of the meeting;
 - (b) setting out the proposed resolution and the grounds for the proposed expulsion; and
 - (c) informing the Member that the Member may submit written submissions to the Board before the resolution is put to the vote of the Board and may attend the meeting at which the resolution for the Members expulsion is proposed.

7 **GENERAL MEETINGS**

7.1 **Convening an annual general meeting**

- 7.1.1 The Board may convene an annual general meeting to be held at least once every year. The requirements for convening an annual general meeting may otherwise be set out in the Corporations Act or Relevant Laws.
- 7.1.2 The business of an annual general meeting is to:
 - (a) consider the Board's, financial and auditor's report;
 - (b) declare the Director appointments;
 - (c) appoint an auditor if that office is or will become vacant;
 - (d) consider any other matter required by the Corporations Act or Relevant Laws; and

- (e) consider any special business, the general nature of which is specified in the notice of meeting.

7.2 **Convening a special general meeting**

- 7.2.1 General meetings other than annual general meetings are called special general meetings.
- 7.2.2 The Board must convene and hold special general meetings of the Members if required by the Corporations Act or Relevant Laws.
- 7.2.3 Any Director or the Board may convene special general meetings of the Members.
- 7.2.4 If the Board receives a signed request from the Members with at least five percent (5%) of the votes that may be cast at any general meeting the Board must convene a special general meeting within 21 days after the date of the request.
- 7.2.5 The notice of special general meeting must specify the general nature of special business, unless the Corporations Act or Relevant Laws require otherwise.

7.3 **Notice of meeting**

- 7.3.1 At least 21 days' notice of any general meeting must be given specifying the meeting's place, date and time, unless the Corporations Act or Relevant Laws require or permit some other period of notice.
- 7.3.2 Shorter notice of a general meeting may be given if it is agreed to:
 - (a) in the case of an annual general meeting, by all of the Members entitled to attend and vote at the meeting; and
 - (b) in the case of a special general meeting, by 95% of the Members entitled to attend and vote at the meeting.
- 7.3.3 The notice must:
 - (a) state the general nature of the business to be transacted;
 - (b) any proposed resolutions;
 - (c) the names of proxies that have been appointed (if any); and
 - (d) contain a statement informing the Members of the right to appoint a proxy.
- 7.3.4 Notice of every general meeting must be given in writing in accordance with clause 12.6 to:
 - (a) every Director;
 - (b) every Member entitled to attend who has supplied an address for notices to the Company; and
 - (c) the Company's auditor.
- 7.3.5 No other person is entitled to receive notices of general meetings.
- 7.3.6 A general meeting and any resolution passed at the meeting is not invalid merely because of:

- (a) the accidental omission to give notice of the meeting pursuant to this clause 7.3 or clause 7.4; or
- (b) the non-receipt of any such notice.

7.3.7 The auditor must be notified of, and may attend, any general meeting. The auditor is entitled to be heard at any general meeting they attend on any part of business which concerns the auditor.

7.4 **Postponement**

The Board may postpone, relocate or cancel a general meeting which it convened by giving at least 5 days' notice to the Members. Clause 7.3.1 does not apply to a meeting requisitioned by Members or convened by the Members, by individual Directors under clause 7.2.3 or by court order.

7.5 **Quorum**

7.5.1 A general meeting may not transact business unless a quorum is present when the meeting proceeds to business.

7.5.2 The quorum for general meetings is 5 Members present in person or by proxy. If a Member has appointed more than one proxy, and more than one appointed proxy attends a meeting, only one will be counted for the purposes of determining whether there is a quorum.

7.5.3 If a quorum is not present within 30 minutes of the time scheduled to start the general meeting:

- (a) the meeting, if requisitioned by a Director or Members, is dissolved; and
- (b) in any other case, shall be adjourned in accordance with clause 7.7.

