Corporations Act, 2001

Constitution

of

So They Can

A Company limited by Guarantee

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Constitution
of
So They Can

1. Preliminary

1.1 Definitions

In this Constitution, unless the context otherwise requires:

"Act" means the *Corporations Act 2001*;

"Annual Subscription" means the fee payable each year by Members, as determined by the Board under clause 2.3;

"Board" means the Directors of the Company from time to time acting as a Board of directors;

"Chairperson" means the Chairperson of the Board;

"Chief Executive Officer" means the person, if any, appointed from time to time by the Board by Resolution pursuant to clause 11.1;

"Committee" means a committee appointed by the Board under clause 9.10;

"Company" means So They Can.

"Directors" means the directors of the Company from time to time;

"Entrance Fee" means the initial joining fee payable by Members, as determined by the Board under clause 2.3, if any;
"Financial Year" has the same meaning as in the Act

"Member" means a person who is granted membership in the Company and registered in the Members' Register;

"Members' Register" means the register of the Members to be kept in accordance with the Act;

"Objectives" means the objectives of the Company as set out in clause 1.5;

"Replaceable Rules" means the provisions of the Act which would but for the Constitution apply as replaceable rules under section 141 of the Act;

"Resolution" means a resolution that has been passed by the Board or by Members in accordance with this constitution, including a Special Resolution;

"Secretary" means a person appointed as Secretary by the Board from time to time, who may or may not be a Director;

"Special Resolution" means, subject to the Act, a resolution that has been passed by at least 75% of the votes cast by Members entitled to vote on the Resolution;

"Vice-Chairperson" means a Vice-Chairperson of the Board, as appointed by the Board from time to time;

"Written" or **"In Writing"** includes printing, lithography, photography and other means of representing or reproducing words in a visible form.

1.2 Interpretation

In this Constitution, unless the context otherwise requires:

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

(b) references to the Act, any section, regulation or schedule of the Act or any other legislation are references to that law as amended, consolidated, supplemented or replaced;

(c) headings are for convenience only and must be ignored in interpreting this Constitution; and

(d) references to any person include references to any individual, company, body corporate, association, partnership, firm, joint venture, trust or government agency.

1.3 Constitution subject to the Act

This Constitution is subject to the Act and where there is any inconsistency between a clause and the Act, the Act prevails to the extent of the inconsistency.

1.4 Replaceable rules not to apply

The Replaceable Rules are displaced by this Constitution and do not apply to the Company.

1.5 Objectives of the Company

(a) The Objectives of the Company are to operate as a non-profit Company for relief of poverty and suffering and sustainable development to aid various communities and poor throughout the world and in particular its principal purpose is:

(i) To identify quality community organisations, form partnerships, and establish and develop links with local community organisations or in-country partners in developing countries;

(ii) To work with local community organisations and to assist in establishing developmental programs in co-operation with those organisations to meet the community's needs;

(iii) To provide assistance for the sustainable development of communities through local community participation and fair distribution, fostering improved local community conditions;

(iv) To provide or assist in the provision of the relief of poverty and suffering either directly to the persons concerned or in co-operation with other agencies and organisations;

(v) To support charitable and educational work of local community organisations;

(vi) To make distributions of financial, in-kind and material donations directly to the persons concerned or in partnership with local community and in-country organisations for the purposes of relief;

(vii) To make distributions of financial, in-kind and material donations to charitable or educational local community organisations for the sole purpose of the furtherance of their development, charitable or educational goals and on terms that will ensure those moneys are used to promote the Objectives of the Company;

(viii) To monitor the use of donations to achieve specified program goals;

(ix) To provide educational programs and opportunities to increase awareness of specific program issues and goals;

(x) To make provision for or assist in the planning, building and maintenance of educational facilities and schools including through the support of local staff, teachers and local school management to build local capacity and meet local needs;

(xi) To make provision for or assist in the planning, building and maintenance of other local community initiatives for the sustainable development of those communities;

(xii) To make provision for or assist in the education and information of local communities;

(xiii) To make provision for or assist in the creation of social businesses where the profits made by the social business are used to promote the Objectives of the Company;

(xiv) To undertake, promote or assist research into the needs of local community organisations for development, relief of poverty or suffering;

(xv) To provide programs, donations and systems for development of local business including micro-finance and support;

(xvi) To assist in or make provision for the training of persons to further the Objectives of the Company;

(xvii) To undertake cooperative activities with other Australian and foreign overseas aid agencies where possible;

(xviii) To adopt codes, philosophies and management practices to further the relief and development objectives of the Company;

(xix) To do all such other things as may appear to be incidental or conducive to the attainment of any or all of the above objects; and

(xx) To adopt any additional objects from time to time.

In furtherance of clause 1.5(a) the Company shall establish and maintain a public fund to be a developing country relief fund in accordance with clause 21 to be called "So They Can Overseas Aid Fund".

1.6 Income and Property

(a) The income and property of the Company wherever derived shall be used and applied solely in promotion of its above-mentioned Objectives and no portion shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or otherwise to Members, Directors or Officers of the Company except as may be provided in sub-clause 1.6(b).

(b) If such payments are approved by the directors, nothing in this Constitution shall prevent the payment in good faith of remuneration to any officers or employees of the Company or to any Member of the Company in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual way of business nor prevent the payment of interest at a reasonable and proper rate on money borrowed from any Member of the Company or reasonable and proper rent for premises demised or let by any Member to the Company and subject to this the Company is otherwise prohibited from paying fees to its directors.

1.7 Fundraising

Funds raised by means of a fundraising appeal within the meaning of the *Charitable Fundraising Act 1991* (NSW) and any corresponding state legislation that applies must be maintained in accordance with those Acts.

2. Membership

2.1 Categories of membership

The Company will consist of:

(a) Ordinary Members; and

(b) any other class of Members determined by the Board from time to time.

