

**CORPORATIONS ACT 2001**

**A Company Limited by Guarantee**

# **CONSTITUTION**

- of -

# **AUSTRALIAN MEDICAL AID FOUNDATION LTD**

## **ACN 130 857 715**



**PO Box 226  
Glen Iris  
Victoria 3146**

**CORPORATIONS ACT 2001  
COMPANY LIMITED BY GUARANTEE**

**CONSTITUTION**

of

**AUSTRALIAN MEDICAL AID FOUNDATION LTD  
ACN 130 857 715**

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**COMPANY LIMITED BY GUARANTEE**  
**CONSTITUTION**

of

**AUSTRALIAN MEDICAL AID FOUNDATION LTD**

**ACN 130 857 715**

**1. INTERPRETATION**

---

**1.1 Defined Terms**

In this Constitution unless the context otherwise dictates:

- (a) "Act" means the Corporations Act 2001 (C'th);
- (b) "Annual Subscription" means the amount stated in Item 2 or such other amount determined by the Board from time to time;
- (c) "Board" means directors of the Company acting as a body;
- (d) "Business Day" means a day that is not a Saturday, a Sunday, a public holiday or bank holiday in the place concerned;
- (e) "Company" means the company to which this constitution relates;
- (f) "Company Secretary" means any person appointed to perform the duties of a company secretary of the Company;
- (g) "Founding Member" means a person who is accepted to that class of membership of the Company from time to time in accordance with this constitution and includes the Initial Founding Members.
- (h) "Honorary Member" means a person who is accepted to that class of membership of the Company from time to time in accordance with this constitution.
- (i) "Initial Founding Members" means those persons listed in Item 1;
- (j) "Initial Members" means those persons listed in Item 1;
- (k) "Item" means the relevant item number set out in the Schedule;
- (l) "Member" means those persons accepted to membership of the Company from time to time in accordance with this constitution and includes the Initial Members, Founding Members, Initial Founding Members and Honorary Members as the context dictates;
- (m) "Objects" means the Company Objects set out in Clause 2.2;
- (n) "Schedule" means the Schedule to this constitution and includes all the information from time to time contained or deemed to be contained in it;
- (o) "Special Resolution" means a resolution that has been passed by at least 75 percent of the votes cast by persons entitled to vote on the resolution; and

- (p) ATO means the Australian Taxation Office
- (q) OAGDS means the Overseas Aid Gift Deduction Scheme
- (r) ACFID means the Australian Council for International Development
- (s) AusAid –is a reference to the Australian Government body which controls the Governments international aid program
- (t) ASIC – means Australian Securities and Investment Commission
- (u) ACNC- means Australian Charities and Not-for-profit Commission
- (v) AMAF means the Australian Medical Aid Foundation Ltd.

## **1.2 Interpretation**

- (a) section 46 of the Acts Interpretation Act 1901 applies in relation to this constitution as if it were an instrument made by an authority under a power conferred by the Act as in force on the day on which this constitution becomes binding on the Company.
- (b) unless the contrary intention appears, an expression in a provision of this constitution that deals with a matter dealt with by a particular provision of the Act has the same meaning as in that provision of the Act.
- (c) clause headings and the table of contents are inserted for convenience only and are not to be used in the interpretation and construction of this constitution.
- (d) the replaceable rules referred to in the Act do not apply to the Company unless they are repeated in this constitution or specifically made to apply by this constitution.

## **2. OBJECTS AND INCOME**

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### **2.1 General**

The Company:

- (a) is a company limited by guarantee;
- (b) is a company is a voluntary, not for profit, charitable organisation;
- (c) is a non-political, non-racial and non-religious organisation;
- (d) is a community based organisation accountable to the members;
- (e) operates solely for the promotion, development, relief and attainment of its Objects;
- (f) is not carried on for the purpose of profit or gain for its Members.
- (g) complies and meets its responsibilities with the Acts and regulations of Australian and state and territory governments, ACFID, AusAid, ATO and OAGDS, ASIC, ACNC and any other relevant government organisations.

## 2.2 Company Objects

(a) To promote or provide the following activities and services:

In Australia:

- (i) training and professional development programs for medical, paramedical and other health professionals.
- (ii) medical care, nursing care, medication, medical equipment required for the provision of health service to the needy.
- (iii) promote and conduct research into community health and other general health related matters relevant to the conditions of people and the publication of the results thereof or to support any organisation engaged in such activity.
- (iv) work in association/partnership with Australian Federal and State and Territory Governments and non-government organisations are the areas of public health and related fields.

In Sri Lanka providing the following development and relief assistance for residents of Sri Lanka who are in necessitous circumstances and for those who are resident in any other part of the world:

- (i) medical care, nursing care, medication and medical equipment required for the provision of health services.
- (ii) building and developing health infrastructure by sending medical and first aid and educational, research and associated literature.
- (iii) As far as practically possible the development and/or relief activities are focussed on covering at least one and preferably two years.
- (iv) facilitating work arrangements and encouraging persons academically trained in Medicine, nursing, first aid and other persons experienced in the provision of health care to travel to and work in the Region for varying periods of time.
- (v) promoting and conducting research into community health and other general health related matters relevant to the conditions of people in the Region and the publication of the results of that research.
- (vi) establishing, managing or contributing to the establishment or maintenance of any medical, health and nursing schools, technical or other institutions.
- (vii) medical assistance including building of hospitals, primary health centres and other medical institutions.

