



*“A” - Constitution as approved at the Special General Meeting of members held on 21 November 2013.*

***PUBLIC COMPANY LIMITED BY GUARANTEE***

**CONSTITUTION OF  
BRIGHT FUTURES CHILD AID AND  
DEVELOPMENT FUND AUSTRALIA**

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# Constitution

## BRIGHT FUTURES CHILD AID & DEVELOPMENT FUND AUSTRALIA

*A company limited by guarantee*

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### 1 Company's name

The name of the company is **Bright Futures Child Aid & Development Fund Australia**

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### 2 Company's objects

- (a) The company is a voluntary, non-profit and non-denominational Christian relief and development agency committed to the relief of poverty and the provision of education and development opportunities for children, families and communities in need in developing countries.
  - (b) In co-operation with its partner agencies in developing countries, the company will:
    - (1) Work with families and communities in strengthening their capacity to exercise greater control of their lives and improve economic and social self-reliance through education, literacy, employment training, health and micro credit programs.
    - (2) Undertake specific health and development projects aimed at the sustainable relief of poverty, homelessness, malnutrition and disease.
  - (c) The company's other objects include:
    - (1) The establishment and maintenance of a public fund; and
    - (2) Partnering with World Relief Australia (ACN 125 059 967).
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### 3 Company's powers

Solely for the purpose of carrying out the company's objects, the company may:

- (a) accept and undertake full or partial trusteeship, administration and management of trusts and funds, whether as trustee or as agent for the trustee or otherwise, and charge and accept fees, commission or other remuneration in respect of the trusteeship, administration and management;

- (b) raise funds and invite and receive contributions, grants, distributions of income or capital, gifts (by will or otherwise), loans and deposits from any person;
- (c) provide funds or other material benefits by way of grant or otherwise to further the company's objects;
- (d) accept and hold funds or property of any kind on or for any charitable objects or purposes specified or to be specified by any person or to be selected by the directors from a class of trusts, objects or purposes specified by any person;
- (e) purchase, take on lease or in exchange, hire or otherwise acquire real or personal property, and any rights or privileges that are required for the purposes of, or capable of being conveniently used in connection with, the company's objects. However, if the company takes or holds any property which is subject to a trust, the company may only deal with that property in the manner allowed by law having regard to that trust;
- (f) control, manage, lease, exchange, mortgage, charge, sell, transfer, surrender, dispose of, develop, carry on business or otherwise deal with any real or personal property of any kind or any estate or interest in that property;
- (g) invest, deal with and lend money and otherwise provide financial accommodation to, and guarantee or otherwise secure loans to, charitable objects or purposes;
- (h) construct, improve, maintain, develop, work, manage and control real or personal property and enter into contracts and agreements;
- (i) appoint a person as the company's attorney or agent with the powers (including the power to sub-delegate) and on the terms the company thinks fit, and procure registration or recognition of the company in any other country or place;
- (j) enter into any arrangement with any government or authority that seems conducive to the company's objects, obtain from any government or authority any right, privilege or concession that the company thinks it desirable to obtain, and carry out, exercise and comply with any of those arrangements, rights, privileges and concessions;
- (k) engage, dismiss or suspend any employee, agent, contractor or professional person;
- (l) borrow, raise or secure the payment of money and secure the repayment or performance of any debt, liability, contract, guarantee or other engagement in any way and, in particular, by mortgage, charge or overdraft or by the issue of debentures or debenture stock (perpetual or otherwise) charged on all or any of the company's property (both present and future) and purchase, redeem or pay off those securities;
- (m) spend money and do all other things that it considers desirable to promote the company's objects;

- (n) make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- (o) print and publish newsletters, periodicals, books or leaflets or otherwise publish information in hard copy or by electronic means;
- (p) accept any gift of property, whether subject to any special trust or not, for the company's objects, but subject to the provisions in clause 3(e) relating to trusts (if applicable);
- (q) take any steps by personal or written appeals, public meetings or otherwise, that the company considers expedient to procure contributions to the company's funds, by way of donations, gifts (by will or otherwise), grants, sponsorships or otherwise;
- (r) appoint patrons of the company;
- (s) make donations for charitable purposes;
- (t) decline or otherwise refuse to accept any gift (by will or otherwise), donation, settlement or other disposition of money or property;
- (u) co-ordinate and arrange conferences, meetings, standing committees and commissions and other forums; and
- (v) do all other things that are incidental or conducive to attaining the company's objects.

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#### **4 Additional powers**

The company has the powers set out in the Law but only to the extent necessary or convenient to carry out, or incidental to carrying out, the company's objects.

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#### **5 Not-for-Profit**

The company's income and property must be applied solely towards promoting the company's objects and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, fee or otherwise, to any of the members or directors provided that nothing herein shall prevent the payment in good faith of remuneration to any officer or volunteer of the company or to any member of the company for any service actually rendered or incurred on behalf of the company.