2.2 Application for membership

A person may apply for membership in such form as the Board may from time to time prescribe.

2.3 Admission to membership

(a) Every applicant for membership must:

(i) be an individual, partnership, corporation or organisation that:

(A) is interested in and agrees to support the Objectives of the Company;

(B) agrees to abide by this Constitution as amended from time to time; and

(C) meets any additional criteria established for membership in the Company as may be adopted by the Board and approved by the Members from time to time;

(ii) sign an application for membership in such form as may from time to time be prescribed by the Company; and

(iii) undertake, as a condition of admission, to pay to the Company such entrance fee and annual subscription, if any, as may from time to time be payable to the Company in accordance with this Constitution.

(b) The Board may in their discretion recommend the applicant for admission as a Member.

(c) Admission of a new Member requires the consent of the Board.

(d) At the next meeting of the Board after the receipt of any application for membership, that application shall be considered by the Board, which shall thereupon determine upon the admission or rejection of the applicant. In no case shall the Board be required to give any reason for the rejection of an applicant;

(e) Upon consent of the Board by resolution, and payment of the Entrance Fee and first Annual Subscription, if any, the applicant shall become a Member of the Company.

(f) If the payment of the Entrance Fee and Annual Subscription is not made within 2 calendar months after the date of the notice of the Board's acceptance of the application for membership, the Board may in its discretion cancel its acceptance of the application for membership of the Company.

(g) The Entrance Fee and Annual Subscriptions ("fees") payable by Members shall be as prescribed from time to time at the discretion of the Board. The Board, in its absolute discretion, may determine from time to time that different fees will apply to different categories of membership and/or that no fees shall be determined for all or any categories of membership.

(h) All Annual Subscriptions shall become due and payable in advance on 30th June in every year.

(i) The Board may, if hardship or other sufficient cause is shown, reduce or remit the Entrance Fee or Annual Subscription payable by a Member.

(j) The Secretary must enter in the Members' Register the name of any person admitted as a Member.

2.4 Rights and privileges of membership

Without limiting any other rights conferred on Members, Members have the right to receive notice of, attend and vote at any general meeting of the Company.

2.5 Cessation of membership

(a) If the subscription of a Member remains unpaid for a period of two calendar months after it becomes due, and provided that the Member has been sent a written notice of the default but has failed to make payment within the period specified in that notice, the membership of the Member may be suspended or cancelled by Resolution of the Board.

(b) Where the membership of any Member has been suspended or cancelled in accordance with 2.5(a), the Board may, in its absolute discretion, reinstate the Member on payment of all arrears.

(c) A Member may at any time, by giving notice in writing to the Secretary, resign their membership of the Company, but shall continue to be liable for any annual subscription and all arrears due and unpaid as at the date of their resignation and for all other moneys due by them to the Company and in addition for any sum for which they are liable as a Member of the Company under clause 2.7.

(d) The Board shall have the power to censure, suspend or expel a Member from the Company by way of Resolution, unless all the Members unanimously agree otherwise, if that Member wilfully refuses or neglects to comply with the provisions of this Constitution or is guilty of conduct which in the opinion of the Board is prejudicial to the interests of the Company.

2.6 Liability of Members limited

The liability of the Members of the Company is limited.

2.7 Guarantee by Members

Every Member of the Company undertakes to contribute to the property of the Company, in the event of the Company being wound up while the Member is a member or within one year after the Member ceases to be a member, for payment of the debts and liabilities of the Company contracted before the Member ceases to be a member and of the costs, charges and expenses of winding up and for adjustment of rights of the contributors among themselves, such amount as may be required, not exceeding $1.00.

3. General Meetings

3.1 Annual general meetings

Subject to the Act, a general meeting of the Company called the "annual general meeting" may be held, and if required by the Act must be held one time (1) in every calendar year and no later than five months after the end of the Financial Year of the Company. All other meetings of the Company will be called "general meetings" and may be convened at any time.

3.2 Deemed holding of annual general meeting

An annual general meeting will be deemed to have been held if the Company has held a general meeting at which Resolutions have been passed dealing with all matters required to be dealt with at an annual general meeting. This does not affect any obligation to hold an annual general meeting if required by the Act.

3.3 Convening of general meetings

In relation to the convening of general meetings:

(a) the Board may convene general meetings to be held at any place the Directors think fit;

(b) a general meeting must be convened by the Directors as soon as practicable following a requisition of Members in the manner provided for by the Act.

3.4 Notice of general meetings

(a) Subject to the Act, at least fourteen (14) days notice of every general meeting must be given in the manner provided by this Constitution to the Members entitled to attend, and the persons entitled under this Constitution to receive notices.

(b) Except as permitted by the Act, at least twenty one (21) days notice of every general meeting at which it is proposed to pass a Special Resolution must be

given in the manner provided by this Constitution to the Members entitled to attend, and the persons entitled under this Constitution to receive notices.

3.5 Contents of notice of general meetings

Every notice convening a general meeting must:

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

(b) set out the rights of and requirements for a Member to appoint a proxy;

(c) be accompanied by an instrument of proxy in the form which complies with the Act and this Constitution, or in any other form as the Directors may from time prescribe or accept; and

(d) otherwise comply with the requirements of section 249L of the Act.

3.6 Omission to give notice

Except as prescribed by the Act, the accidental omission to give notice of a meeting to any Member or the non-receipt of notice of a meeting by any Member will not invalidate any of the proceedings at that meeting.

4. Proceedings at the General Meeting

4.1 How Members may participate

A Member may attend an annual general meeting or general meeting at which it is entitled to be present, and is deemed to be present, in any of the following ways:

(a) in person;

(b) by attorney;

(c) by proxy;

(d) in the case of a Member that is a body corporate, by a representative appointed by section 250D of the Act.

