Hagar Australia Ltd

Constitution

Adopted 3 October 2024

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Hagar Australia Ltd

A company limited by guarantee

1 Company's name

The name of the company is **Hagar Australia Ltd**.

2 Background

Hagar Australia Ltd has been established as part of the global partnership of Hagar organisations, seeking to restore women and children who suffer human rights abuse to life in all its fullness.

3 Company's purposes

The company is established for the public charitable purpose of providing relief to people within countries declared by the Minister for Foreign Affairs to be developing countries under section 30-85(2) of the ITAA 97, including:

(a) providing temporary residential care, medical and psycho-social treatment, legal services, education and training to women and children in need who have suffered violence, exploitation and injustice, particularly human trafficking and gender based violence;

(b) supporting the economic empowerment of women and children in need through work readiness training, vocational training, employment placements and post-placement support;

(c) restoring dignity and hope, building resilience and facilitating the community reintegration of women and children; and

(d) undertaking other activities conducive to assisting needy persons who are disadvantaged or in necessitous circumstances.

4 Company's powers

Subject to **rule 5**, the company has all the powers of a company limited by guarantee under the Act which may only be used to carry out its purpose(s) set out in **rule 3**.

5 Not for profit status

5.1 Application of the company's income and property

(a) The company's income and property must be applied solely towards promoting the company's purposes.

(b) No part of the income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, or other profit distribution, to any of the members or directors.

(c) This **rule 5** does not prohibit indemnification of, or payment of premiums on contracts of insurance for, any director to the extent permitted by law and this constitution.

5.2 Payments of directors fees

No directors fees may be paid to the directors.

5.3 Other payments to directors

All other payments to directors must be approved by the directors including, but not limited to:

(a) out-of-pocket expenses incurred by a director in performing a duty as a director of the company; or

(b) a service rendered to the company by a director in a professional or technical capacity or as an employee, other than in the capacity as a director of the company, where:

(i) the provision of the service has the prior approval of the directors; and

(ii) the amount payable is not more than an amount which commercially would be reasonable payment for the service.

6 Membership

6.1 Application

(a) Subject to **rule 6.2**, the members are:

(i) the current directors; and

(ii) any other persons the directors admit to membership in accordance with this constitution.

(b) Every applicant for membership of the company who is not a director of the company must apply in the form and manner decided by the directors.

(c) In addition to the eligibility criterion outlined in **rule 6.2**, the directors may decide to create other eligibility criteria and categories of membership with the same or differing rights or privileges.

(d) After the receipt of an application for membership, the directors (or a delegate approved by the directors) must consider the application and decide whether to admit or reject the admission of the applicant.

(e) Subject to the Act and this constitution, a person becomes a member on the registration of that person's name in the Register of Members.

6.2 Eligibility

Despite **rule 6.1(a)**, a majority of the members of the company at all times must be persons who are not one or more of:

(a) government, local government, a government department, or a government authority; or

(b) employed by, or an officer of, government, local government, or a government department or government authority.

7 When membership ceases

7.1 Death, resignation and other events

A person immediately ceases to be a member if the person:

(a) dies;

(b) resigns as a member by giving written notice to the company;

(c) ceases to be a director;

(d) becomes of unsound mind or the person is, or their estate is, liable to be dealt with in any way under a law relating to mental health;

(e) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors;

(f) is expelled under **rule 7.2**; or

(g) 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.

7.2 Expulsion

(a) The directors may by resolution expel a member who is not a director from the company if, in their absolute discretion, they decide it is not in the interests of the company for the person to remain a member.

(b) If the directors intend to consider a resolution under **rule 7.2(a)**, at least one week before the meeting at which the resolution is to be considered, they must give the member written notice:

(i) stating the date, place and time of the meeting;

(ii) setting out the intended resolution and the grounds on which it is based; and

(iii) 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.

(c) There will be no liability for any loss or injury suffered by a member as a result of any decision made in good faith under this **rule 7.2.**

8 Register of Members

The company must establish and maintain a Register of Members setting out:

(a) the name and address of each member;

(b) the date on which each member was entered on to the register; and

(c) in respect of each person who has ceased to be a member within the last seven years, the name, details and the date on which that person ceased to be a member.