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#### **6 Liability of members**

The liability of the members is limited.

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## 7 Guarantee by members

Every member undertakes to contribute an amount not more than \$10.00 to the property of the company if it is wound up while he or she is a member or within one year after he or she ceases to be a member, for:

- (a) payment of the company's debts and liabilities contracted before the time he or she ceased to be a member;
- (b) the costs, charges and expenses of winding up; and
- (c) the adjustment of the rights of the contributories among themselves.

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## 8 Winding up

- (a) If, on the winding up or dissolution of the company, any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to a fund, authority or institution:
  - (1) which is charitable at law; and
  - (2) whose constitution prohibits distributions or payments to its members and directors (if any) to an extent at least as great as is outlined in clause 5.
- (b) The identity of the fund, authority or institution referred to in clause 8(a) must be decided by the members by ordinary resolution at or before the time of winding up or dissolution of the company and, if the members cannot decide, by the Supreme Court of the State.

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## 9 Altering this constitution

This constitution shall be altered by a special resolution of the members of the company. Such alteration shall be notified to the relevant statutory bodies.

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## 10 Membership

- (a) There will be 2 classes of membership:
  - (1) individual members; and
  - (2) entity member, namely World Relief Australia (ACN 125 059 967) who shall be the sole entity member.
- (b) Notwithstanding clause 10(a), the members are:
  - (1) the persons and/or entity consenting to be the members set out in the **Schedule** and
  - (2) any other persons the directors admit as individual members in accordance with this constitution.



- (c) Subject to clause 12 an individual member shall hold membership for a term of three (3) years and is eligible to re-apply for membership after the term of three (3) years expires.
- (d) Every applicant for individual membership of the company must be proposed by one and seconded by another individual member. The application for individual membership must be:
  - (1) made in writing and signed by the applicant and his or her proposer and seconder; and
  - (2) on the form prescribed by the directors.
- (e) At the next Board meeting after the receipt of an application for individual membership, the directors shall consider the application and decide whether to admit or reject the admission of the applicant. The directors need not give any reason for rejecting an application.

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## **11 Rights attaching to membership classes**

### **11.1 Individual members' rights**

- (a) Individual members have the right to nominate and put forward to the individual members for voting at a general meeting, their choice of member(s) for appointment as a director on the Board.
- (b) The individual members are entitled to have a maximum of 4 directors, at any given time (who have been nominated by them) appointed to the Board.
- (c) Individual members are entitled and expected to participate in the Board's sub-committees, especially the Project Management sub-committee.

### **11.2 Entity member's rights**

- (a) World Relief Australia (ACN 125 059 967), as the sole entity member, has the right to appoint (and remove) by written notice to the company up to four directors on the Board.
- (b) The members of World Relief Australia (ACN 125 059 967) are entitled to participate in the Board's sub-committees.

### **11.3 Even Representation on the Board**

- (a) Each class of membership shall have the right to even representation by way of an equal number of directors on the Board to represent each membership class at any given time.
- (b) If a director is removed or resigns (as opposed to temporary absence) from office for any reason, that director's position shall be replaced by another director chosen to enable an even number of directors representing the 2 classes of membership.

- (c) If at any time the number of directors appointed by a class of members is less than 4 the remaining directors appointed by that class shall have 4 votes on any resolution put to the Board.

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## 12 When membership ceases

### 12.1 Death, resignation and other events

A member immediately ceases to be a member if:

- (a) A member dies;
- (b) He or she resigns as a member by giving written notice to the secretary of the company;
- (c) He or she becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under a law relating to mental health;
- (d) He or she becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors;
- (e) He or she is expelled under clause 12.2;
- (f) He or she becomes, if the directors so decide in their absolute discretion, an untraceable member because the person has ceased to reside at, attend or otherwise communicate with his or her registered address;
- (g) He or she ceases to be a member under clause 10(c) and is not re-admitted for membership;
- (h) In the case of a member being an entity:
  - (1) The member entity is wound up or no longer exists;
  - (2) The member entity is no longer affiliated with the company in terms of its objects and vision; or
  - (3) The member entity is insolvent.

### 12.2 Expulsion

- (a) The Board may by resolution of at least 75% of its members expel an individual member from the company if, in the Board's absolute discretion, they decide it is not in the interests of the company for the person to remain a member.
- (b) If the Board intend to propose a resolution under clause 12.2(a), at least one month before the meeting at which the resolution is to be proposed, they must give the member written notice:
  - (1) stating the date, place and time of the meeting;
  - (2) setting out the intended resolution and the grounds on which it is based; and

- (3) informing the member that he or she may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.