4.2 Representatives of Bodies Corporate

Where:

(a) a person present at a meeting is authorised to act as the representative of a body corporate at the meeting under an authority given by the body corporate under Section 250D of the Act; and

(b) the person is not otherwise entitled to be present at the meeting,

the body corporate will, for the purposes of this Constitution, be deemed to be present in person at the meeting.

4.3 Business at annual general meeting

The business of an annual general meeting will be:

(a) to receive and consider the accounts of the Company;

(b) to receive and consider the reports of the Directors;

(c) to receive and consider the reports of the auditors; and

(d) to transact any other business which may be properly brought before the meeting.

4.4 Quorum for general meeting

Subject to clause 4.5, no business will be transacted at any general meeting unless a quorum is present at the beginning of the meeting. A quorum is constituted by two (2) Members of the Company present, in person or by attorney or proxy unless the Company has only one member in which case a quorum is one.

4.5 No quorum

(a) If a quorum is not present within thirty minutes after the time appointed for the meeting, any meeting convened on a requisition of Members will be dissolved.

(b) Any other meetings at which quorum is not present within thirty minutes after the time appointed for the meeting will be adjourned to the same day in the next week at the same time and place, or to such other day, time and place as the Directors may appoint by notice to the Members entitled to attend.

(c) If at the adjourned meeting a quorum is not present within thirty minutes after the time appointed for the meeting, the meeting will be dissolved.

4.6 Chairperson of general meeting

(a) The Chairperson or, in the Chairperson's absence, a Vice Chairperson is entitled to take the chair at every general meeting.

(b) If there is no Chairperson or any Vice Chairperson or if at any meeting the Chairperson or any Vice Chairperson is not present within fifteen minutes after the time appointed for holding the meeting or if the Chairperson or any Vice Chairperson is unwilling to act, the Directors present may chose a Chairperson.

(c) If the Directors do not choose a Chairperson, the Members present must choose one of the Directors to be Chairperson.

(d) If no Directors are present or willing to take the chair, the Members must choose someone to be Chairperson.

4.7 Powers of the Chairperson

At any general meeting a declaration by the Chairperson that a Resolution or Special Resolution has been carried or carried by a particular majority or not carried and a recording of that declaration in the minute book will be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against that Resolution or Special Resolution.

4.8 Adjournment of general meeting

The Chairperson of a general meeting may, with the consent of the meeting, adjourn the meeting from the time to time and from the place to place, but only business left unfinished at the original meeting may be transacted at the recommencement of that adjourned meeting.

4.9 Notice of adjourned meeting

If any general meeting is adjourned for more than twenty-one days, a notice of the adjournment must be given to the Members of the Company entitled to attend, in the same manner as notice was or ought to have been given of the original meeting. In the case of all other adjournments, it is not necessary to give notice of an adjournment or of the business to be transacted at the recommencement of any adjourned meeting.

5. Voting

5.1 Resolution determined by majority

At the general meeting, unless otherwise required by this Constitution or the Act:

(a) all questions submitted to the meeting will be decided by a simple majority of votes.

(b) in the first instance, voting will be on a show of hands. A poll may be demanded on any question before the close of the meeting by the Chairperson, any Member, or their proxy, attorney or representative.

(c) The Chairperson must decide in each case the manner in which a poll will be taken, and the result of the poll will be the Resolution of the meeting at which the poll was demanded.

(d) A poll demanded on the election of the Chairperson or on a question of adjournment will be taken immediately.

(e) Any dispute relating to the admission or rejection of a vote must be determined by the Board and the Board's determination made in good faith will be final and conclusive.

(f) The demand for a poll may be withdrawn.

(g) In the case of an equality of votes, whether on a show of hands or on a poll, the Chairperson shall be entitled to a casting vote.

5.2 Votes

(a) On a show of hands or poll every person present as a Member and entitled to vote, or as a representative, proxy or attorney of a Member and entitled to vote, will have one vote.

(b) Subject to clause 4.1 and 4.2, a Member may vote in person or by proxy.

(c) A Member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health may vote, whether on a show of hands or on a poll, by his or her committee or trustee or by such other person as properly has the management of his/her estate, and any such committee, trustee or other person may vote by proxy.

(d) No Member shall be entitled to vote at any general meeting if his or her annual subscription (if any) is more than 2 months in arrears at the date of the meeting.

(e) The Company may hold a meeting of its Members at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

5.3 Attorney of Members

Any Member may appoint an attorney to act on their behalf at all meetings of the Company or all meetings of the Company during a specified period.

Before the first meeting at which the attorney acts on the Members' behalf, a power of attorney must be deposited at the Company's registered office or at any place specified in the notice convening that meeting.

At the first meeting and at any subsequent meeting to which the power of attorney may relate, the attorney must hand to the Chairperson of the meeting a properly executed declaration of non-revocation of the power of attorney.

6. Proxies

6.1 Instruments appointing proxy

The instrument appointing a proxy must be in writing signed by the appointor or by the appointor's attorney properly authorised in writing, or if the appointor is a body corporate, under its common seal or signed by at least two of its officers.

6.2 Deposit of proxy with Company

(a) The instrument appointing a proxy, and the original power of attorney (if any) under which it is signed or certified, must be received by the Company at least 48 hours before the time for holding the meeting by delivery to the Company's registered office, or otherwise by any other means permissible under section 250B(3) of the Act.

(b) An instrument appointing a proxy will only be valid for 12 months from the date of its execution unless it states that it is valid for all meetings until revoked, except that any expired instrument may be used upon the recommencement of an adjourned meeting for which that instrument was originally intended.

6.3 Validity of vote given in accordance with proxy

Unless the Company has received written notice of the matter before the start of the meeting at which a proxy or an attorney votes, a vote cast by the proxy or attorney will be valid even if, before the proxy or attorney voted:

(a) the Member dies; or

(b) the Member is mentally incapacitated; or

(c) the Member revokes the proxy's or attorney's appointment; or

(d) the Member revokes the authority under which the proxy was appointed by the third party.