7.6 **Meeting chair**

7.6.1 The Chair may chair a general meeting.

7.6.2 If the Chair is not present and willing to act the Deputy Chair may chair.

7.6.3 If the Chair and Deputy Chair are not present and willing to act:

- (a) the Directors present may choose one of their number to chair the meeting; and
- (b) if no Director is present, or if all the Directors present decline to chair, the Members present must choose one of their number to chair. If the Members do not elect a chair, the meeting is adjourned until the same day, time and place in the following week

7.6.4 In addition to powers conferred by law, the meeting chair may:

- (a) determine the meeting's conduct and procedures to ensure proper and orderly discussion or debate;
- (b) make rulings without putting a question to the vote, or terminate discussion or debate and require that matter to be put to a vote;

- (c) refuse to allow debate or discussion on any matter which is not ordinary or special business; and
- (d) refuse any person admission to a general meeting (including for causing offence or disruption), or expel the person from the general meeting and not permit them to return.

7.6.5 All procedural decisions by the meeting chair are final.

7.7 **Adjournment**

7.7.1 The meeting chair:

- (a) may, if it appears to the chair that it is likely to be impracticable to hold or to continue to hold the meeting because of the number of Members who wish to attend but who are not present; and
- (b) must, if so directed by a majority of Members present (in person or by proxy) at a meeting for which there is a valid quorum,

adjourn the meeting to some other date, time and place.

7.7.2 The adjourned meeting may only transact unfinished business from the original meeting.

7.7.3 If a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as required for the original meeting. It is not otherwise necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

7.8 **Voting – show of hands / poll**

7.8.1 Resolutions at general meetings must be voted on by a show of hands. Each Member has a single vote, whether in person or by proxy.

7.8.2 Before a vote is taken, the meeting chair must inform the Members present whether any proxy votes have been received and if so, how the proxy votes are to be cast.

7.8.3 The meeting chair does not have a second or casting vote.

7.8.4 The meeting chair must declare whether resolutions were carried, carried unanimously, carried by particular majority or lost. These voting results must be minuted.

7.8.5 The minutes of the voting results as signed by the chair of the meeting are conclusive without the need to record the number or proportion of, or manner in which votes were cast.

7.8.6 A poll may be demanded by at least three Members present in person or by proxy and entitled to vote, or Members with at least 5% of the votes that may be cast on the resolution to a poll. The meeting chair will determine whether a poll will be taken.

7.8.7 A demand for a poll may be made:

- (a) before a vote on a show of hands is taken;
- (b) before the result being declared; or

(c) immediately after the result of a vote on a show of hands is declared, and may be withdrawn.

7.8.8 A poll to elect a meeting chair or adjourn the meeting must be taken immediately. Polls must otherwise be taken at that meeting in the manner directed by the meeting chair.

7.8.9 The meeting chair must decide all voting disputes, and that decision is final.

7.9 Proxies

7.9.1 A Member may appoint a proxy to act on the Member's behalf at any general meeting at which that Member may attend and vote.

7.9.2 A proxy need not be a Member.

7.9.3 A proxy is not entitled to vote if the Member who has appointed the proxy is present at the meeting.

7.9.4 A proxy is entitled to show on a show of hands.

7.9.5 If a Member is entitled to cast two or more votes at a meeting, the Member may appoint two proxies. If the appointment does not specify the proportion or number of votes each proxy may exercise, each proxy may exercise half the votes.

7.9.6 For the instrument appointing a proxy to be valid, it must be:

- (a) in writing and signed by the appointor or the duly authorised attorney of the appointor;
- (b) in the form complying with the Corporations Act or some other Board approved form;
- (c) lodged with the Company at least 48 hours before the time for holding the meeting or adjourned meeting; and
- (d) if signed pursuant to a power of attorney, a copy of the power of attorney (certified as a true copy of the original) must be attached to the proxy instrument.

7.9.7 A proxy must vote in accordance with the direction given in the instrument appointing the proxy, unless no direction is given in which case the proxy is entitled to vote as the proxy considers appropriate.