(b) To support and/or work with organisations which have similar objects and in the case of Australian organisations only those organisations that enjoy the Overseas Aid Gift Deduction benefit in Australia and are engaged in any of the above.

- (c) To appeal for, solicit, accept and receive any property, funds, endowment, legacy, bequest or gift for any purpose within the objects of the Company, and to act as trustees and managers thereof;
- (d) To do all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the company.
- (e) The objects specified in each paragraph of this Clause are independent main objects and must not be in any way limited or restricted by reference.
- (f) To or inference from the terms of any other paragraph or the name of the Company or by the juxtaposition of any two or more objects or by any object being or being deemed a main or dominant object.
- (g) To develop and maintain a Child Protection Policy introduced and/or approved by the ACFID and AusAid.
- (h) Working with people with disabilities and their representatives in their aid and development activity.

The Company will ensure that an appropriate focus is given to understanding the rights of people with a disabilities and addressing these in their aid and development activities.

In other countries providing the following development and relief assistance for persons who are in necessitous circumstances.

- (i) Medical care, nursing care, medication, medical equipment required for the provision of health services.
  - (ii) building and developing health infrastructure by sending medical and first aid and educational, research and associated literature.
- (g) If support of overseas activities is on a partnership with indigenous organisations it will ensure that the partners are both effective in conducting their activities. It will also maintain adequate control, sign Memorandum of Understanding agreements and procedures to be followed with/and by the partners.

### **2.3 Company Income**

- (a) The income, property and profits of the Company must be applied solely towards the promotion and furtherance of the Objects.
  - (i) Funds and other resources designated for the purpose of aid and development will be used only for those purposes and will not be used for purposes not authorized by the Constitution.
  - (ii) It will have clear separation - through guidelines-between aid and development and non-aid and development activities thereby providing the donors with the choice of contributing to aid and development activity only.
  - (iii) This separation will be clear in all fundraising, programs and other activities, in public communication and in all reports including annual reports.
- (b) No portion of the income or property of the Company shall be payable or



transferred directly or indirectly to any Member.

- (c) Remuneration and other benefits must not be paid or given by the Company to a director or any Member who holds an office of the Company. Members and directors may be paid all travelling and other expenses properly incurred by them in attending and returning from meetings of the directors or any committee of the Board or general meetings of the Company or otherwise in connection with the business of the Company.
- (d) Nothing in 2.3(a) to 2.3(c) inclusive must prevent the payment in good faith:
  - (i) of remuneration to any Members, officers or servants of the Company in return for any goods or services actually rendered to the Company by that Member;
  - (ii) of all reasonable and proper rent for premises demised or let by any Member to the Company;
  - (iii) of moneys to directors for out of pocket expenses; or
  - (iv) of moneys to a director who is an accountant, lawyer or other person engaged in any profession for usual professional charges for work done by that director, the director's firm or employer in connection with the promotion of the Objects.
- (e) All the possible systems are maintained to ensure that Company funds are not used contrary to Australian Government policies on money laundering and/or terrorist activities.
- (f) Ensure that funds are not donated to any organisation in Australia which is non-deductible gift recipient entity to further the objectives.
- (g) Ensure that funds remitted by the Company are for the cause the funds are donated for and not at risk of being misdirected to inappropriate and unauthorized operation.

### **3. MEMBER LIABILITY LIMITED**

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#### **3.1 Liability Limited**

The liability of the Members is limited.

#### **3.2 Contributions by Members Limited**

Each Member undertakes to contribute to the property of the Company if the Company is wound up while he, she or it is a Member or within one year after he, she or it ceases to be a Member, for payment of the Company's debts and liabilities contracted before he, she or it ceases to be a Member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required but not exceeding the amount stated in Item 3.

### **4. INITIAL MEMBERS**

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The Initial Members of the Company are set out in Item 1.

## **5. MEMBERS**

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### **5.1 Number of Members**

The number of Members of the Company is unlimited.

### **5.2 Initial Members and new Members**

The Initial Members and any other persons admitted to membership in accordance with this constitution will be Members of the Company until that Member's membership is terminated.

#### **Application for Membership**

- (a) Except for the Initial Members, an application for membership must be made in writing and signed by the applicant and accompanied by:
  - (i) payment of the Annual Subscription; and
  - (ii) the written recommendation by at least two Founding Members specifying that those Founding Members recommend the applicant be admitted as a Member.
- (b) An application for membership by a corporation or other organisation must be in a form approved by the Board from time to time and signed by a senior executive of that corporation or organisation and addressed to the Company Secretary.
- (c) An application for membership accompanied by the Annual Subscription must be considered by the Board at the next meeting of the Board after receipt of that application who must decide whether or not to admit the applicant in their absolute discretion. The Board is not required to give reasons for acceptance or rejection of an application.
- (d) Acceptance or rejection of the applicant's application will be deferred until further information is supplied by that applicant if the Board determines in its absolute discretion that it requires further information from the applicant to determine the application.
- (e) As soon as practical after acceptance of an application, the Company Secretary will send the applicant written notice of his, her or its acceptance and the applicant will be registered in the register of Members and will immediately become a Member.
- (f) Any Annual Subscription paid in advance by an applicant that is rejected will be refunded in full.