6.4 Form of proxy

(a) Every instrument of proxy must specify the Member's name and address, the Company's name, the proxy's name or the name of the office held by the proxy and the meetings at which the proxy may be used, and must otherwise comply with the provision of section 250A of the Act.

(b) The instrument of proxy may be worded so that a proxy is directed to vote either for or against each of the Resolutions to be proposed.

(c) Any instrument of proxy deposited in accordance with this Constitution in which the name of the appointee is not specified will be deemed to be given in favour of the Chairperson of the meeting to which it relates.

7. Directors

7.1 Numbers of Directors

The number of Directors must not be less than three (3) nor more than ten(10) unless the Company in general meeting determines otherwise.

7.2 Residence of Directors

At least 2 of the Directors must be natural persons who ordinarily reside in Australia.

7.3 Consent

Before being appointed as a Director a person must give the Company a signed consent to act as director, which must be retained by the Company.

7.4 Appointment of Directors

The Board may appoint any person as a Director. In addition, the Company in general meeting may appoint any person as a Director. A Director may or may not be a member of the Company.

7.5 Chairperson

The Directors must appoint a Director to be the Chairperson. The Chairperson shall preside at all meetings of the Company and the Board. The Chairperson may appoint, with the consent of the Board, standing committees, task forces and their respective chairpersons. The Chairperson shall perform such other duties as may be prescribed from time to time by the Board and such as are necessary to fulfil the objectives of the Company.

7.6 Vice Chairperson

The Directors may appoint one or more Directors as Vice Chairpersons. In the absence of the Chairperson or in the event of his or her inability or refusal to act, the Vice Chairperson (or, if applicable, one of the Vice Chairpersons) shall perform the duties of the Chairperson, and when so acting, shall have all powers of and be subject to all the restrictions upon the Chairperson. The Vice Chairperson (or Vice Chairpersons) shall perform such other duties as from time may be assigned by the Chairperson or by the Board.

7.7 Qualification for appointment as a Director

Directors must be persons having a demonstrated commitment in relation to the Objectives, in the opinion of the Company.

7.8 Auditor cannot be Director

Subject to the Act, an auditor of the Company or partner or employee or employer of an auditor cannot be appointed a Director of the Company.

7.9 Alternate Directors

A Director may appoint a person to act as an alternate Director.

8. Directors' tenure of office

8.1 Directors' tenure of office

Subject to the Act and to clause 8.2, each Director may hold office for:

(a) an initial period of three years; and

(b) subject to clause 8.3, up to two subsequent periods of a further three years,

or until the Director's office is earlier vacated in accordance with this Constitution.

8.2 Executive Directors

(a) If an employee of the Company is appointed as a Director (being an "Executive Director"), the Executive Director will hold office as a Director for the duration of the period they remain employed by the Company.

(b) Should an Executive Director resign from their employment with the Company, the Executive Director must also give notice to the Board of their intention to resign as a Director with effect from the date of cessation of their employment.

(c) If an Executive Director is terminated from their employment with the Company, the Executive Director will automatically vacate their office as Director with effect from the date of termination of their employment.

(d) After receipt of notice under clause 8.2(b), the Board may elect to re-appoint the Executive Director as a non-executive Director with effect from the date of the cessation of the Executive Director's employment.

(e) In the event that an Executive Director is re-appointed as a non-executive Director under clause 8.2(d), they will hold office as a non-executive Director for the period described in clause 8.1 without regard to any previous time served as Executive Director.

8.3 Successive periods

One month prior to expiry of the initial or a first subsequent three year term of office of a Director (**Retiring Director**) as described in clause 8.1, the Board, excluding the Retiring Director may by Resolution elect to extend the term of office for the Retiring Director for a subsequent period of three years. Where such term is extended, the Board will promptly provide a written notice of extension to the Retiring Director.

8.4 Retirement

A Director will retire effective from the conclusion of the current three year period where:

(a) the Board, excluding the Retiring Director, does not extend the term of a Retiring Director in accordance with clause 8.3; or

(b) the Director is currently serving his or her third successive term of three years (as extended in accordance with clause 8.3).

8.5 Removal of director by the Company

The Company may by Resolution in general meeting, remove any Director at any time.

8.6 Vacation of office

The office of a Director will be automatically vacated if:

(a) the Director commits an act of bankruptcy or enters into an arrangement or composition with all or a substantial number of his or her creditors;

(b) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the laws relating to mental health;

(c) resigns office by notice in writing to the Company;

(d) vacates office or is prohibited from being a Director or holding office in accordance with any of the provisions of the Act or any order made under the Act; or

(e) is removed under clause 8.5.

Subject to clause 8.1, a Director whose office is vacated under sub-clauses (a), (b), (c) or (d) will not be eligible for re-election or re-appointment until the disability (or disabilities) referred to is (or are) removed.

9. Proceedings of Directors

9.1 Board meetings and quorum for Board meetings

(a) Subject to clause 9.3, the Directors may meet for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit, but must meet at least once in every four (4) month period.

(b) The quorum will be three (3) Directors. If the number of Directors falls below three (3), the Directors may act for the sole purpose of appointing additional Directors. The number of directors then in office will form a quorum at a meeting held specifically for that purpose.

(c) If a quorum is present at the beginning of the meeting, it is deemed to be present throughout the meeting even if a Director leaves during the meeting, or is absent from voting, for any reason.

9.2 Conduct of Board meetings

(a) The Directors need not be physically present in the same place for a Directors meeting to be held. A Directors' meeting may be called or held by telephone or by using any other technological means consented to by all the Directors.

(b) The consent may be a standing one and may only be varied or withdrawn by a further ordinary Resolution of Directors.

9.3 Convening of Board meeting and place of meeting

The Board must meet whenever a meeting is called by the Chairperson or any two (2) Directors, provided reasonable notice is given individually to every other director.