9 Liability of member

The liability of the members is limited to the amount of the guarantee given in **rule 10**.

10 Guarantee by member

Every member undertakes to contribute an amount not more than $10 to the property of the company if it is wound up while the person is a member or within one year after the person 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; and

(b) the costs, charges and expenses of winding up.

11 Winding up

11.1 Surplus assets not to be distributed to members

If the company is wound up, any surplus assets must not be distributed to a member or former member of the company, unless that member or former member is an entity described in **rule 11.2**.

11.2 Distribution of surplus assets

(a) Subject to the Act, any other applicable legislation and any court order, any surplus assets (including 'gift funds' defined in **rule 11.2(d)**) that remain after the company is wound up must be distributed to one or more charities:

(i) with a charitable purpose(s) similar to, or inclusive of, the purpose(s) in **rule 3**;

(ii) whose constitution prohibits distributions or payments to its members to at least the same extent as the company; and

(iii) that is or are deductible gift recipients within the meaning of the ITAA 97.

(b) The decision as to the entity to be given the surplus assets must be decided by the directors, or if the directors do not wish to decide or do not decide, it must be decided by the members by ordinary resolution at or before the time of winding up of the company and, if the members do not decide, by the Supreme Court of the state or territory in which the company is registered.

(c) If the company's deductible gift recipient endorsement is revoked (whether or not the company is to be wound up), any surplus gift funds must be transferred to one or more charities that meet the requirements of **rules 11.2(a)(i)**, **11.2(a)(ii)** and **11.2(a)(iii)**, as decided by directors.

(d) For the purpose of this rule:

(i) 'gift funds' means:

(A) gifts of money or property for the principal purpose of the company;

(B) contributions made in relation to a fund-raising event held for the principal purpose of the company; and

(C) money received by the company because of such gifts and contributions.

(ii) 'contributions' and 'fund-raising event' have the same meaning as Division 30 of the ITAA 97.

12 Altering this constitution

12.1 Charitable

(a) This constitution may be modified or repealed only by a special resolution of the company in a general meeting.

(b) The company must not pass a special resolution making a material alteration to, or materially affecting, **rules 3**, **5** or **11**, or any other alteration to the constitution, if, as a result, the company is no longer a charity.

12.2 Notify

In addition to any notification required under the Act and/or the ACNC Act, the company must notify the Commissioner if:

(a) a special resolution is passed materially altering **rule 3**; or

(b) the company is no longer eligible to be endorsed as a charity as a result of a change in its constitution or activities or otherwise.

13 General meetings

13.1 Annual general meetings

Annual general meetings must be held in accordance with the Act.

13.2 Calling general meetings

(a) A general meeting may only be called:

(i) by a directors' resolution; or

(ii) in accordance with a members' requisition under the Act, or

(iii) as otherwise provided in the Act.

(b) The directors may change the venue for, postpone or cancel a general meeting if:

(i) they consider that the meeting has become unnecessary;

(ii) the venue would be unreasonable or impractical; or

(iii) a change is necessary in the interests of conducting the meeting efficiently.

(c) If the general meeting was not called by a directors' resolution or was called in accordance with a members' requisition under the Act, then it may not be postponed or cancelled without the prior written consent of the persons who called or requisitioned the meeting.

13.3 Notice of general meetings

(a) Notice of every general meeting must be given in any manner authorised by **rule 20** to each person who is at the date of the notice:

(i) a member;

(ii) a director; or

(iii) the Auditor.

(b) A notice of a general meeting must:

(i) be given at least 21 days' in advance of the meeting;

(ii) specify the date, time and place of the meeting;

(iii) state the general nature of the business to be transacted at the meeting;

(iv) state any proposed resolutions; and

(v) contain a statement informing the members of the right to appoint a proxy and specify a place or email address for the receipt of proxies.

(c) A person may waive notice of a general meeting by written notice to the company.

(d) 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 does not invalidate any thing done or resolution passed at the general meeting if:

(i) the non-receipt or failure occurred by accident or error; or

(ii) before or after the meeting, the person has notified or notifies the company of the person's agreement to that thing or resolution.