### **5.3 Transfer of Membership**

- (a) The rights and privileges of every Member are personal to each Member and are not transferrable except in accordance with this Constitution.
- (b) A Member may transfer his, her or its membership (the "Transfer") to another person (the "Transferee") provided that:
  - (i) the Transfer and the Transferee are approved by resolutions of both the Board and the Founding Members;
  - (ii) the Transferee provides all information that an applicant is required by paragraph 5.3 to provide.

#### **5.4 Subscriptions**

- (a) The Annual Subscription amount may be varied by the Board from time to time.
- (b) The Annual Subscription period will commence on 1 July each year with payment of the Annual Subscription due on 1 July each year in advance.
- (c) The Board may from time to time in their absolute discretion determine a discount for Annual Subscriptions.

#### **5.5 Termination of Membership**

- (a) A Member may resign their membership by written notice given to the Company Secretary.
- (b) A Member will cease to be a Member if that Member's Annual Subscription remains overdue for payment for a period of 6 months or more.
- (c) The Board may by Special Resolution but subject to the rules of natural justice determine the membership of any Member.
- (d) The Founding Members by resolution may determine the membership of any Member.

#### **5.5 A Complaint Handling Process**

- (a) In case of members or others interested informs the Board about a conflict of interest by member or member of the Board the Board shall take appropriate action to arrange an independent investigation and recommend and take suitable action.
- (b) The Company Secretary must remove from the register of Members the name and particulars of any Member who ceases to be a Member and must maintain a record of ceased Members.

A ceased Member may be re-admitted to membership in accordance with the normal requirements for membership except for a ceased Member whose membership was terminated by the Board by Special Resolution whose application for re-admission will be determined by the Board in its absolute discretion.

#### **5.6 Member misconduct**

- (a) The directors may expel a Member and remove that Member's name from the register of Members if that Member:
  - (i) is guilty of an act or omission which in the opinion of the directors, is unbecoming of a Member or prejudicial to the Company's interests; or
  - (ii) is in breach of this constitution.
- (b) The directors must not expel a Member under clause 5.6(a) without first giving that Member seven days notice of the date, time and place at which the question of expulsion is to be considered by the directors. That notice must also set out the nature of the alleged misconduct.

#### **5.7 Moneys still owing at cessation of membership**

A member that ceases to be a member will continue to be liable for:

- (a) all moneys owing by that Member which are due and unpaid at the date that Member ceases to be a Member; and
- (b) all amounts which that Member is or may become liable to pay the Company under clause 3.2.

### 5.8 Founding Members

- (a) Each person set out in Item 1 is an Initial Founding Member of the Company.
- (b) In addition to the application requirements set out in paragraph 5, any application to become a Founding Member must be accompanied by written recommendation of at least two current Founding Members, specifying that those Founding Members recommend the applicant be admitted as a Founding Member.

### 5.9 Honorary Members

Honorary Members may be appointed in the manner, on the conditions and for a period determined by resolution of the Founding Members.

## 6. ESTABLISHMENT AND OPERATION OF GIFT FUND

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### 6.1 Maintaining Gift Fund

The Company must maintain for its Objects a fund (**Gift Fund**):

- (a) to which gifts of money or property for its Objects are to be made;
- (b) to which contributions described in item 7 or 8 of the table in section 30-15 of the Tax Act in relation to a fund raising event held for that purpose are to be made;
- (c) to which any money received by the Company because of those gifts or contributions is to be credited; and
- (d) that does not receive any other money or property.

### 6.2 Limits on use of Gift Fund

The Company must use the Gift Fund only for its Objects.

### 6.3 Winding up

On the earlier of:

- (a) The winding up of the Gift Fund; or
- (b) The Company ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of the *Income Tax Assessment Act 1997*,

any surplus assets of the Gift Fund must be given or transferred to another institution or corporation which is not carried out for the profit or gain of its individual members and has:

- (a) objects that are similar to the Objects;
- (b) a constitution which requires that institution or corporation's incoming

property to be applied in furtherance of its objects; and

- (c) a constitution which prohibits that institution or corporation from paying or distributing its income and property amongst its Members to an extent at least as great as is imposed on the Company.

The identity of the institution or corporation must be determined by the Members at or before the earlier of the Company being wound up and the Company ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of the *Income Tax Assessment Act 1997*. Failing such determination being made, is to be determined by application to the Supreme Court of Victoria.

## **7. GENERAL MEETINGS**

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### **7.1 Convening Meetings**

### **7.2 Annual General Meetings**

- (a) The Board of Directors may call a meeting of Members as the Board deems fit.
- (b) A general meeting of Members must be held by the Company at least once a year.
- (c) The Board may determine the date, time and place of the annual general meeting of the company.
- (d) The notice convening the annual general meeting must specify that the meeting is an annual general meeting.
- (e) The ordinary business of the annual general meeting shall be -
  - (i) to confirm the minutes of the previous annual general meeting and of any general meeting held since that meeting; and
  - (ii) to receive from the Board reports upon the transactions of the company during the last preceding financial year; and
  - (iii) to elect officers of the Company and the ordinary number of the Board; and
  - (iv) to receive and consider the statement submitted by the Company in accordance with the Act.
- (f) The annual general meeting may conduct any special business of which notice has been given in accordance with these Rules.
- (g) The annual general meeting shall be held every year within 4 months from the end of the financial year.