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## **13 General meetings**

### **13.1 Calling general meetings (including AGM)**

- (a) The Board may, at any time, convene a general meeting.
- (b) The Board must convene in every calendar year a general meeting, to be called the annual general meeting, which is to be held at such time as may be determined by the Board within 5 months of the end of its financial year.
- (c) A general meeting may be called and arranged to be held as provided by clause 13.1 or as provided by the Law.
- (d) An individual member may requisition, convene, or join in requisitioning or convening a general meeting in accordance with the Law.
- (e) The directors may change the venue for, postpone or cancel a general meeting, unless the meeting is called and arranged to be held by the members or the court under the Law.

### **13.2 Annual General Meeting**

The business of an annual general meeting shall include but is not limited to:

- (a) Consideration of the annual financial report, director's report and auditor's report (if required to be prepared under the Law);
- (b) The election of directors to the Board to represent individual members;
- (c) Appointment of the auditor (when relevant) and fixing of the auditor's remuneration; and
- (d) any other business which under this constitution or the Law may be transacted at a general meeting.

### **13.3 Notice of general meetings**

- (a) Notice of every general meeting shall be given in any manner authorised by clause 19 to:
  - (1) every individual member entitled to vote, except a member who has not supplied the company with an address in Australia for giving notices;
  - (2) the entity member;
  - (3) each director;
  - (4) the executive officer; and

(5) the auditor.

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

- (b) A notice of a general meeting shall:
- (1) be given at least 21 days with respect to a general meeting of the members; and
  - (2) specify the date, time, place and if necessary, the technology that will be used to facilitate the meeting; and
  - (3) state the general nature of the business to be transacted at the meeting.
- (c) The company may call on shorter notice (than 21 days):
- (1) With respect to an AGM, if all the members entitled to attend and vote at the AGM agree beforehand; and
  - (2) With respect to any other general meeting, if members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (d) Shorter notice is not allowed for the removal or appointment of a director and shorter notice is not allowed to remove an auditor.
- (e) A person may waive notice of a general meeting by written notice to the company.
- (f) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this clause 13.3 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
- (1) the non-receipt or failure occurred by accident or error; or
  - (2) before or after the meeting, the person:
    - (A) has waived or waives notice of that meeting under clause 13.3(e) or
    - (B) has notified or notifies the company of the person's agreement to that act, matter, thing or resolution by written notice to the company.
- (g) A person's attendance at a general meeting waives any objection that person may have to:
- (1) a failure to give notice, or the giving of a defective notice, of the meeting unless, at the beginning of the meeting, the person objects to the holding of the meeting; and
  - (2) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

### **13.4 Quorum at general meetings (of members)**

- (a) No business may be transacted at a general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.
- (b) A quorum consists of 50% plus 1 of the individual members entitled to vote present at the meeting in person, by proxy or by attorney plus at least 1 nominated representative from the entity member.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
  - (1) where the meeting was convened on the requisition of members, the meeting must be dissolved; or
  - (2) in any other case:
    - (A) the meeting stands adjourned to the day, and at the time and place, that the directors decide or, if the directors do not make a decision, to the same day in the next week at the same time and place; and
    - (B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

### **13.5 Chairperson of general meetings**

- (a) The chairperson of directors must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as chairperson at each general meeting.
- (b) If at a general meeting:
  - (1) there is no chairperson of directors;
  - (2) the chairperson of directors is not present within 15 minutes after the time appointed for the meeting; or
  - (3) the chairperson of directors is present within that time but is not willing to act as chairperson of the meeting,
 the members present must elect as chairperson of the meeting:
  - (4) another director who is present and willing to act; or
  - (5) if no other director present at the meeting is willing to act, a member who is present and willing to act.

### **13.6 Conducting and adjourning general meetings**

- (a) A question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson of the meeting, whose decision is final.

- (b) The chairperson of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting except the business left unfinished at the meeting from which the adjournment took place.
- (c) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original meeting.
- (d) Except as provided by clause 13.6(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- (e) Where a meeting is adjourned, the directors may change the venue of, or postpone or cancel, the adjourned meeting, unless the meeting was called and arranged to be held by the members or the court under the Law.

### **13.7 Decisions at general meetings**

- (a) Except where by Law or where this constitution requires a different percentage to pass a resolution, questions arising at a general meeting shall be decided by a majority (51%) of votes cast in the affirmative by the individual members present at the meeting plus a majority of the votes cast in the affirmative by the representatives of the entity member. Such a decision is for all purposes a decision of the members.
- (b) Where the votes on a proposed resolution are equal the resolution is not carried.
- (c) A resolution put to the vote of a general meeting may be decided on a show of hands or by other means including but not limited to by ballot, by voices or by acclamation unless, before the vote is taken or before or immediately after the declaration of the result of the show of hands, a poll is demanded by:
  - (1) the chairperson of the meeting;
  - (2) at least 5 members present and with the right to vote on the resolution; or
  - (3) a member or members present at the meeting and representing at least 5% of the total voting rights of all the members entitled to vote on the resolution on a poll.
- (d) A demand for a poll does not prevent a general meeting continuing for the transaction of any business except the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chairperson of a general meeting that a resolution has been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

- (f) If a poll is duly demanded at a general meeting, it must be taken in such manner, and either at once or after an interval or adjournment or otherwise, as the chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded.
- (g) A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.
- (h) The demand for a poll may be withdrawn.
- (i) If the company has only one member, the company may pass a resolution by the member recording it and signing the record.