9.4 Directors' Interests

(a) Subject to clause 11.2, a Director other than the Chief Executive Officer (if the Chief Executive Officer is a Director) who has a material personal interest in a matter that is to be considered at a meeting of Directors may:

(i) vote on the matter and be present while the matter is being considered at the meeting; and

(ii) be counted in the quorum in relation to that matter,

provided that the interest has been disclosed in accordance with 9.4(b) and that to do so would not be contrary to the Act.

(b) Each Director must disclose to the Company particulars of:

(i) any material contract in which the Director is interested, including the names of the parties to the contract, particulars of the contract and the Director's interest in the contract; and

(ii) any material personal interest in a matter that is being considered at a meeting of the Board of Directors.

(c) Subject to compliance with Clause 1.1(b), a Director and any firm, body or entity in which a Director has a direct or indirect interest may in any capacity:

(i) enter into any contract or arrangement with the Company;

(ii) act in a professional capacity, other than as auditor, for the Company,

provided that he or she makes disclosure as required by this clause 9.4, may receive and retain for his or her own benefit any remuneration from that contract, arrangement or professional association as if he or she were not a Director.

(d) No Director may use the Company's name, property or facilities in connection with any political activity and must scrupulously distinguish

between personal conduct and activities on behalf of the Company in that regard.

9.5 Secretary and Treasurer

(a) A Secretary of the Company must be appointed by the Directors in accordance with the Act.

(b) The Secretary must ordinarily reside in Australia.

(c) The Directors may also appoint a Treasurer.

(d) Any appointment of a Secretary or Treasurer may be for such term, on such conditions as the Directors think fit and any person so appointed may be removed by the Directors.

(e) The Secretary must keep minutes that record all Resolutions and proceedings of all meetings of the Board.

(f) The Secretary, (or the Chairperson or the directors referred to clause 9.3) must notify members of the Board in accordance with clause 9.3.

9.6 Responsibilities of the Board

(a) The Board is responsible for, and has the sole power in respect of, the policy, practices, overall management and operation of the Company and may delegate any such responsibilities to the Chief Executive Officer or its Committees or otherwise as it may determine.

(b) Without limiting paragraph (a), the specific responsibilities of the Board include the following:

(i) set strategies and corporate goals;

(ii) set policies governing the operation of the Company

(iii) provide and monitor performance against the broad objectives of the Company

(iv) consider and approve recommendations from Committees for the distribution of funds;

(v) review progress in achieving the Objectives;

(vi) restructure programs as necessary;

(vii) appoint members to Committees;

(viii) appoint and remove the Chief Executive Officer and approve the terms and conditions of appointment and the remuneration of the Chief Executive Officer;

(ix) supervise the activities of the Chief Executive Officer;

(x) set guidelines on the admission of new Members;

(xi) set guidelines for the appointment and secondment of staff;

(xii) determine the insurance to be effected by the Company; and

(xiii) ensure that the Company is managed in a financially responsible and prudent manner to best achieve the Objectives.

9.7 Board meeting competent to exercise all powers

A meeting of the Directors at which a quorum is present may exercise all or any of the powers and discretions vested in or exercisable by the Directors generally.

9.8 Resolution passed deemed to be determination of Board

Any Resolution properly passed at a duly convened meeting of the Directors at which a quorum is present will be deemed to be a determination by all the Directors of the Board for the purposes of this Constitution.

9.9 Questions to be decided by majority

Questions arising at any meeting will be decided by a majority of votes of Directors present and entitled to vote. In the case of an equality of votes, the Chairperson shall be entitled to a casting vote.

9.10 Resolution in Writing

(a) A Resolution in Writing signed by all Directors entitled to vote at meetings of the Directors is valid as if passed at a Meeting of the Directors duly convened and held.

(b) Copies of the proposed Resolution may be distributed for signing by different Directors, but each copy must have identical wording.

(c) The Resolution is deemed to have been passed when the last Director signs the document.

9.11 Resolution in Writing

(a) A resolution shall be valid as if passed at a meeting of the Directors duly convened and held if:

(i) each Director has previously notified the Company of the electronic mail address to which electronic mail addressed to that Director should be delivered; and

(ii) all of the Directors send an electronic mail message to every other Director (to those Directors' relevant electronic mail addresses) and the Secretary confirming that the Director sending the electronic mail message votes in favour of the resolution.

(b) A resolution passed under clause 9.11(a) shall be effective from the date the last electronic mail message referred to in clause 9.11(a)(ii) has been delivered to the Secretary.

9.12 Electronic copies

A copy of all electronic mail messages sent by the Directors in respect of a resolution referred to in clause 9.11(a), and a copy of all signed statements referred to in clause 9.10 shall be as soon as practicable entered into the books provided for the purpose of recording, inter alia, resolutions of the Board.

9.13 Rules and procedures

The Board may from time to time determine the rules and procedures (including but not limited to any security and verification measures and the circumstances under which an electronic resolution is valid or invalid) which will apply to the passing of any resolution under clause 9.11.

9.14 Deemed communications

A facsimile, email or such similar means of communication addressed to or received by the Company and purporting to be signed by a Director is for the purposes of clauses 9.11 and 9.12 deemed to be in writing signed by such Director.

9.15 Committee powers and meetings

Pursuant to clause 9.6(b):

(a) The Directors may delegate any of their powers to a Committee of Directors and officers, and may revoke any such delegation.

(b) Any Committee must exercise the powers delegated to it in accordance with any directions of the Board.

(c) The meeting and proceedings of any Committee consisting of two of more Directors or officers will be governed by the provisions of this Constitution regulating the meetings and proceedings of the Directors in so far as they are applicable and are not superseded by any direction made by the Board under this clause.

(d) If not formally appointed to a Committee, the Chairperson will be entitled to attend meetings of each Committee as an ex-officio member.

(e) Vacancies in the membership of any Committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

(f) Each Committee may adopt rules for its own government not inconsistent with this Constitution or with rules adopted by the Board.