### **7.3 Special general meetings**

- (1) In addition to the annual general meeting, any other general meeting may be held in the same year.
- (2) All general meetings other than the annual general meeting are special general meetings.

- (3) The Board may, whenever it thinks fit, convene a special general meeting of the Foundation.
- (5) The Board must, on the request in writing of members representing not less than 5 per cent of the total number of members, convene a special general meeting of the Foundation.
- (6) The request for a special general meeting must-
  - (a) state the objects of the meeting; and
  - (b) be signed by the members requesting the meeting; and
  - (c) be sent to the address of the Secretary.
- (7) If the Board does not cause a special general meeting to be held within one month after the date on which the request is sent to the address of the Director/Secretary, the members making the request, or any of them, may convene a special general meeting to be held not later than 3 months after that date.
- (8) If a special general meeting is convened by members in accordance with this rule, it must be convened by the Board and all reasonable expenses incurred in convening the special general meeting must be refunded by the Company to the persons incurring the expenses.

#### **7.4 Amendments to the constitution**

The amendments to the constitution must be done at a special general meeting. The Board may determine the date, time and place of the annual general meeting of the Company.

The notice convening the Special General meeting must specify that the meeting is a special general meeting and the purpose of it is to propose Amendments to the constitution.

When the Company proposes to change the constitution it will consult with AusAid beforehand about the possible effects of the tax deductibility status. The ATO will be notified of any changes to the Company's constitution or other funding documents.

#### **7.5 Notice of Meetings**

For Special General Meeting, subject to the provisions of the Act relating to agreements for shorter notice, not less than 21 days written notice (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) must be given of any meeting of Members. The notice must be given to all persons who are entitled to receive such notices from the Company and must:

- (a) set out the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
- (b) state the general nature of the meeting's business;
- (c) if a Special Resolution is to be proposed at the meeting, set out an intention to propose the Special Resolution and state the resolution;
- (d) Subject to the provisions of the Act relating to agreements for shorter

notice, not less than 14 days written notice (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) must be given of any meeting of Members. The notice must be given to all persons who are entitled to receive such notices from the Company.

- (e) if a Member is entitled to appoint a proxy, contain a statement setting out the following information:
  - (i) that the Member has a right to appoint a proxy; and
  - (ii) whether or not the proxy needs to be a Member of the Company.

## **7.6 Member Place of Meeting**

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.

## **8. PROCEEDINGS AT GENERAL MEETINGS**

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### **8.1 Quorum**

The quorum for a meeting of Members is either:

- (a) 20 percent of all Members of the Company; or
- (b) 20 percent of the initial members as listed in item 1 Members;

provided that at least one Member from at least two or more States is present.

The quorum must be present at all times during the meeting.

### **8.2 Proxies or Representatives in Quorum**

In determining whether a quorum is present, individuals attending as proxies or under power of attorney or as representatives of bodies corporate are counted. If a Member has appointed more than one proxy, power of attorney or representative then only one of them is counted. If an individual is attending, both as a Member and as a proxy or attorney under power or body corporate representative, the individual is counted only once.

### **8.3 Adjournment for Lack of Quorum**

If a meeting of the Members of the Company does not have a quorum present within 30 minutes after the time for the meeting set out in the notice of meeting, the meeting is adjourned to the date, time and place the Board specifies. If the Board does not specify one or more of these things, then the meeting is adjourned to:

- (a) if the date is not specified – the same day in the next week;
- (b) if the time is not specified – the same time; and
- (c) if the place is not specified – the same place.

#### **8.4 Lack of Quorum at Adjourned Meeting**

If a quorum is not present at the resumed meeting within 30 minutes after the time for the meeting, then the meeting is dissolved.

#### **8.5 Chair of General Meeting**

The chair, if any, appointed by the directors will act as chair at every general meeting of the Company. If there is no such chair, or if the chair is not present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the Members present may elect one of their number to be chair of the meeting.

#### **8.6 Adjournment Generally**

The chair may, with the consent of any meeting at which a quorum is present (and will if so directed by the meeting), adjourn the meeting from time to time and from place to place. No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for one month or more, notice of the adjourned meeting must be given as in the case of an original meeting. Otherwise it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

#### **8.7 Putting of Resolutions**

A resolution put to the vote at a meeting of Members must be decided on a show of hands unless a poll is demanded. The chair must inform the meeting whether proxies have been received and how those proxies are to be cast before a vote is taken. A poll may be demanded by:

- (a) at least five Members entitled to vote on the resolution;
- (b) Members with at least ten percent of the votes that may be cast on the resolution on a poll; or
- (c) the chair.

The poll may be demanded before a vote is taken or before the voting results on a show of hands are declared or immediately after the voting results on a show of hands are declared.

#### **8.8 Result on Show of Hands**

On a show of hands, a declaration by the chair is conclusive evidence of the result provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chair nor the minutes need state the number or proportion of the votes recorded in favour or against.

#### **8.9 Demand for Poll**

A poll may be demanded on any resolution including the election of the chair or the adjournment of a meeting. A poll demanded on a matter other than the election of the chair or the question of adjournment must be taken when and in the manner the chair directs. A poll on the election of the chair or on the question of an adjournment must be taken immediately. A demand for a poll may be withdrawn.