(e) A person's attendance at a general meeting waives any objection that person may have to:

(i) 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

(ii) 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 Shorter notice of general meeting

(a) Subject to **rule 13.4(b)**, notice of a general meeting may be provided less than 21 days before the meeting if:

(i) for an annual general meeting, all the members entitled to attend and vote at the annual general meeting agree beforehand; or

(ii) for any other general meeting, members with at least 95% of the votes that may be cast at the meeting agree beforehand.

(b) Notice of a general meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:

(i) remove a director;

(ii) appoint a director in order to replace a director who was removed; or

(iii) remove an auditor.

13.5 Quorum at general meetings

(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 three members entitled to vote and present at the meeting, unless the members have fixed a higher number of members entitled to vote.

(c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:

(i) where the meeting was convened on the requisition of members, the meeting must be dissolved; or

(ii) in any other case 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.

(d) If at the adjourned meeting under **rule 13.5(c)(ii)**, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

13.6 General meetings by technology

(a) A general meeting may be convened or held by telephone or other electronic means provided each member has a reasonable opportunity to participate at the meeting.

(b) All the provisions in this constitution relating to meetings of the members apply, so far as they can and with any necessary changes, to meetings of the members by telephone or other electronic means.

(c) A member 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 members involved was at that place for the duration of the meeting.

13.7 Chairperson of general meetings

(a) The chairperson of directors must preside as chairperson at a general meeting if present within 15 minutes after the time appointed for the meeting and willing to act.

(b) If there is no chairperson of directors or both the conditions in **rule 13.7(a)** have not been met, the members present must elect another chairperson of the meeting.

(c) A chairperson elected under **rule 13.7(b)** must be:

(i) another director who is present and willing to act; or

(ii) if no other director present at the meeting is willing to act, a member who is present and willing to act.

13.8 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 **rule 13.8(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 Act. If a meeting is called and arranged to be held under section 249D of the Act, the directors may not postpone it beyond the date by which section 249D requires it to be held and may not cancel it without the consent of the requisitioning member.

13.9 Decisions at general meetings

(a) Except where by law a resolution requires a special majority, questions arising at a general meeting must be decided by a majority of votes cast by the members present at the meeting. Such a decision is for all purposes a decision of the members.

(b) Where the votes on a proposed resolution are equal:

(i) the chairperson of the meeting does not have a second or casting vote; and

(ii) the proposed resolution is taken as lost.

(c) A resolution put to the vote of a general meeting must be decided on a show of hands unless, before the vote is taken or before the declaration of the result of the show of hands, a poll is demanded by:

(i) the chairperson of the meeting; or

(ii) at least two members present and with the right to vote on the resolution.

(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 on a show of hands 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.

13.10 Written resolutions of members

Members may pass a resolution without a general meeting being held if all the members 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. For this purpose, signatures of the members may be contained in more than one document, with each document to be identical to each other document.

13.11 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 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:

(i) raised before or at the meeting at which the vote objected to is given or tendered; and

(ii) referred to the chairperson of the meeting, whose decision is final.

(d) A vote not disallowed by the chairperson of a meeting under **rule 13.11(c)** is valid for all purposes.

13.12 Representation at general meetings

(a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:

(i) in person or, where a member is a body corporate, by its representatives;

(ii) by one proxy; or

(iii) by one 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 all general meetings, or for any number of general meetings, or for a particular general meeting.

13.13 Authority of a proxy, attorney or representative

(a) Unless otherwise provided in the instrument, an instrument appointing a proxy, attorney or representative is to be taken to confer authority:

(i) to agree to a meeting being convened by shorter notice than is required by the Act or by this constitution; and

(ii) to agree to a resolution being proposed and passed as a special resolution at a meeting of which less than the period of notice required by the Act has been given.

(b) Even though the instrument (appointing a proxy, attorney or representative) may refer to specific resolutions and may direct the proxy, attorney or representative how to vote on those resolutions, unless otherwise provided, it is taken to confer authority:

(i) 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;

(ii) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and

(iii) to act generally at the meeting.

(c) An instrument appointing a proxy, attorney or representative may direct the manner in which the proxy, attorney or representative is to vote in respect of a particular resolution and, where an instrument so provides, the proxy, attorney or representative is not entitled to vote on the proposed resolution except as directed in the instrument.

(d) Subject to **rule 13.13(e)**, an instrument appointing a proxy, attorney or representative need not be in any particular form as long as it is in writing, legally valid and signed by or on behalf of the appointer or the appointer's attorney.