9.16 Validity of acts of directors

All acts done by any meeting of the Directors or by a Committee or by any person acting as a Director are valid even if it is afterwards discovered that there was some defect in the appointment or election of any Director or person acting as a Director or that any Director was disqualified or had vacated office or was otherwise not entitled to vote or act.

10. Power of Directors

10.1 Power of Directors

Subject to the Act and this Constitution, the business of the Company will be managed by the Directors who may exercise all such powers of the Company that are not, by the Act or by this Constitution, required to be exercised by the Company in general meeting.

10.2 Powers to borrow or raise money

Without limiting clause 10.1, the Directors may from time to time borrow or raise any sum or sums of money or incur other financial obligations for the purposes of the Company and may give or take security over the repayment of such sum or sums or the payment, performance or fulfilment of any debts, liabilities, contracts or obligations incurred or undertaken by the Company on terms and conditions as they determine.

10.3 Security over Company's assets

Subject to the Act, if any Director or any other person becomes personally liable (whether as surety or otherwise) for the performance of any of the Company's obligations, the Directors may, despite their interest, execute or cause to be executed any mortgage, charge or security over or affecting the whole or any part of the assets of the Company by the way of indemnity to secure the liability.

11. Chief Executive Officer

11.1 Appointment of Chief Executive Officer

(a) The Directors may appoint a person to the office of Chief Executive Officer on such terms as they think fit.

(b) The Directors may, subject to the terms of the Chief Executive Officer's employment contract, remove or dismiss him or her from executive office and appoint another person in that place.

11.2 Remuneration for the Chief Executive Officer

The Chief Executive Officer may receive a salary for services rendered as Chief Executive Officer as may be determined by the Directors from time to time. The Chief

Executive Officer may be reimbursed out of the funds of the Company for their reasonable travelling, accommodation and other expenses incurred when travelling to or from meetings of the Directors or a Committee or when otherwise engaged in the affairs of the Company. If the Chief Executive Officer is also a Director, the Chief Executive Officer may not be present or vote at any meeting of Directors where the salary for the Chief Executive Officer is to be determined.

11.3 Directors may confer powers on the Chief Executive Officer

The Directors may grant the Chief Executive Officer any of the powers exercisable by the Directors on such terms and conditions and with such restrictions as they think fit. Any powers so conferred may be concurrent with or to the exclusion of their own powers. The Directors may at any time revoke, withdraw, alter or vary all or any of those powers.

12. Attorneys

12.1 Appointment of attorney

(a) The Directors may at any time by power of attorney signed in accordance with section 127 of the Act appoint any person or persons to be the attorney or the attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for such period and subject to such conditions as the Directors think fit.

(b) Any appointment may be made in favour of any company or the members, directors, nominees or managers of any company or firm or in favour of any fluctuating body of persons (whether nominated by the Directors or otherwise) and any power of attorney may contain provisions for the protection or convenience of the attorney or attorneys and of persons dealing with the attorney or attorneys.

12.2 Sub-delegation of powers

Any delegate, manager, agent or attorney appointed by the Directors may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions given to them.

13. Directors' Remuneration

13.1 Remuneration of non-executive Directors

Subject to clause 1.6(b), there will be no remuneration for services rendered as Directors however the Directors may be reimbursed out of the funds of the Company for their reasonable travelling, accommodation and other expenses incurred when

travelling to or from meetings of the Directors or a Committee or when otherwise engaged in the affairs of the Company.

14. Minutes and Registers to be Kept

14.1 Minutes

The Directors must ensure minutes of Directors' meetings are prepared within one month of the relevant meeting. The minutes must contain details of:

(a) the names of the Directors present at each meeting of the Directors and of any committee of the Directors;

(b) all declarations made or notices given by any Director (either generally or specially) of his or her interest in any contract or proposed contract or of her holding of any office or property whereby any conflict of duty or interest may arise;

(c) all orders made by the Directors and committee of Directors;

(d) all Resolutions and proceedings of general meetings of the Company, meetings of the Directors and meetings of any committee of the Directors; and

(e) Resolutions passed by Members or Directors without a meeting.

Any minutes of any general meeting of the Company, meetings of the Directors or meetings of any committee of the Directors must be signed by the Chairperson of the meeting or by the Chairperson of the next succeeding meeting and once signed will constitute evidence of the matters stated in the minutes.

15. Use of Common Seal

If the Company has a Seal, the Directors must provide for the safe custody of the Seal. The Seal must be used only by the authority of the Board or a Committee with authority from the Board to authorise the use of the Seal. Every document to which the Seal is affixed must be signed by a Director and countersigned by another Director, the Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

16. Negotiable Instruments

All cheques, bills of exchange, promissory notes and other negotiable instruments must be signed, drawn, accepted, made or endorsed (as the case may be) for and on behalf of the Company by such persons and in such manner as the Directors may determine.

17. Registers

In accordance with the Act, the Directors must set up and maintain:

(a) a Members' Register;

(b) a register of charges;

(c) if the Company issues debentures, a register of debenture holders; and

(d) any other registers required to be kept under the Act.

The register may be kept either in a bound or loose leaf book or on computer. If a register is kept on computer, its contents must be capable of being printed out in hard copy.

18. Accounts

18.1 Accounts records

The Directors must cause accounting and other records to be kept to correctly record and explain the transactions and financial position of the Company, to enable true and fair accounts to be prepared and to permit preparation of any other documents required by the Act or this Constitution. The records must be kept:

(a) in such manner to enable them to be conveniently and properly audited;

(b) for seven years after the completion of the transactions or operations to which they relate; and

(c) at such place as the Directors think fit and at all times be open to inspection by the Directors.

18.2 Accounts to be laid before annual general meeting

At the annual general meeting, the Directors must lay before the Company any accounts which are required in order to comply with all applicable provisions of the Act.

19. Audit

19.1 Auditors

(a) If required by law, auditors of the Company must be appointed and removed and their remuneration, rights and duties will be regulated in accordance with the law.