#### **8.10 Chair's Casting Vote**

In the case of an equality of votes, whether on a show of hands or on a poll, the



chair of the meeting at which the show of hands takes place or at which the poll is demanded is entitled to a second or casting vote.

#### **8.11 Votes of Members**

At a meeting of Members:

- (a) on a show of hands, each person present who is a Member or a representative of a Member has one vote; and
- (b) on a poll, each Member present in person or by proxy or by power of attorney or representative has one vote.

#### **8.12 Votes of Members of Unsound Mind**

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 the Member's committee or trustee or by such other person as properly has the management of the Member's estate, and any such committee, trustee or other person may vote by proxy or attorney.

#### **8.13 Entitlement to Vote**

No Member is entitled to vote at any general meeting unless all calls or other sums presently payable by the Member in respect of Annual Subscriptions and other moneys due and owing to the Company have been paid.

#### **8.14 Disallowance of Vote**

A challenge to a right to vote at a meeting of Members:

- (a) may only be made at the meeting; and
- (b) must be determined by the chair whose decision is final.

Every vote not so disallowed is valid for all purposes.

### **9. PROXIES**

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#### **9.1 Appointment of Proxy**

A Member who is entitled to attend and cast a vote at a meeting of Members may appoint a person as the Member's proxy to attend and vote for the Member at the meeting. An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the following information and is in the following form or such other form as the Board approves:

**AUSTRALIAN MEDICAL AID FOUNDATION LIMITED****ACN 130 857 715**

I/We, [ ] of [ ] being a Member/Members of the above-named Company, hereby appoint [ ] of [ ] or, failing that person, [ ] of [ ] to vote for me/us on my/our behalf at the general meeting of the Company, to be held on the [ ] day of [ ] 20[ ], and at any adjournment thereof.

Signed this            day of            20[ ].

This form is to be used # in favour of the resolution.

# against

# Strike out whichever is not desired.

(Unless otherwise instructed, the proxy may vote as the proxy thinks fit.)

**9.2 Voting by Proxy**

A proxy appointed to attend and vote for a Member has the same rights as the Member:

- (a) to speak at the meeting;
- (b) to vote (but only to the extent allowed by the appointment); and
- (c) to join in a demand for a poll.

**9.3 Delivery of Proxy Form**

For an appointment of a proxy to be effective, the following documents must be received by the Company at least 48 hours before the meeting:

- (a) the proxy's appointment; and
- (b) if the appointment is signed by the appointer's attorney, the authority under which the appointment was signed or a certified copy of the authority.

If the meeting of the Company's Members has been adjourned, an appointment and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.

**9.4 Validity of Proxy Vote**

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

- (a) the appointing Member dies;
- (b) the Member becomes mentally incapacitated;
- (c) the Member revokes the proxy's appointment; or

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

## **10. DIRECTORS APPOINTMENT ETC**

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### **10.1 Number of Directors**

- (a) The number of directors of the Company and the names of the first directors will be decided in writing by the Initial Members but must be no less than three or such other number as the Act may require from time to time.
- (b) The Founding Members may by Special Resolution increase or reduce the number of directors provided that the number of directors will not be less than three or such other number as the Act may require from time to time.

### **10.2 Retirement at annual general meeting**

- (a) A director must not:
- (i) hold office for more than three years; or
  - (ii) until the third annual general meeting following the appointment of the director;
- whichever is the longer, without submitting him or herself for re-election.
- (b) At every annual general meeting one third of the directors (or the number nearest to but not exceeding one third if their number is not a multiple of three) or such number as is necessary to comply with clause 10.2(a) must retire from office and be eligible for re-election.
- (c) Those directors longest in office since last being elected or re-elected will be the directors to retire in accordance with clause 10.2(b). For those directors elected on the same day the director to retire will be decided by a random ballot unless they otherwise agree.
- (d) A director that is retiring may stand for re-election without having to give prior notice and will hold office as a director until the end of the meeting at which that director retires.

### **10.3 Appointment of Directors by Board**

The Board has power at any time, and from time to time, to appoint any person to be a director, either to fill a casual vacancy or as an addition to the existing directors. Any director so appointed will only hold office until the next annual general meeting of the Company after the appointment is made, but that director may stand for election at that annual general meeting.

### **10.4 Appointment and Removal of Directors by Company**

The Company may by Special Resolution passed in a general meeting:

- (a) remove any director; and
- (b) appoint any person as a director.

### **10.5 Appointment and Removal of Directors by Founding Members**

The Founding Members may by Special Resolution:

- (a) remove any director; and
- (b) appoint any person as a director.

#### **10.6 Remuneration of Directors**

The directors must not be paid remuneration by the Company except as otherwise provided in this constitution.

#### **10.7 Vacation of Office of Director**

The office of a director is automatically vacated if the director:

- (a) becomes bankrupt;
- (b) 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;
- (c) resigns office by written notice to the Company at its registered office;
- (d) becomes prohibited from being a director by virtue of the Act;
- (e) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest in the manner required by this constitution; or
- (f) dies.

### **11. POWERS AND DUTIES OF DIRECTORS**

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#### **11.1 Management of the Company**

The business of the Company is to be managed by or under direction of the Board.

#### **11.2 General Powers of the Board**

The Board may exercise all of the powers of the Company except any powers that the Act or this constitution requires the Company to exercise in general meeting.

#### **11.3 Official Seals**

The Board may exercise all the powers of the Company in relation to any official seal for use outside the State and in relation to branch registers.