### **13.8 Voting rights**

- (a) Subject to this constitution and to any rights or restrictions attached to any class of membership, at a general meeting every member present in person or by proxy, attorney or representative has one vote.
- (b) A proxy, attorney or representative is entitled to a separate vote for each member the person represents, in addition to any vote the person may have as a member in his or her own right.
- (c) An objection to the qualification of a person to vote at a general meeting must be:
  - (1) raised before or at the meeting at which the vote objected to is given or tendered; and
  - (2) referred to the chairperson of the meeting, whose decision is final.
- (d) A vote not disallowed by the chairperson of a meeting under clause 13.8(c) is valid for all purposes.

### **13.9 Representation at general meetings**

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:
  - (1) in person or, where a member is a body corporate, by its representative;
  - (2) by proxy; or
  - (3) by attorney.
- (b) A proxy, attorney or representative may, but need not, be a member of the company.
- (c) A proxy, attorney or representative may be appointed for:
  - (1) all general meetings;
  - (2) any number of general meetings; or
  - (3) a particular general meeting.

- (d) Unless otherwise provided in the instrument, an instrument appointing a proxy, attorney or representative is taken to confer authority:
  - (1) to agree to a meeting being convened by shorter notice than is required by the Law or by this constitution;
  - (2) to speak to any proposed resolution on which the proxy, attorney or representative may vote;
  - (3) to demand or join in demanding a poll on any resolution on which the proxy, attorney or representative may vote;
  - (4) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or representative how to vote on those resolutions:
    - (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
    - (B) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
    - (C) to act generally at the meeting; and
  - (5) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (e) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution. Where an instrument contains such a direction, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.
- (f) Subject to clause 13.9(g), an instrument appointing a proxy or attorney need not be in any particular form as long as it is in writing, legally valid and signed by the appointer or the appointer's attorney.
- (g) A proxy or attorney may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the proxy or attorney, and the authority under which the instrument is signed or a certified copy of the authority, are received in the places or at the fax numbers, and before the times, specified for that purpose in the notice calling the meeting. In the notice:
  - (1) the place may be the company's office or another place and a fax number may be the fax number at the company's office or another fax number; and
  - (2) the time may be before the time for holding the meeting or adjourned meeting.



- (h) The directors may waive all or any of the requirements of clauses 13.9(f) and (g) and in particular may, on production of any other evidence the directors require to prove the validity of the appointment of a proxy or attorney, accept:
  - (1) an oral appointment of a proxy or attorney;
  - (2) an appointment of a proxy or attorney which is not signed or executed in the manner required by clause 13.9(f); or
  - (3) the deposit, tabling or production of a copy (including a copy sent by fax) of an instrument appointing a proxy or attorney, or of the power of attorney or other authority under which the instrument is signed.
- (i) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the revocation of the instrument, or of the authority under which the instrument was executed, if the company has not received written notice of revocation by the time and at one of the places at which the instrument appointing the proxy or attorney is required to be received under clause 13.9(g).
- (j) The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on a resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

### **13.10 Minutes**

The company secretary will arrange for minutes of all general meetings (of the members and of the Board) to be formally documented, accurately reflecting the contents of the general meeting. The minutes are to be signed by the chairperson.

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## **14 Directors**

### **14.1 Appointing and removing directors**

- (a) The first directors are the persons who have consented to act as proposed directors and who are named as proposed directors in the application for registration of the company.
- (b) The members may by resolution appoint or remove a director elected by the individual members.
- (c) The directors may appoint an individual member as a director to fill a casual vacancy in the directors elected by individual members and maintain the even representation on the board until there is an opportunity for the individual members to appoint a replacement director. The entity member may appoint a replacement director if there is a casual vacancy in the directors appointed by it.

- (d) Subject to clause 14.5 and to the terms of any agreement entered into between the company and the relevant director, a director holds office until he or she is removed from office under clause 14.5.
- (e) Notice of intention to move the resolution to remove a director must be given to the company at least 2 months before the meeting is to be held.