(e) A proxy, attorney or representative may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the proxy, attorney or representative, and the authority under which the instrument is signed or a certified copy of the authority, are:

(i) received at the registered office of the company or email address specified for that purpose in the notice convening the meeting before the time specified in the notice;

(ii) in the case of a meeting or an adjourned meeting, tabled at the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or

(iii) in the case of a poll, produced when the poll is taken.

(f) The directors may waive all or any of the requirements of **rules 13.13(d)** and **13.13(e)** and in particular may, on the production of such other evidence as the directors require to prove the validity of the appointment or a proxy, attorney or representative, accept:

(i) an oral appointment of a proxy, attorney or representative;

(ii) an appointment of a proxy, attorney or representative which is not signed in the manner required by **rule 13.13(d)**; and

(iii) the deposit, tabling or production of a copy of an instrument appointing a proxy, attorney or representative or of the power of attorney or other authority under which the instrument is signed.

(g) A vote given in accordance with the terms of an instrument appointing a proxy, attorney or representative is valid despite the revocation of the instrument or of the authority under which the instrument was executed, if no written notice of the revocation has been received by the company by the time and at one of the places at which the instrument appointing the proxy, attorney or representative is required to be deposited, tabled or produced under **rule 13.13(e)**.

(h) 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 person acting as proxy or attorney for the appointer is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

14 Directors

14.1 Appointing and removing directors

(a) The minimum number of directors is three. At least two directors must reside ordinarily in Australia.

(b) The maximum number of directors is to be fixed by the directors, unless the company in general meeting resolves otherwise. The directors must not fix a maximum which is less than the number of directors in office at the time.

(c) Provided that the maximum number of directors determined under **rule 14.1(b)** is not exceeded, a person may be appointed as director by:

(i) the directors to fill a casual vacancy or as an additional director; or

(ii) the members, pursuant to a resolution passed at a general meeting of the company.

(d) An appointment of a person as a director is not effective unless a signed consent to the appointment is provided by that person to the company. The appointment of a person as a director will take effect on the later of the date of appointment and the date on which the company receives the signed consent.

(e) The members may by resolution determine protocols regarding the appointment or removal of directors, including the rotation of directors and their tenure.

(f) A director is a member in accordance with **rule 6.1(a)(i)**.

14.2 Qualifications

(a) A majority of the directors at all times must be persons who are not employed by, or an officer of, government, local government, or a government department or authority.

(b) A director may provide services for the company but may not be employed by the company.

(c) If at any time the requirements in **rules 14.1(a)** or **14.2(a)** are not met, the directors must not exercise any discretion or power until the requirement is met, except:

(i) for the purpose of appointing an additional director;

(ii) to protect the assets of the company; or

(iii) in the case of urgency.

14.3 Vacation of office

The office of a director becomes vacant:

(a) in the circumstances outlined in the Act;

(b) upon the director having served for a term of nine years in aggregate;

(c) if the director becomes of unsound mind or a director is, or their estate is, liable to be dealt with in any way under the law relating to mental health;

(d) if the director is ineligible to be a director under the Act or the ACNC Act;

(e) if the director is removed from office by resolution of the members in accordance with the Act;

(f) except to the extent of a leave of absence granted by the directors, if the director fails to attend at least three consecutive meetings of the directors or at least four meetings over a period of 365 days;

(g) if the director ceases to be a member of the company; or

(h) if the director resigns by written notice to the company.

14.4 Declaration of director interests

(a) Any director who has a material personal interest in a contract or proposed contract of the company, holds any office or owns any property such that the director might have duties or interests which conflict or may conflict either directly or indirectly with the director's duties or interests as a director, must give the board notice of the interest at a meeting of directors.

(b) A notice of a material personal interest must set out:

(i) the nature and extent of the interest; and

(ii) the relation of the interest to the affairs of the company.

(c) The notice must be provided to the directors at a meeting of directors as soon as practicable.

14.5 Voting by interested directors

Except to the extent the Act permits, a director who has a material personal interest in a matter that is being considered at a board meeting must not:

(a) vote on the matter at a meeting; or

(b) be present while the matter is being considered at the meeting, and accordingly will not count for the purposes of determining whether there is a quorum.