#### **11.4 Power of Attorney**

The Board may from time to time by power of attorney appoint any corporation, firm, or person or body of persons, whether nominated directly or indirectly by the Board, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities, and discretions (not exceeding those vested in or exercisable by the Board under this constitution) and for such period and subject to such conditions as it thinks fit. Any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Board thinks fit and may also authorise any such attorney to delegate all or any of the powers, authorities, and discretions vested in the attorney.

**11.5 Negotiable Instruments**

Any two directors of the Company may sign, draw, accept, endorse or otherwise execute a negotiable instrument. This provision is subject to the Board determining that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

**11.6 Minutes**

The Board will cause minute books to be kept in which the Company records within one month of their occurrence:

- (a) proceedings and resolutions of meetings of Members;
- (b) proceedings and resolutions of Board meetings (including meetings of a committee of the Board);
- (c) resolutions passed by Members without a meeting; and
- (d) resolutions passed by the Board without a meeting.

The Board must make sure that minutes of a meeting are signed within a reasonable time after the meeting by the chair of the meeting or the chair of the next meeting. The Board must make sure that minutes of the passing of a resolution without a meeting are signed by a director within a reasonable time after the resolution was passed.

**11.7 Registers**

The Board will cause a register of Members to be kept in accordance with the Act.

**12. BOARD MEETINGS & DISCLOSURES**

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**12.1 Holding of Board Meetings**

The Board will meet at least four times each year. A director may at any time and the Company Secretary will on the request of a director call a meeting of the Board by reasonable notice individually to each director. A director who is for the time being outside Australia is only entitled to receive notice of a meeting of the Board if that director has given written notice to the Company of an address for the giving of notice of meeting.

**12.2 Holding of Other Offices**

A director may hold any other office or place of profit (except that of auditor) under the Company in conjunction with the office of director and on such terms as to remuneration and otherwise as the Board in a general meeting may agree.

**12.3 Directors' Interests**

No director is disqualified by that office from holding any office or place of profit (except that of auditor) in the Company or in any company in which the Company is interested or from contracting with the Company either as vendor, purchaser or otherwise. No such contract or any contract or arrangement entered into by or on behalf of the Company in which any director is in any way interested will be avoided for such reason. No director is liable to account to the Company for any profits arising from such office or place of profit or realised by any such contract or arrangement by reason only of such director holding that office or of the fiduciary

relations thereby established. If a director has a material personal interest in a matter that relates to the affairs of the Company and the director has complied with the disclosure provisions of the Act and this constitution or the matter is not one which needs to be disclosed under the Act then:

- (a) the director may vote on matters that relate to the interest;
- (b) any transactions that relate to the interest may proceed;
- (c) the director may retain benefits under the transaction even though the director has the interest; and
- (d) the Company cannot avoid the transaction merely because of the existence of the interest.

If disclosure is required under the Act then paragraphs (c) and (d) apply only if the disclosure is made before the transaction is entered into.

#### **12.4 Disclosure of Interests**

A director who has a material personal interest in a matter which relates to the affairs of the Company must give notice of that interest to the other directors unless the Act provides otherwise. The notice must comply with the provisions of the Act and details of the notice must be recorded in the minutes of the meeting. The nature of the interest of such director must be declared by the director at the meeting of the Board at which the contract or arrangement is first taken into consideration if the interest then exists or in any other case at the first meeting of the Board after the acquisition of the interest. If a director becomes interested in a contract or arrangement after it is made or entered into the declaration of the interest must be made at the first meeting of the Board held after the director becomes so interested.

#### **12.5 General Disclosure**

A standing notice is sufficient declaration under clause 12.4 in regards to such director and the said transactions until such standing notice ceases to have effect under the Act. After such general notice it is not necessary for such director to give a special notice relating to any particular transaction with that firm or company given in accordance with the Act.

#### **12.6 Recording Disclosures**

Where a director makes a general disclosure pursuant to clause 12.5 that director must see that the nature and extent of the interest disclosed in the standing notice is recorded in the minutes of the meeting at which notice is given.

#### **12.7 Quorum**

Unless the Board determines otherwise, the quorum for a Board meeting is three directors and the quorum must be present at all times during the meeting.

#### **12.8 Chair of Board Meetings**

The Board may elect a director to chair its meetings. The Board may determine the period for which the director is to be the chair. The Board must elect a director present to chair a meeting, or part of it, if:

- (a) a director has not already been elected to chair the meeting; or
- (b) a previously elected chair is not available within ten minutes after the time

appointed for holding the meeting or declines to act for the meeting or part of the meeting.

### **12.9 Delegation to Committees**

The Board may delegate any of its powers to committees consisting of such directors as the Board thinks fit. Any such committee will conform to any regulations that may be imposed on it by the Board in the exercise of the powers so delegated. Any such committee must exercise the powers delegated to it in accordance with any directions of the Board. The effect of the committee exercising a power in this way is the same as if the Board exercised the power.

### **12.10 Conduct of Committee Meetings**

A committee may elect a chair of its meetings. If no such chair is elected, or if at any meeting the chair is not present within ten minutes after the time appointed for holding the meeting, the members of such committee present may elect one of their number to be chair of the meeting. A committee may meet and adjourn as it thinks proper.