#### **14.2 Appointment of Director at an AGM**

- (1) The individual members shall resolve among themselves who to nominate to act as a director.
- (2) The individual members shall have the right to nominate more than one member for appointment as a director at the company's Annual General Meeting.
- (3) At least ten (10) days prior to the date on which an Annual General Meeting is held, individual members shall provide to the company secretary, the names of members nominated for appointment as director.
- (4) At the Annual General Meeting each individual member shall have one vote with respect to the election of a nominated member to act as director.

#### **14.3 Directors to act in best interests of the company**

Notwithstanding the abovementioned provisions the directors acknowledge that they are obligated to act in the best interests of the company as provided for under the Law.

#### **14.4 Composition of the Board:**

The Board:

- (1) shall consist of eight (8) directors;
- (2) shall appoint a least one (1) person to the position of secretary who may, but need not, be a director;
- (3) may from time to time, elect directors to the position of chairperson, deputy chairperson, treasurer and any other position the Board deems appropriate.

#### **14.5 When office of director becomes vacant**

In addition to the circumstances prescribed by the Law, the office of a director becomes vacant if the director:

- (a) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (b) becomes bankrupt or insolvent or makes an arrangement or composition with his or her creditors generally;

- (c) is convicted on indictment of an offence and the directors do not within one month after that conviction resolve to confirm the director's appointment or election (as applicable) to the office of director;
- (d) resigns by written notice to the company;
- (e) dies;
- (f) is removed by the entity member; or
- (g) is prohibited from acting as a director under the Law or is banned by ASIC.

#### **14.6 Director is also a member**

A director shall be an individual member to qualify for election by the class of individual members as a director.

#### **14.7 Remuneration of Directors**

The Directors may be paid all travelling and other expenses properly incurred by them in attending and returning from Directors' meetings or any committee meetings or general meetings or otherwise in connection with the company's business.

#### **14.8 Interested directors**

- (a) A director is not disqualified merely because he or she is a director from contracting with the company in any respect including, but not limited to:
  - (1) selling property to, or purchasing property from, the company;
  - (2) lending money to the company with or without interest or security;
  - (3) guaranteeing the repayment of money borrowed by the company for a commission or profit;
  - (4) underwriting or guaranteeing the subscription for securities in any related body corporate or other body corporate promoted by the company or in which the company is interested as a shareholder or otherwise, for a commission or profit; or
  - (5) being employed by the company or acting in any professional capacity (except as auditor) on behalf of the company.
- (b) A contract made by a director with the company and a contract or arrangement entered into by or on behalf of the company in which any director may be in any way interested is not avoided or rendered voidable merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (c) A director contracting with or being interested in any arrangement involving the company is liable to account to the company for any profit realised by or under that contract or arrangement unless the directors otherwise decide.

- (d) Unless otherwise permitted by the Law, a director who has a material personal interest in a matter that is being considered at a directors' meeting must not:
  - (1) be present while the matter is being considered at the meeting; or
  - (2) vote on the matter.
- (e) The directors may make regulations requiring the disclosure of interests that a director, and any person considered by the directors as related to or associated with the director, may have in any matter concerning the company or a related body corporate. Any regulations made under this constitution bind all directors.

#### **14.9 Powers and duties of directors**

- (a) The directors are responsible for governance and strategic control of the company, including appointment of the Executive Officer and approval of business plans and may exercise to the exclusion of the members in general meeting all the company's powers which are not required, by the Law or by this constitution, to be exercised by the members in general meeting.
- (b) Without limiting clause 14.9(a), the directors may exercise all the company's powers to:
  - (1) borrow or otherwise raise money;
  - (2) charge any property or business of the company; and
  - (3) issue debentures or give any other security for a debt, liability or obligation of the company or of any other person.
- (c) The directors may decide how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed (as applicable) by or on behalf of the company.
- (d) The directors may pay out of the company's funds all expenses of the promotion, formation and registration of the company and the vesting in it of the assets acquired by it.
- (e) The directors may:
  - (1) appoint or employ a person to be an officer, agent or attorney of the company for the purposes, with the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the directors), for the period and on the conditions they think fit;
  - (2) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and

- (3) subject to any contract between the company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney at any time, with or without cause.
- (f) A power of attorney may contain any provisions for the protection and convenience of the attorney or persons dealing with the attorney that the directors think fit.

#### **14.10 Confidentiality obligations**

- (a) Every director and other agent or officer of the company must keep confidential all aspects of all transactions of the company, except:
  - (1) to the extent necessary to enable the person to perform his or her duties to the company;
  - (2) as required by law;
  - (3) when requested to disclose information by the Board to the Auditor or a general meeting of the company;
  - (4) as otherwise permitted by the Board.