7.9.8 If a proxy is appointed to vote on a particular resolution by more than one member, that proxy:

- (a) may vote on a show of hands if each instrument direct the proxy to vote the same way, or does not direct the proxy how to vote; and
- (b) may not vote on a show of hands unless each instrument directs the proxy to vote in the same way.

7.9.9 A vote given according to the proxy instrument is valid despite:

- (a) the death, or unsoundness of mind, of the appointor; or

- (b) revocation of the instrument or of the authority under which the instrument was executed,

if no knowledge in writing of that fact was received by the Company before commencing the meeting or adjourned meeting at which the instrument is used.

7.9.10 The appointment of a proxy may be revoked by the appointor by notice to the Company by the appointor or duly authorised attorney of the appointor, stating that the appointment is revoked or that a new proxy is appointed.

7.9.11 The Company is not responsible for ensuring that any directions provided in the instrument appointing the proxy or the way in which a proxy is to vote on a particular resolution are complied with.

7.10 Use of technology

General meetings may be held at more than one place, provided that the technology that is used enables each Member present at all places the meeting is held to clearly and simultaneously communicate with every other such Member.

7.11 Circular resolution

7.11.1 The Board may if it thinks fit submit any question or resolution to the vote of all Members entitled to a vote at a general meeting by circular resolution, unless the Corporations Act or Relevant Laws require a general meeting.

7.11.2 The Board may determine in the Regulations:

- (a) the form of the circular resolution;
- (b) the polling date;
- (c) the method for responding to the circular resolution; and
- (d) whether voting on the circular resolution is to be by secret ballot.

7.11.3 A resolution approved by a majority or specific majority of the Members has the same force and effect as such a resolution passed in a general meeting

8 BOARD

8.1 Structure of Board / Number of Directors

The Board will comprise between 5 and 12 Directors, unless some other limit is approved by the Members in general meeting.

8.2 Appointment of Directors

8.2.1 Subject to this Constitution, the Company may by resolution at a general meeting appoint a natural person as a Director.

8.2.2 If a person is appointed as a Director by the Board, the Company must confirm the appointment at the next annual general meeting. If the appointment is not confirmed, the person ceases to be a Director at the conclusion of the annual general meeting.

8.3 Eligibility to be a Director

A person is eligible to become a Director if he or she:

- 8.3.1 is a Member;
- 8.3.2 is a:
 - (a) sponsor of a child support program (or equivalent) conducted by the Company; or
 - (b) financial supporter of the Company of a value at least equivalent to that of a sponsor of a child support program conducted by the Company, and
- 8.3.3 is over the age of 18 years;
- 8.3.4 consents in writing to become a Director;
- 8.3.5 is not prohibited, disqualified or otherwise prevented from being a Director under the Corporations Act or Relevant Laws;
- 8.3.6 is not prohibited from working with children or vulnerable persons under State/territory legislation; and
- 8.3.7 is not an employee of the Company.

8.4 Limits on period of office as a Director

Directors must not serve more than three consecutive full terms in office after their appointment at an annual general meeting (or, where a Director is not appointed at a general meeting, at the third annual general meeting after the annual general meeting at which the Director's appointment was confirmed), unless otherwise approved by a special resolution of the Members present and voting at a general meeting.

8.5 Term of office of Directors

A Director holds office for a term of three Years:

- 8.5.1 commencing immediately after the annual general meeting at which he or she was appointed;
- 8.5.2 concluding at the end of the third annual general meeting after the one at which he or she was appointed.

8.6 Casual vacancies

8.6.1 If a casual vacancy occurs for any Director office, the Board may appoint another eligible person in his or her place until the end of the next annual general meeting. The Members must then elect a person to fill the position in accordance with clause 8.2. The Board may continue to act despite vacancies on the Board. However, if there are less than three Directors, the Board may only:

- (a) act in the case of emergencies;
- (b) appoint persons to fill casual vacancies; or
- (c) convene a general meeting.