### **12.11 Votes at Board and Committee Meetings**

A resolution of the Board or a committee must be passed by a majority of votes of the directors entitled to vote on the resolution. In the case of an equality of votes, the chair in addition to his or her deliberative vote, has a casting vote.

### **12.12 Validity of Directors' Acts**

All acts done by any meeting of the Board or of a committee of directors or by any person acting as a director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

### **12.13 Written Resolution**

The Board may pass a resolution without a Board meeting being held if all the directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate documents may be used for signing by directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last director signs.

### **12.14 Manner of Holding Meetings**

A Board or committee meeting may be called or held using any technology consented to by all the directors. The consent may be a standing one. A director may only withdraw their consent within a reasonable period of time before the meeting.

## **13. ASSOCIATE DIRECTORS**

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### **13.1 Appointment, Removal and Powers**

The Board may from time to time appoint any person to be an associate director and may from time to time cancel any such appointment. The Board may fix, determine and vary the powers, duties and remuneration of any person so appointed. A person so appointed is not required to have any right to vote at any

meeting of the Board except by the invitation and with the consent of the Board.

## **14. SECRETARY**

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### **14.1 Appointment, Removal & Powers**

One or more Company Secretaries may be appointed by the Board for such term, at such remuneration, and upon such conditions as the Board determines. Any Company Secretary so appointed may be removed by the Board.

## **15. EXECUTION OF DOCUMENTS**

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### **15.1 Common Seal**

If the Company has a common seal then:

- (a) the common seal must comply with the Act;
- (b) the Board must provide for the safe custody of the common seal; and
- (c) the seal may only be used by the authority of the Board or of a committee of the Board authorised by the Board.

### **15.2 Execution under Common Seal**

If the Company does have a common seal then it may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:

- (a) two directors of the Company; or
- (b) a director and a Company Secretary.

### **15.3 Execution without Common Seal**

The Company may execute a document without using a common seal if the document is signed by:

- (a) two directors of the Company; or
- (b) a director and a Company Secretary.

### **15.4 Director Interest**

A director must not attest to the affixing of the common seal or execute a document relating to a contract or other arrangement or a proposed contract or other arrangement in which that director has an interest.

## **16. ACCOUNTS & RECORDS**

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### **16.1 Accounting Records**

The Board must make sure:

- (a) proper accounting and other records of the Company are kept;



- (b) that the accounting records and financial statements are audited by approved Auditor in accordance with the Act and
- (b) copies of financial statements are distributed as required in accordance with the Act.

## **16.2 Access to Records**

The Board will from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Company or any of them will be open to the inspection of Members not being directors. No Member (not being a director) has a right to inspect the accounting or other records of the Company except as:

- (a) provided by law;
- (b) authorized by the Board; or
- (c) provided by a resolution passed at a general meeting.

## **17. NOTICES**

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### **17.1 Giving of Notices**

The Company may give notice to any director or Member:

- (a) personally; or
- (b) by sending it by post to the address of the director as notified to the Board or the address for the Member in the register of Members or the alternative address (if any) nominated by the director or Member.

Any notice sent by post is taken to be given three days after it is posted.

### **17.2 Entitlement to Notices**

Notice of every general meeting will be given in any manner authorised by this constitution to:

- (a) every Member except those Members who (having no registered address within Australia) have not supplied to the Company an address for the giving of notices to them; and
- (b) the auditor for the time being of the Company.

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

## **18. WINDING UP**

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### **18.1 Company Winding up**

Each Member and each person who ceased to be a Member in the proceeding year undertakes to contribute to the property of the Company if the Company is wound up for:

- (a) payment of the debts and liabilities of the Company contracted before he, she or it ceases to be a Member and payment of the costs, charges and

expenses of winding up; and

- (b) adjustment of the rights of the contributories amongst themselves;

such amount as may be required but not exceeding the amount in Item 3.

## **18.2 Surplus**

The surplus (if any surplus remains) following the winding up of the Company must not be paid to or distributed amongst the Members but must instead be given or transferred to another institution or corporation which is not carried out for the profit or gain of its individual members and has:

- (a) objects that are similar to the Objects;
- (b) a constitution which requires that institution or corporation's incoming property to be applied in furtherance of its objects; and
- (c) a constitution which prohibits that institution or corporation from paying or distributing its income and property amongst its Members to an extent at least as great as is imposed on the Company.

The identity of the institution or corporation must be determined by the Members at or before the time of winding up and failing such determination being made, is to be determined by application to the Supreme Court of Victoria.

## **19. INDEMNITY**

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### **19.1 Operation of Indemnity**

To the extent permitted by law the Company indemnifies each director and, if so resolved by the Board, the auditor and any other officer of the Company:

- (a) against any liability incurred by the director, auditor or other officer in his or her capacity as an officer or auditor of the Company (other than for legal costs) except:
  - (i) a liability owed to the Company or a related body corporate of the Company;
  - (ii) a liability for a pecuniary penalty order under section 1317G of the Act or a compensation order under section 1317H of the Act; or
  - (iii) a liability that is owed to someone other than the Company or a related body corporate of the Company and did not arise out of conduct in good faith.
- (b) against all legal costs incurred by the director, auditor or other officer in defending an action for a liability incurred as a director, auditor or other officer of the Company except legal costs incurred:
  - (i) in defending or resisting proceedings in which the director, auditor or other officer is found to have liability for which the director, auditor or other officer could not be indemnified under section 199A(2) of the Act;
  - (ii) in defending or resisting criminal proceedings in which the director, auditor or other officer is found guilty;

- (iii) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the court to have been established other than costs incurred in responding to actions taken by the Australian Securities and Investments Commission 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, auditor or other officer under the Act in which the court denies relief.