14.6 Directors may contract with the company and hold other offices

(a) A director is not disqualified from contracting or entering into an arrangement with the company as vendor, purchaser or in another capacity, merely because the director holds office as a director or because of the fiduciary obligations arising from that office.

(b) A contract or arrangement entered into by or on behalf of the company in which a director is in any way interested is not invalid or voidable merely because the director holds office as a director or because of the fiduciary obligations arising from that office.

(c) A director who is interested in any arrangement involving the company is not liable to account to the company for any profit realised under the arrangement merely because the director holds office as a director or because of the fiduciary obligations arising from that office, provided that the director complies with the disclosure requirements applicable to the director under any regulations adopted by the directors, and under the Act regarding that interest.

(d) A director may hold any other office or position (except Auditor) in the company and may be or become a director or other officer of, or interested in, any related body corporate or any other body corporate associated with the company, including in conjunction with his or her directorship, and may be appointed to that office or position on terms (including remuneration and tenure) the directors decide and, with the consent of the directors of the company, need not account to the company for any remuneration or other benefits the director receives as a director or officer of, or from having an interest in, that body corporate.

14.7 Powers and duties of directors

The directors are responsible for managing the company's affairs and carrying out the objects of the company. The directors may exercise all the powers of the company that are not, by the Act, the ACNC Act or by this constitution, required to be exercised by the company in general meeting.

14.8 Proceedings of directors

(a) The directors may meet together and adjourn and otherwise regulate their meetings as they think fit.

(b) A meeting may be convened or held by telephone or other electronic means provided each director has a reasonable opportunity to participate at the meeting. The rules relating to meetings of directors apply to each such meeting to the extent appropriate.

(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.

(e) If, before or during the meeting, any technical difficulty occurs as a result of which one or more directors cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, where a quorum of directors remains present, continue with the meeting.

14.9 Convening meetings of directors

(a) A director may convene a meeting of the directors whenever he or she thinks fit.

(b) The secretary must, on the requisition of a director, convene a meeting of the directors.

14.10 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 a director, except a director on leave of absence approved by the directors.

(b) A notice of a meeting of directors:

(i) must specify the time and place of the meeting;

(ii) need not state the nature of the business to be transacted at the meeting;

(iii) may be given immediately before the meeting; and

(iv) may be given in person or by post, telephone or other electronic means.

(c) A director may waive notice of a meeting of directors by notifying the company to that effect in person or by post, telephone 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 thing done or resolution passed at the meeting if:

(i) the non-receipt or failure occurred by accident or error;

(ii) the director has waived or waives notice of that meeting under **rule 14.10(c)** before or after the meeting;

(iii) the director has notified or notifies the company of his or her agreement to that thing or resolution personally or by post, telephone or other electronic means before or after the meeting; or

(iv) the director attended the meeting.

(e) Attendance by a person at a meeting of directors waives any objection which that person may have to a failure to give notice of the meeting.

14.11 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:

(i) if the directors have fixed a number for the quorum greater than three, that number of directors present at the meeting; and

(ii) in any other case, three directors present at the meeting.

(c) If there is a vacancy in the office of a director then, subject to **rule 14.11(d)**, the remaining directors may act.

(d) If the number of directors in office at any time is not sufficient to constitute a quorum, or is less than the minimum number of directors fixed under this constitution, the remaining directors must act as soon as possible to appoint additional directors, as required, and, until that has happened, may only act if and to the extent that there is an emergency requiring them to act.

14.12 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 preside as chairperson at each meeting of directors if present within 10 minutes after the time appointed for the meeting and willing to act.

(c) If there is no chairperson of directors or both the conditions in **rule 14.12(b)** have not been met, the directors present must elect one of the directors as chairperson of the meeting.

14.13 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 on a proposed resolution are equal:

(i) the chairperson of the meeting does not have a second or casting vote; and

(ii) the proposed resolution is taken as lost.

14.14 Written resolutions of directors

The directors may pass a resolution without a meeting of directors 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. For this purpose, signatures can be contained in more than one document, with each document to be identical to each other document.

14.15 Minutes of meetings and minutes of resolutions

(a) The directors must ensure minutes of proceedings and resolutions of general meetings and of meetings of directors (including committees of directors) are recorded in books kept for the purpose, within one month after the relevant meeting is held.