8.7 Office bearers

The Board may elect and remove the following office bearers from the Directors:

8.7.1 Chair; and

8.7.2 such other office bearers with titles determined from time to time by the Board.

8.8 Resignation of Directors

8.8.1 A Director may resign as Director by written notice to the Company.

8.8.2 The resignation takes effect when the Company receives the Director's notice or on a later date specified in the notice.

8.9 Ceasing to be a Director

8.9.1 The Members may remove any Director in accordance with the Corporations Act.

8.9.2 A directorship automatically ceases if the Director:

- (a) resigns as a Director in accordance with clause 8.8;
- (b) dies or is physically incapable of fulfilling his or her duties as a Director;
- (c) was but ceases to be a Member;
- (d) becomes disqualified from being a Director pursuant to the Corporations Act or Relevant Laws;
- (e) is absent for more than three consecutive Board meetings without Board permission and the Board resolves that the Director's office should be vacated;
- (f) commits an indictable offence which is punishable by more than 12 months' imprisonment, or commits any other offence involving fraud, theft, dishonesty or violence, or breaches any Court order regarding family violence, or any similar offence or breach;
- (g) becomes a bankrupt or makes any arrangement or composition with personal creditors generally; or
- (h) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health.

8.10 Director remuneration and reimbursement

8.10.1 The Directors are not entitled to any fees or remuneration for undertaking the ordinary duties of a Director.

8.10.2 Despite clause 2.1.5, the Directors may be reimbursed for reasonable travel and other expenses incurred by them when engaged in the Company's business, attending meetings or otherwise in carrying out the duties of a Director where payment does not exceed any amount previously approved by the Board.

8.10.3 Despite clause 2.1.5, the Directors may be paid for any service rendered to the Company in a professional or technical capacity outside the scope of the Director's ordinary duties where:

- (a) the service and amount payable is on reasonable and proper terms; and
- (b) the provision of that service has the Board's prior approval.

9 BOARD POWERS

9.1 Management vests in Board

9.1.1 The Board is responsible for the governance, business and affairs of the Company. In addition to the specific powers conferred on the Board by this Constitution, the Board may exercise all the Company's powers which are not by the Corporations Act, Relevant Laws or this Constitution required to be exercised by the Members in general meeting.

9.1.2 The powers under clause 9.1.1 are subject to:

- (a) this Constitution;
- (b) the Corporations Act and Relevant Laws; and
- (c) such resolution, not being inconsistent with those provisions, as may be passed by the Members in general meeting.

9.1.3 A resolution under clause 9.1.2 does not invalidate any prior act of the Board which would have been valid before the resolution was passed or made.

9.2 Power to delegate

9.2.1 The Board may delegate its powers and functions in writing to:

- (a) an officer or employee of the Company; or
- (b) a committee under clause 11 that is constituted only by Directors.

9.2.2 The Board may amend or revoke the terms of its delegation at any time.

9.3 Power to appoint Chief Executive Officer

9.3.1 The Board may appoint a Chief Executive Officer on such terms and conditions as the Board determines from time to time.

9.3.2 The Board may remove a Chief Executive Officer, subject to the terms of any agreement between the Company and the Chief Executive Officer.

9.3.3 The Chief Executive Officer is entitled to attend Board meetings and general meetings, if so directed by the Board from time to time.

9.3.4 The Chief Executive Officer will have the responsibilities determined by the Board.

9.4 Power to appoint Company Secretary

9.4.1 The Board must appoint at least one Company Secretary who is a natural person on such terms and conditions as the Board determines from time to time.

9.4.2 The Board may remove any appointed Company Secretary at any time. A Company Secretary may, but need not, be a Director or the Chief Executive Officer.

9.4.3 A Company Secretary may attend Board meetings and general meetings, if so directed by the Board from time to time.

9.4.4 The Company Secretary will have the responsibilities set out in the Corporations Act and Relevant Laws.

9.5 **Power to make Regulations**

9.5.1 The Board may from time to time make, vary and rescind Regulations in relation to the Company.

9.5.2 The Regulations for the time being in force, and which are not inconsistent with this Constitution, are binding on Members and have full effect accordingly.