#### **14.11 Proceedings of directors**

- (a) The directors may meet together and adjourn and otherwise regulate their meetings as they think fit.
- (b) The contemporaneous linking together by telephone or other electronic means of a sufficient number of the directors to constitute a quorum constitutes a meeting of the directors. All the provisions in this constitution relating to meetings of the directors apply, so far as they can and with any necessary changes, to meetings of the directors by telephone or other electronic means.
- (c) A director who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
- (d) A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the directors involved was at that place for the duration of the meeting.

#### **14.12 Convening meetings of directors**

- (a) The Board must meet at least 4 times in each financial year.
- (b) Upon the written requisition of the Chairman or any four Directors, the Chairman, or Deputy Chairman, or in their absence the Secretary, must convene a special meeting of Board to be held within 14 days after the receipt of the requisition. The requisition must set out the purposes for which the meeting is required.

### 14.13 Notice of meetings of directors

- (a) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice:
  - (1) a director, except a director on leave of absence approved by the directors; or
  - (2) an alternate director appointed under clause 14.18 by a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
  - (1) must specify the time, place of the meeting;
  - (2) must specify the technology used to conduct the meeting;
  - (3) must state the nature of the business to be transacted at the meeting;
  - (4) must be given at least 2 business days before the meeting;
  - (5) may be given in person or by post, telephone, fax, email or other electronic means; and
  - (6) is taken as given to an alternate director if it is given to the director who appointed that alternate director.
- (c) A director or alternate director may waive notice of a meeting of directors by notifying the company to that effect in person or by post, telephone, fax, email or other electronic means.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
  - (1) the non-receipt or failure occurred by accident or error;
  - (2) before or after the meeting, the director or an alternate director appointed by the director:
    - (A) has waived or waives notice of that meeting under clause 14.13(c); or
    - (B) has notified or notifies the company of his or her agreement to that act, matter, thing or resolution personally or by post, telephone, fax or other electronic means; or
  - (3) the director or an alternate director appointed by the director attended the meeting.
- (e) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, an alternate director of a director on leave of absence approved by the directors does not invalidate any act, matter or thing done or resolution passed at the meeting if:
  - (1) the non-receipt or failure occurred by accident or error;
  - (2) before or after the meeting, the alternate director or the director who appointed the alternate director:

- (A) has waived or waives notice of that meeting under clause 14.13(c); or
  - (B) has notified or notifies the company of his or her agreement to that act, matter, thing or resolution personally or by post, telephone, fax or other electronic means; or
  - (3) the alternate director or the director who appointed the alternate director attended the meeting.
- (f) Attendance by a person at a meeting of directors waives any objection which that person and:
- (1) if the person is a director, an alternate director appointed by that person; or
  - (2) if the person is an alternate director, the director who appointed that person as alternate director,
- may have to a failure to give notice of the meeting.

#### **14.14 Quorum at meetings of directors**

- (a) No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
- (b) A quorum consists of a total of four (4) directors (2 appointees from each membership class) present at the meeting of directors.

#### **14.15 Chairperson of directors**

- (a) The directors may elect one of the directors as chairperson of directors and may decide the period for which that director is to be the chairperson.
- (b) The chairperson of directors must (if present within 10 minutes after the time appointed for the meeting and willing to act) preside as chairperson at each meeting of directors.
- (c) If at a meeting of directors:
  - (1) there is no chairperson of directors;
  - (2) the chairperson of directors is not present within 10 minutes after the time appointed for the meeting; or
  - (3) the chairperson of directors is present within that time but is not willing to act as chairperson of the meeting,

the directors present must elect one of the directors as chairperson of the meeting.

#### **14.16 Decisions of directors**

- (a) A meeting of directors at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the directors under this constitution.

- (b) Questions arising at a meeting of directors must be decided by a majority of votes cast by the directors present. Such a decision is for all purposes a decision of the directors.
- (c) Where the votes for and against on a proposed resolution are equal the resolution is not carried.
- (d) If at any time the number of directors appointed by a class of members is less than 4 the remaining directors appointed by that class shall have 4 votes on any resolution put to the Board.

#### **14.17 Written resolutions**

- (a) If:
  - (1) a majority of the directors assent to a document containing a statement to the effect that an act, matter or thing has been done or resolution has been passed; and
  - (2) the directors who assent to the document would have constituted a quorum at a meeting of directors held to consider that act, matter, thing or resolution,
 then that act, matter, thing or resolution is taken as done at or passed by a meeting of the directors.
- (b) For the purposes of clause 14.17(a):
  - (1) the meeting is taken as held:
    - (A) if the directors assented to the document on the same day, on the day on which the document was assented to and at the time at which the document was last assented to; or
    - (B) if the directors assented to the document on different days, on the day on which, and at the time at which, the document was last assented to;
  - (2) 2 or more separate documents in identical terms, each of which is assented to by one or more directors, are taken as constituting one document; and
  - (3) a director may signify assent to a document by signing the document or by notifying the company of the director's assent in person or by post, telephone, fax or other electronic means.
- (c) Where a director signifies assent to a document otherwise than by signing the document, the director must as confirmation sign the document at the next meeting of the directors that director attends, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.