## **19.2 Continuing Indemnity**

The indemnity in clause 18.1 continues notwithstanding that the director or other officer ceases to be an officer of the Company or the auditor ceases to be an auditor of the Company.

## **20. SUBSCRIBERS**

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### **20.1 Formation**

We the persons whose names and addresses are subscribed and set out in Item 1 being the Initial Members:

- (a) wish to form a company pursuant to this constitution; and
- (b) agree to the terms of this constitution.

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**SCHEDULE**

**Item 1 – Initial Members / Initial Founding Members (Clauses 5.9 and 19.1)**

<b>Surname, First Name</b>	<b>Address</b>	<b>Signature</b>	<b>Witness Signature and Name</b>
Dharann, Gulam	15 Baranbali Drive, Vermont South, Vic, 3133	.....	Signature..... Print Name.....
Eliezer, Vasantha	2 Royal Court, Ivanhoe, Vic, 3079	.....	Signature..... Print Name.....
Eswaran, Sundar	5 Noble Avenue, Strathfield, NSW, 2135	.....	Signature..... Print Name.....
Karuna Haran, Thirumani	6 Ondine Drive, Wheeler shill, Vic, 3150	.....	Signature..... Print Name.....
Ketheswaran, Ponmailainathan	38 Cave Road, Strathfield, NSW, 2135	.....	Signature..... Print Name.....
Mano Mohan, Viramuthu	33 Llandilo Avenue, Strathfield, NSW, 2135	.....	Signature..... Print Name.....
Mohan, Narayanasamy	119 Blossom Park Drive, Mill Park, Vic, 3082	.....	Signature..... Print Name.....
Muralidharan, Vijayaragavan	204 Highbury Road, Mt Waverly, Vic, 3149	.....	Signature..... Print Name.....
Mylvaganam- Delillo, Vasuki	28 Cabarita Road, Cabarita, NSW, 2137	.....	Signature..... Print Name.....
Nadarajah, Mylvaganam	35 Tenzing Court, Bendigo, Vic, 3550	.....	Signature..... Print Name.....

<b>Surname, First Name</b>	<b>Address</b>	<b>Signature</b>	<b>Witness Signature and Name</b>
Nagarajah, Sathish	88 Nicholson Street, Warnambool, Vic, 3280	.....	Signature..... Print Name.....
Parasuramar, Paramaswaami	PO Box 222, Kapunda, SA, 5373	.....	Signature..... Print Name.....
Pathmaraj, Pathmanathan	7 Kurrajong Close, View Bank, Vic, 3084	.....	Signature..... Print Name.....
Rajeswaran, Paul	13 Moronley Drive, Chadstone, Vic. 3148	.....	Signature..... Print Name.....
Rasanayakam, Malini	56 Lochinvar Parade, Carling ford, NSW. 2118	.....	Signature..... Print Name.....
Rasiah, Rajan	14 Greenbrier Avenue, Wheelers Hill, Vic, 3150	.....	Signature..... Print Name.....
Sathananthan, Dr Sangarapillai	6 Laurel Avenue, Linden Park, SA, 5065	.....	Signature..... Print Name.....
Sathananthan, Dr. Selvi	6 Laurel Avenue, Linden Park, SA, 5065	.....	Signature..... Print Name.....
Sathiakumar, Dr Chelvi	2/124 Balcombe Road, Mentone, Vic, 3194	.....	Signature..... Print Name.....
Sebastianpillai, Bertram	PO Box 41020, Casuarina, NT, 0811	.....	Signature..... Print Name.....
Seevanayagam, Sathi	9 Artists Hill, Eltham, Vic, 3095	.....	Signature..... Print Name.....

<b>Surname, First Name</b>	<b>Address</b>	<b>Signature</b>	<b>Witness Signature and Name</b>
Seevanayagam, Sivendran	63 Springthorpe Boulevard, Macleod, Vic, 3085	.....	Signature..... Print Name.....
Selvakumaran, Anton	6 Water Stone Cove,Point Cook, Vic, 3030	.....	Signature..... Print Name.....
Sivakadadchan, Mylvaganam	34 Canopus Drive, Doncaster East, Vic, 3109	.....	Signature..... Print Name.....
Sivakumaran, Siva	32 Somes Street, Wantirna South, Vic, 3152	.....	Signature..... Print Name.....
Somasundaram, Soma	2/127 Oakleigh Road, Carnegie, Vic, 3163	.....	Signature..... Print Name.....
Visvalingam, Chrisantha B	7 St Aubins Place, Glen Alpine, NSW, 2560	.....	Signature..... Print Name.....
YogaKanthi, Dr. Kathiresu	PO Box 367 Ingham Hospital, Ingham, Qld, 4850	.....	Signature..... Print Name.....
Yoganathan, Rohana	1/4 Fern hill Street, Glen Waverly, Vic 3152	.....	Signature..... Print Name.....

**Item 2: (Annual Subscription Amount)****\$500.00****Item 3: Liability of Members (clause 3.2)****\$500.00**