10 **BOARD MEETINGS**

Subject to this clause 10, the Board may meet to consider business, adjourn and otherwise regulate its meetings as it thinks fit.

10.1 **Number of meetings**

The Board must meet at least 4 times per year.

10.2 **Convening meetings**

The Company Secretary must arrange a Board meeting:

10.2.1 in accordance with the determination of the Board; or

10.2.2 on the requisition of 3 or more Directors.

10.3 **Notice of meeting**

10.3.1 At least 5 days' notice of any Board meeting must be given unless the Board decides otherwise or in emergencies.

10.3.2 The notice must specify:

(a) the business to be transacted;

(b) the date, time and place; and

(c) any proposed resolutions.

10.3.3 The Board may only transact business of a routine nature unless notice of any other business has been given either in the notice convening the meeting or in some other notice given at least 3 days' before the meeting.

10.3.4 The decision of the meeting chair as to whether business is routine is conclusive.

10.4 **Quorum**

10.4.1 The quorum for a Board meeting is at least 5 of the Directors present in person throughout the meeting. A meeting at which a quorum is present may exercise all powers and discretions of the Board.

10.4.2 If a Board meeting is adjourned due to lack of quorum, the Chair must set a further date for the adjourned meeting.

10.5 Meeting chair

- 10.5.1 The Chair may chair a Board meeting.
- 10.5.2 If the Chair is absent the Deputy Chair may chair. In the absence of the Chair within 15 minutes after the time appointed for the Board meeting, or the Chair is unwilling or unable to act, the Directors may appoint a meeting chair from among their number.

10.6 Voting

- 10.6.1 Each Director present and entitled to vote at a Board meeting has one vote. Proxy voting and alternate Directors are not permitted.
- 10.6.2 Questions arising at a Board meeting must be decided by a majority of votes. Such a decision is for all purposes a decision of the Board.
- 10.6.3 In the event of an equality of votes the meeting chair does not have a second or casting vote.

10.7 Use of technology

The Board may hold a technology enabled meeting if:

- 10.7.1 all Directors (other than any Director on a leave of absence) have access to the technology (which must be a generally accepted technology for Board meetings or a technology approved by each Director) to be used for the meeting; and
- 10.7.2 those Directors participating by technological means can hear, or can hear and read the communications of all other participating Directors.

10.8 Circulating resolutions

- 10.8.1 The Board may make resolutions without meeting, provided that:
 - (a) a majority of the Directors provide written support for the proposed resolution; and
 - (b) no Director requests to discuss the proposed resolution in a Board meeting.
- 10.8.2 Any written resolution referred to in this clause 10.8 may be made using electronic means.
- 10.8.3 The Board may make Regulations relating to the consideration and approval of written resolutions.

10.9 Conflicts and personal interests

- 10.9.1 A Director who has a material personal interest in a matter that relates to the Company's affairs must give the other Directors written notice of the interest to the Board as soon as practicable, outlining the nature and extent of the interest and how it relates to the Company unless the Corporations Act or Relevant Laws require otherwise.
- 10.9.2 To the maximum extent required by Law, a Director who has a material personal interest in a matter that is being considered by the Board must not be present while the matter is being considered, or vote on the matter.

10.10 Minutes

- 10.10.1 The Board must ensure that minutes of all proceedings, resolutions and declarations of general, Board, committee meetings (and meetings of any other Board entity) are recorded in a minute book within one month after the relevant meeting is held.
- 10.10.2 The minutes must be signed by the meeting chair at which the proceedings took place or by the meeting chair of the next succeeding meeting.
- 10.10.3 Minutes entered and signed are prima facie evidence of the proceedings to which they relate.