(b) If required by law, the accounts of the Company must be audited in respect of each Financial Year of the Company in accordance with the law.

19.2 Approval of accounts

(a) Accounts of the Company when prepared by the Directors will be conclusive except as regards any error identified within three months after the date of preparation.

(b) If any error is identified within this period, the accounts must immediately be corrected and will then be conclusive.

20. Inspection of Records

Each Member will be entitled to inspect and, at the member's own expense, to obtain copies of the following records of the Company:

(a) financial statements of the Company;

(b) minutes of general meetings;

(c) registers of members; and

(d) such other records as the member has a right to inspect under the Corporations Act,

and the Company must allow a Member at any reasonable time to inspect and take copies of or extracts from such records.

21. The Fund

21.1 So They Can Overseas Aid Fund

(i) To support the Objectives the Company must establish and maintain a Public Fund, to be an overseas aid fund, in accordance with section 30.85 and section 30.130 of the *Income Tax Assessment Act 1997.*

(ii) Purpose of the Fund

The specific purpose of the Fund is to provide relief to the people of countries declared by the Minister for Foreign Affairs to be a developing country and in that respect to pursue the development and relief objectives of the Company, So They Can, insofar as those objectives are carried out in countries declared by the Minister for Foreign Affairs to be a developing country.

Gifts to the Fund

(iii) The Fund shall be established to receive all gifts of money or property for this purpose and any money received by the Company because of such gifts must be credited to its bank account. The Fund must not receive any other money or property into its account.

(iv) Members of the public are to be invited to make gifts of money or property to the Fund for the relief and development purposes of the Company in countries declared by the Minister for Foreign Affairs to be a developing country.

(v) Money from interest on donations, income derived from donated property, and money from the realisation of such property is to be deposited into the Fund.

(vi) A separate bank account is to be opened to deposit money donated to the Fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the Company.

(vii) Receipts are to be issued in the name of the Fund and proper accounting records and procedures are to be kept and used for the fund.

Not-for-Profit

(viii) The Fund will be operated on a not-for-profit basis.

(ix) The income and property of the Fund shall be used and applied solely in promotion of its specific purpose and no portion shall be distributed, paid or transferred directly or indirectly by way of dividend, bonus or by way of profit to members, directors, or officers of the Company or the managing committee of the Fund except as reimbursement for out-of-pocket expenses reasonably incurred on behalf of the Fund or proper remuneration for administrative services.

(x) Conduit Policy

Any allocation of funds or property to other persons or organisations will be made in accordance with the established purposes of the Company and not be influenced by the preference of the donor.

(xi) Statistical Information

Statistical information requested by the relevant Department on donations to the Public Fund will be provided within four months of the end of the financial year. An audited financial statement for the Company and its public fund will be supplied with the annual statistical return. The statement will provide information on the expenditure of public fund monies and the management of public fund assets.

Management of the Fund

(xii) A committee of management of no fewer than three persons will administer the Fund.

(xiii) The committee will be appointed by the Company. A majority of the members of the committee are required to be 'responsible persons', having a degree of responsibility to the general community by reason of their occupation or standing in the community.

21.2 Limits on use of the Fund

The Company must use the property comprising the Fund only for the purposes of the Objectives and the Company agrees to comply with any rules that the Minister for Foreign Affairs and the Treasurer may make to ensure that gifts made to the Fund are only used for its principal purpose. The Company must inform the Australian Taxation Office of any alterations made to this clause 21 of the Constitution.

21.3 Winding up of the Fund

(a) At the first occurrence of:

(A) the winding up of the Fund; or

(B) the Company ceasing to be an "approved organisation" as determined by the Minister for Foreign Affairs ;

any surplus assets of the Fund must be transferred to a fund, authority or institution:

(i) which has been established for the same or similar or compatible purposes;

(ii) is an Australian fund, authority or institution; and

(iii) gifts to which can be deducted under the *Income Tax Assessment Act 1997*;

(b) The identity of the fund, authority or institution must be decided by the Board.

22. Notices

22.1 Service of notices by Company

A notice may be given by the Company to any Member either personally, by facsimile or electronically to the relevant facsimile number or electronic address of the Member as shown on the Member's Register, by sending it by post addressed to the Member at

the address shown in the Member's Register or otherwise by any other method, including by advertisement, as the Directors determine.

22.2 Posting notices to overseas Members

In the case of a Member whose registered address is outside Australia, a notice sent by post must be sent by pre-paid airmail in an envelope.

22.3 Notice deemed to be served

(a) Any notice by advertisement will be deemed to have been served on the day of publication of the newspaper containing the advertisement.

(b) Any notice sent by post will be deemed to have been served on the day following the day on which the notice is posted unless sent by airmail to an address outside the country in which it was posted, in which case it will be deemed to have been served on the fifth (5) day following the day on which it is posted.

(c) A notice sent by telex or facsimile or to the electronic address of a Member will be deemed to have been served on the same day it was sent.

22.4 Service by post

To prove service by post, it is sufficient to prove that the notice with required postage was properly addressed and posted. A certificate in writing signed by any manager, secretary or other officer of the Company that the notice was properly addressed and posted will be conclusive evidence of such matters.

22.5 Notices to Members whose whereabouts unknown

Where:

(a) the Company has a genuine reason to believe that a Member is not known at the address shown for that Member in the Members' Register;

(b) the Company has subsequently made an inquiry at that address as to the whereabouts of the Member; and

(c) the inquiry either elicits no response or a response indicating that the Member's present whereabouts are unknown,

all future notices will be deemed to be given to the Member if the notice is exhibited in the Office for a period (not including weekends and public holidays) of forty-eight hours and will be deemed to be duly served at the end of that period. This clause will apply unless and until the Member informs the Company of a registered place of address or that the Member has resumed residence at the Member's address shown in the Member's Register or notifies the Company of a new address to which the Company may send the Member notices (which will be deemed to be the Member's registered address).