#### **14.18 Alternate directors**

- (a) A director may, with the approval of the directors, appoint a person as his or her alternate director for the period the director thinks fit.
- (b) An alternate director shall be an individual member or a member of the entity member.
- (c) One person may act as alternate director to more than one director.
- (d) An alternate director may, if the appointer does not attend a meeting of directors, attend and vote in place of and on behalf of the appointer.
- (e) An alternate director is entitled to a separate vote for each director the alternate director represents in addition to any vote the alternate director may have as a director in his or her own right.
- (f) In the absence of the appointer, an alternate director may exercise any power that the appointer may exercise. The exercise of such a power by the alternate director is taken to be the exercise of the power by the appointer.
- (g) The office of an alternate director is vacated if and when the appointer vacates office as a director.
- (h) The appointer may terminate the appointment of an alternate director at any time, even though the period of the appointment has not expired.
- (i) An appointment, or the termination of an appointment, of an alternate director must be in writing signed by the director who makes or made the appointment and does not take effect until the company has received written notice of the appointment or termination.
- (j) An alternate director is not to be taken into account in counting the minimum or maximum number of directors allowed under this constitution.
- (k) In deciding whether a quorum is present at a meeting of directors, an alternate director who attends the meeting is to be counted as a director for each director on whose behalf the alternate director is attending the meeting.
- (l) An alternate director, while acting as a director, is:
  - (1) responsible to the company for his or her own acts and defaults; and
  - (2) not to be taken to be the agent of the director by whom he or she was appointed.

#### **14.19 Delegation to individual directors**

- (a) The directors may delegate any of their powers to one director.
- (b) A director to whom any powers have been delegated must exercise the powers delegated in accordance with any directions given by the directors.

### **14.20 Validity of acts**

An act done by a person acting as a director, a meeting of directors, or a committee of directors attended by a person acting as a director, is not invalidated merely because of:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified to be a director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person, the directors or the committee (as applicable) when the act was done.

## **15 Executive officers**

### **15.1 Executive officer**

- (a) The Board may appoint a person to act in the role of executive officer.
- (b) An executive officer may be an individual member of the company or a director or member of the entity member but cannot be a Board member of the company.

### **15.2 Provisions that apply to all executive officers**

- (a) A reference in this clause 15.2 to an executive officer is a reference to an executive officer appointed under this clause 15.
- (b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions that the Board think fit.
- (c) Subject to any contract between the company and the relevant executive officer, an executive officer may be removed or dismissed by the Board at any time, with or without cause.
- (d) The directors may:
  - (1) confer on an executive officer the powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the directors) they think fit;
  - (2) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
  - (3) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on him or her.

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## 16 Sub-committees

### 16.1 Establishment and termination

- (a) The Board will establish & ensure the effective operation of the following sub-committees:
  - (1) Finance & risk management; and
  - (2) Project management;
- (b) The Board may:
  - (1) establish and terminate additional sub-committees as needed;
  - (2) appoint and remove, or make provision for the appointment and removal of, members of the sub-committees.
- (c) Each sub-committee will consist of a single individual or the number of individuals that the Board decide.

### 16.2 Functions

- (a) The functions of each sub-committee will be decided by the Board and, subject to any such decision, the Board will receive recommendations from the sub-committee.
- (b) The Board may from time to time specify:
  - (1) the manner in which proceedings of each sub-committee are to be conducted;
  - (2) the matters which the sub-committee must consider in carrying out its functions; and
  - (3) any other matters concerning the sub-committee or its functions that the directors decide.

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## 17 Indemnity and insurance

### 17.1 Persons to whom clauses 17.2 and 17.4 apply

Clauses 17.2 and 17.4 apply to:

- (a) each person who is or has been a director, alternate director or executive officer (within the meaning of clause 15.2(a)) of the company; and
- (b) any other officers or former officers of the company or of its related bodies corporate that the directors decide in each case.

### 17.2 Indemnity

The company must

- (a) indemnify; and

- (b) if requested by a person to whom this clause 17.2 applies, enter into a deed indemnifying,

on a full indemnity basis and to the full extent permitted by the Law, each person to whom this clause 17.2 applies for all losses or liabilities incurred by the person as an officer of the company or of a related body corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred:

- (c) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
- (d) in connection with an application, in relation to those proceedings, in which the court grants relief to the person under the Law.

### **17.3 Extent of indemnity**

The indemnity in clause 17.2:

- (a) is a continuing obligation and is enforceable by a person to whom clause 17.2 applies even though that person has ceased to be an officer of the company or of a related body corporate; and
- (b) operates only to the extent that the loss or liability is not covered by insurance.