10.11 Validity of acts / procedural defects

- 10.11.1 A Board act or decision will not be invalid by reason only of a defect or irregularity in connection with the appointment or confirmation of a Director.
- 10.11.2 For entered and signed minutes, unless the contrary is proved:
 - (a) the meeting is deemed to have been convened and held;
 - (b) all proceedings that are recorded in the minutes as having taken place are deemed to have taken place; and
 - (c) all appointments that are recorded in the minutes as having been made are deemed to have been validly made.

11 COMMITTEES**11.1 Board's power to establish committees**

The Board may establish committees as follows:

- 11.1.1 a committee will comprise three or more committee members, of which at least two must be a Director;
- 11.1.2 the committee members otherwise need not be a Director or Member;
- 11.1.3 the committee has the purpose set out in its charter approved by the Board, and may undertake the powers and functions delegated to it by the Board; and
- 11.1.4 in the absence of any provision in the committee charter, meetings and proceedings of any committee are governed by the provisions of clause 10.

12 ADMINISTRATION**12.1 Change of name**

- 12.1.1 The Members may change the Company's name by special resolution in accordance with the Corporations Act. Such a resolution authorises the Board to update all references to the Company's name in this Constitution.
- 12.1.2 Despite clause 12.1.1, the Board may omit or remove "Limited" from the Company's name through application under the Corporations Act.

12.2 **Amendment of Constitution**

- 12.2.1 The Members may amend this Constitution by special resolution in accordance with the Corporations Act and Relevant Laws.
- 12.2.2 If the Company is registered under Relevant Laws, a special resolution under clause 12.2.1 (unless it expressly provides otherwise) does not take effect if it would cause the Company to lose any entitlements to registration under Relevant Laws.
- 12.2.3 Any amendment to this Constitution takes effect on the date of the special resolution, or if a later date is specified, that later date.

12.3 **Accounts**

The Board must cause:

- 12.3.1 proper accounting and other records to be kept in accordance with the requirements of the Corporations Act and Relevant Laws;
- 12.3.2 financial statements to be made and laid before each annual general meeting as required by the Corporations Act and Relevant Laws; and
- 12.3.3 all negotiable instruments and receipts for money paid to the Company to be signed, drawn, accepted, endorsed or otherwise executed in such manner as the Board may determine.

12.4 **Audits**

A properly qualified auditor must be appointed and the auditor's duties regulated in accordance with the requirements of the Corporations Act and Relevant Laws.

12.5 **Records and inspection**

- 12.5.1 A Member (other than a Director) is not entitled to inspect any document of the Company, except as provided by law or authorised by the Board.
- 12.5.2 The Board may determine that any person who is to cease or has ceased to be a Director may continue to have access to and inspect any financial record and any other record of the Company relating to the time during which the person was a Director.

12.6 **Service of notices**

- 12.6.1 Notices must be in writing and may be given by the Company to any Member or Director:
- (a) in person;
 - (b) by sending it by post to the Member at the Member's registered address; or
 - (c) by sending it to the address, facsimile number, e-mail address or other address supplied for receiving notices.
- 12.6.2 A notice sent by post is deemed to have been given 6 Business Days after it was posted. A notice sent by fax, or by other electronic means, is deemed to have been given on the next business day after it was sent.

12.7 **Indemnity of officers**

To the extent permitted by law, the Company:

- 12.7.1 indemnifies any person who is or has been an officer of the Company against a liability incurred by the person as such an officer to another person (other than the Company or a related body corporate); and
- 12.7.2 indemnifies a person who is or has been an officer of the Company against a liability for costs and expenses incurred by the person in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted or in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Corporations Act.

12.8 **Insurance**

The Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been an officer of the Company against a liability incurred by the person as such an officer, except in circumstances prohibited by the Corporations Act.

12.9 **Seal**

- 12.9.1 The Board will determine whether or not the Company is to have a seal (known as the common seal) and, if so, will provide for the safe custody of such seal.
- 12.9.2 The seal, if any, of the Company may only be affixed to any instrument with the Board's authority.
- 12.9.3 The affixing of the seal must be attested by the signatures of two Directors or a Director and Secretary.