(b) The directors must ensure minutes of resolutions passed by directors (and committees of directors) without a meeting are recorded in books kept for that purpose within one month after the resolution is passed.

(c) The minutes of a meeting must be signed within a reasonable time by the chairperson of the meeting or the chairperson of the next meeting.

14.16 Committees of directors

(a) The directors may delegate, and revoke the delegation of, any of their powers, other than powers required by law to be dealt with by the directors, to one or more committees, comprising a majority of directors, as they think fit.

(b) A committee may include persons who are not directors but such persons may only be appointed to the committee by the directors and will not have a vote in respect of any matter voted on by the committee.

(c) A committee to which any powers have been delegated must exercise the powers delegated in accordance with any directions given by the directors.

(d) The provisions of this constitution that apply to meetings and resolutions of directors apply, so far as they can and with any necessary changes, to meetings and resolutions of a committee.

14.17 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.

14.18 Validity of acts

All acts done at a meeting of directors or of a committee or by a person acting as a director or committee member, are valid notwithstanding that:

(a) there was a defect in the composition of the directors or committee;

(b) there was a defect in the manner in which the meeting was convened or in the quorum requirements for the meeting;

(c) there was a defect in the appointment or continuance in office of a person as a director or of the person so acting; or

(d) a person acting as a director was disqualified, had vacated office or was not entitled to vote,

provided that once the directors are made aware of the defect of the type mentioned in **rules 14.18(a)** or **14.18(c)**, reasonable steps are taken to remedy the defect as soon as reasonably practicable.

15 Executive officers

15.1 Executive director

(a) The directors may appoint one or more of the directors as executive directors (provided that they must already be a director of the company). For the avoidance of doubt this rule does not confer the right on the person then holding the role of “Executive Director” within the company to be appointed as a director.

(b) A director’s appointment as an executive director automatically terminates if they cease to be a director.

(c) The directors may confer on an executive director such title as they think fit.

15.2 Provisions that apply to all executive officers

(a) A reference in this **rule 15.2** to an executive officer is a reference to an executive director, company secretary or assistant secretary.

(b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions that the directors 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 directors at any time, with or without cause.

(d) The directors may:

(i) 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;

(ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and

(iii) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on him or her.

(e) An act done by a person acting as an executive officer is not invalidated merely because of one of the following circumstances, if that circumstance was not known by the person when the act was done:

(i) a defect in the person’s appointment as an executive officer; or

(ii) the person being disqualified to be an executive officer.

16 Financial and related records

(a) The company must make and keep written financial records that:

(i) correctly record and explain its transactions and financial position and performance; and

(ii) enable true and fair financial statements to be prepared and to be audited.

(b) The company must also keep written records that correctly record its operations.

(c) The company must retain its records for at least seven years.

(d) The directors must take reasonable steps to ensure that the company's records are kept safe.

17 Hagar Australia Overseas Aid Fund

17.1 Purposes of the Public Fund

The company must maintain a public fund to be known as the **Hagar Australia Overseas Aid Fund** (**Public Fund**) for the purposes of the company outlined in **rule 3** insofar as those purposes are for the relief of persons in countries declared by the Minister for Foreign Affairs to be developing countries under section 30-85(2) of the ITAA 97.

17.2 Maintaining the Public Fund

(a) The company must ensure that:

(i) the Public Fund receives all Gifts and Deductible Contributions;

(ii) all money (including interest, income or money from the realisation of property) derived from Gifts and Deductible Contributions in the Public Fund is paid into the Public Fund;

(iii) the Public Fund does not receive any money or property other than Gifts and Deductible Contributions described in **rules 17.2(a)(i)** and **17.2(a)(ii)**;

(iv) the Public Fund is only used to further the purposes of the Public Fund in **rule 17.1**;

(v) a separate bank account is established and maintained for the Public Fund into which all money in the Public Fund will be paid and that the members of the committee referred to in **rule 17.3** who are permanently located in Australia are the only signatories to the account;

(vi) the Australian Taxation Office is notified of any material changes to **rule 17**; and

(vii) the public is invited to make Gifts or Deductible Contributions to the Public Fund for the purposes of the Public Fund in **rule 17.1**.