### **17.4 Insurance**

The company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this clause 17.4 applies against any liability incurred by the person as an officer of the company or of a related body corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

### **17.5 Savings**

Nothing in clauses 17.2 or 17.4:

- (a) affects any other right or remedy that a person to whom those clauses apply may have in respect of any loss or liability referred to in those clauses; or
- (b) limits the capacity of the company to indemnify or provide insurance for any person to whom those clauses do not apply.

## **18 Accounts and Reporting**

### **18.1 Auditor**

The company shall appoint an auditor if required by the Law.

## **18.2 Accounts**

The company shall keep such accounting and financial records as comply with the Law (where applicable) and the ACNC (if applicable) as are necessary to correctly record and explain the financial transactions and financial position of the company.

## **18.3 Financial Year**

The first financial year of the company shall be the period ending on the 30<sup>th</sup> day of June 2013 and thereafter a period of 12 months ending on the 30<sup>th</sup> day of June in each year.

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# **19 Notices**

## **19.1 How notices may be given**

A notice may be given by the company to a member by:

- (a) delivering it to the member personally;
- (b) sending it to the member's fax number or electronic address, if the member has nominated one to the company for receipt of notices); or
- (c) posting it by prepaid post to the member's registered address.

## **19.2 When taken as given**

A notice is taken as given by the company and received by the member:

- (a) if delivered, at the time of delivery;
- (b) if faxed, when the company receives a confirmation report that all pages of the fax have been transmitted to the member's fax number, but if transmission or receipt is after 5.00 pm, it is taken as received on the next business day;
- (c) if sent by electronic means, on the next business day; and
- (d) if posted, on the second business day after it was posted.

## **19.3 When member has no registered address**

If one or more members do not have a registered address in Australia, a notice addressed to the member or members and advertised in a daily national newspaper is taken to be duly given to the member or members at midday on the day on which the advertisement appears.

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## 20 Replaceable Rules Displaced

### 20.1 Replaceable rules displaced

- (a) The provisions of this constitution displace each provision of a section or subsection of the Law that applies (or would apply but for this clause) to the company.
- (b) The replaceable rules do not apply to the company except those which operate as mandatory rules for public companies under the Law.

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## 21 Public Fund

- (a) The company in its capacity as trustee, operates a public ancillary fund called the “Bright Futures Overseas Aid Fund” ABN 94 377 547 867.
- (b) The purpose of the “Bright Futures Overseas Aid Fund” is set out in the trust deed dated 26<sup>th</sup> May 2006 between Roger Stuart Bryson as the founder and Bright Futures Child Aid and Development Fund Australia Incorporated as the trustee.

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## 22 Definitions and interpretation

### 22.1 Definitions

In this constitution:

**ASIC** means Australian Securities and Investments Commission;

**ACNC** means the Australian Charities and Not-For-Profits Commission;

**auditor** means the auditor of the company;

**Board** means the company’s board of directors;

**business day** means a day on which the major trading banks are open for business in Adelaide, except a Saturday, Sunday or public holiday;

**company** means Bright Futures Overseas Aid - Australia Ltd.;

**company’s office** means the company’s registered office;

**directors** means the company’s board of directors;

**financial year** means the period ending on the 30<sup>th</sup> June of each year;

**ITAA 97** means the *Income Tax Assessment Act 1997*;

**Law** means the Corporations Act 2001 as amended from time to time;

**member** means a member of the company;

**registered address** means a member’s address as notified to the company by the member and recorded in the company’s register;

**secretary** means a person appointed to perform the duties of a secretary of the company; and

**special resolution** means a resolution of which:

- (a) not less than 21 days’ notice has been given; and
- (b) has been passed by at least 75% of the votes cast by members entitled to vote on the resolution.

**State** means South Australia.

**22.2 Interpretation**

In this constitution unless the context requires otherwise:

- (a) references to notices include formal notices of meeting and all documents and other communications from the company to its members;
- (b) a reference to any legislation includes any amendment to that legislation, any consolidation or replacement of that legislation and any subordinate legislation made under it;
- (c) a reference to **writing** and **written** includes printing, lithography and other ways of representing or reproducing words in a visible form;
- (d) a word or expression defined in the Law has the same meaning unless it is defined differently; and
- (e) the singular (including defined terms) includes the plural and the plural includes the singular.

**22.3 Headings**

Headings are used for convenience only and do not affect the interpretation of this constitution.

\* \* \* \* \*

**Declaration:**

This Constitution of Bright Futures Child Aid and Development Fund Australia was unanimously adopted by a special resolution of the members of the company at a General Meeting of members called in accordance with the rules and held on 21 November 2013.

**Signed:** \_\_\_\_\_

*Roger Bryson, Chairman, Bright Futures Child Aid & Development Fund Australia*

**Date:** November 2013