22.6 Notice to deceased or bankrupt Members

Any notice or document given to a Member will be deemed to have been properly given despite the Member's death or bankruptcy and whether or not the Company has notice of death or bankruptcy until some other person is registered in place of the Member.

22.7 Signing of notices

The signature to any notice to be given by the Company may be written or printed.

22.8 Counting of days

Where a given number of days' notice or notice extending over any other period is required to be given, the day on which notice is deemed to be given will be included in the number of days or other period.

23. Winding Up

23.1 Distribution of assets

(a) Subject to clause 21.3, if upon the winding up or dissolution of the Company there remains after satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed amongst the Members of the Company but shall be given or transferred to one or more other funds, authorities or institutions which or each of which:

(i)Has similar objects to the Objectives of the Company; and

(ii)whose Constitution shall prohibit the distribution of its income and property among its Members to an extent at least as great as is imposed on the Company under or by virtue of clause 1.6.

(b) The other funds, authorities or institutions referred to in 23.1(a) are to be determined by the Board at or before the time of dissolution and in default thereof by application to a Court having the necessary jurisdiction for determination.

23.2 Fee or commission paid to liquidator to be approved in general meeting

No fee or commission will be paid by the Company to any Director or liquidator upon any sale or realisation of the Company’s undertaking or assets or any part of them except with the approval of the Company in general meeting, to be convened by notice specifying the fee or commission proposed to be paid.

24. Indemnity and Insurance

24.1 Indemnification of officers of the Company

To the extent permitted by law:

(a) the Company must indemnify each Director and Secretary and each former Director and Secretary, and may indemnify any other officer or former officer of the Company (as that term is defined in section 9 of the Act), against any liability (other than legal costs) incurred in acting as a Director, Secretary, or, where applicable, other officer of the Company other than:
   (i) a liability owed to the Company or a Related Body Corporate;
   (ii) a liability for a pecuniary penalty order under section 1317G or a compensation order under section 1317H of the Act; or
   (iii) a liability that did not arise out of conduct in good faith;

(b) the Company must indemnify each Director and Secretary and each former Director and Secretary who is or was, at the request of the Company, serving as a director or secretary of another company against any liability (other than legal costs) incurred in acting as a director or secretary of the other company other than:
   (i) a liability owed to the other company or a Related Body Corporate;
   (ii) a liability for a pecuniary penalty order under section 1317G or a compensation order under section 1317H of the Act; or
   (iii) a liability that did not arise out of conduct in good faith;

(c) the Company must indemnify each Director and Secretary, and each former Director and Secretary, and may indemnify any other officer or former officer (as that term is defined in section 9 of the Act), for costs and expenses (including, in the case of legal costs, costs on a full indemnity basis) incurred by a Director, Secretary or, where applicable, other officer of the Company, in defending an action for a liability incurred in acting as a Director, Secretary or, where applicable, other officer of the Company, except for legal costs incurred:

   (i) in defending or resisting any proceedings, whether civil or criminal, in which the Director, Secretary or, where applicable, other officer of the Company, is found to have a liability for which they could not be indemnified under clause 24.1(a) above;
   (ii) in defending or resisting criminal proceedings in which the Director, Secretary or, where applicable, other officer of the Company, is found guilty;
   (iii) in defending or resisting proceedings brought by the ASIC or by a liquidator for a court order if the grounds for making the order are found by the court to have been established, except for costs incurred in responding to actions taken by the ASIC or a liquidator as part of an investigation before commencing proceedings for the court order; or

(iv) in connection with proceedings for relief to the Director, Secretary or, where applicable, other officer of the Company, under the Act in which the relief is denied by the court;

(d) the Company must indemnify each Director and Secretary and each former Director and Secretary who is or was, at the request of the Company, serving as a director or secretary of another company for costs and expenses (including, in the case of legal costs, costs on a full indemnity basis) incurred by the Director or Secretary in defending an action for a liability incurred in acting as a director or secretary of the other company, except for legal costs incurred:

(i) in defending or resisting any proceedings, whether civil or criminal, in which the Director or Secretary is found to have a liability for which they could not be indemnified under clause 24.1 above;

(ii) in defending or resisting criminal proceedings in which the Director or Secretary is found guilty;

(iii) in defending or resisting proceedings brought by the ASIC or by a liquidator for a court order if the grounds for making the order are found by the court to have been established, except for costs incurred in responding to actions taken by the ASIC or a liquidator as part of an investigation before commencing proceedings for the court order; or

(iv) in connection with proceedings for relief to the Director or Secretary under the Act in which the relief is denied by the court;

(e) the Company may make a payment, or agree to make a payment, whether by way of advance, loan or otherwise, for any legal costs incurred by a Director, Secretary or, where applicable, other officer of the Company (as that term is defined in section 9 of the Act), on the condition that the Director, Secretary or, where applicable, other officer of the Company, must repay the amount paid by the Company to the extent that the Company is ultimately found not liable to indemnify the Director, Secretary or, where applicable, other officer of the Company, for those legal costs; and

(f) the indemnities required by paragraphs (a), (b), (c) and (d) of this clause 24.1 shall, to the extent permitted by law, extend to liability, costs and/or expenses (as appropriate) arising from the negligence of the person indemnified.

24.2 Insurance

To the extent permitted by the Act the Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been a Director or other officer (as that term is defined in section 9 of the Act) of the Company other than a liability arising out of:

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

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

CERTIFICATION PAGE

This is to certify that this 31 page document (each page of which I have signed) is a true copy of the original 30 page document that I have sighted.

Signed: 

Date: 9th July 2021

Full Name: Munzurul A Khan

This is to certify that this 30 page document (each page of which I have signed) is a true copy of the original 29 page document that I have sighted.

Signed: 

Date: 5 July 2021

Full Name: Cassandra Kate Treadwell