17.3 Management of Public Fund

(a) For the purposes of this **rule 17.3**, **Responsible Person** means an individual who:

(i) performs a significant public function;

(ii) is a member of a professional body having a code of ethics or rules of conduct;

(iii) is officially charged with spiritual functions by a religious institution;

(iv) is a director of a company whose shares are listed on the Australian Securities Exchange;

(v) has received a formal recognition from government for services to the community; or

(vi) is approved as a Responsible Person by the Commissioner.

(b) At a particular time, the directors may administer the Public Fund if a majority of the directors are then Responsible Persons. If at that time that is not the case, the directors must delegate the power to administer the Public Fund to a committee of at least three persons, a majority of whom are Responsible Persons permanently located in Australia.

(c) The directors or the committee, as the case may be, must authorise the release of money from the Public Fund, manage the investment of the Public Fund, and authorise the sale of its assets.

(d) The directors may appoint the members of the public fund committee and remove members of the public fund committee.

(e) Subject to this **rule 17.3**, the directors may specify:

(i) the manner in which proceedings of the committee are to be conducted;

(ii) that the release of money from the Public Fund is authorised by the committee in accordance with the annual operating plan and budget, as it may be amended from time to time to reflect updates and changes in operational priority prepared by the directors;

(iii) the matters which the committee must have regard to in carrying out its functions; and

(iv) any other matters concerning the committee or its functions that the directors decide.

17.4 Winding up

At the first occurrence of:

(a) the winding up of the Public Fund;

(b) the Public Fund ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of ITAA 97; or

(c) the company ceasing to be endorsed as a deductible gift recipient for the operation of the Public Fund,

any surplus assets or property of the of the Public Fund must be transferred to a public fund:

(d) which is charitable at law; and

(e) gifts to which can be deducted under Subdivision 30-B due to it being characterised as a public fund declared by the Treasurer to be a relief fund as described in item 9.1.1 of the table in section 30-80 of ITAA 97,

as the members decide.

17.5 Bank account and receipts

(a) The company must maintain a separate bank account for the Public Fund.

(b) Receipts for gifts to the Public Fund must include:

(i) the Australian Business Number and name of the company;

(ii) name of the Public Fund on behalf of the company;

(iii) the date the donation was received;

(iv) the fact that the receipt is for a gift;

(v) the signature of a person authorised to act on behalf of the Public Fund;

(vi) name of the donor; and

(vii) type of donation (money or property) and value.

18 Indemnity, insurance and access

18.1 Persons to whom the indemnity and insurance apply

The indemnity and insurance referred to in this **rule 18** apply to Indemnified Officers.

18.2 Indemnity

(a) The company must indemnify, on a full indemnity basis and to the full extent permitted by law, each Indemnified Officer against all losses or liabilities (including costs and expenses, which shall include, for the avoidance of doubt, legal costs) incurred by the person as an officer of the company.

(b) This indemnity:

(i) is a continuing obligation and is enforceable by an Indemnified Officer even though that person has ceased to be an officer of the company; and

(ii) operates only to the extent that the loss or liability in question is not covered by insurance.

18.3 Insurance

The company may, to the extent permitted by law, purchase and maintain insurance; or pay or agree to pay a premium for insurance, for any Indemnified Officer against any liability incurred by the person as an officer of the company where the directors consider it appropriate to do so.

18.4 Savings

Nothing in this **rule 18**:

(a) affects any other right or remedy that an Indemnified Officer may have in respect of any loss or liability referred to in this indemnity or insurance; or

(b) limits the capacity of the company to indemnify or provide or pay for insurance for any person to whom this **rule 18** does not apply.

18.5 Directors' access to financial records

Any director may at any time access and inspect any financial record and any other record of the company.

18.6 Access to financial records after ceasing to be a director

The directors may determine that any person who is to cease or has ceased to be a director may continue to have access to and inspect any financial record and any other record of the company relating to the time during which the person was a director.

19 Auditor

(a) The company must appoint a properly qualified Auditor whose duties will be regulated in accordance with the Act and the ACNC Act.

(b) The Auditor is entitled to attend any general meeting and to be heard by the members on any part of the business of the meeting that concerns the Auditor in the capacity of auditor.

(c) The company must give the Auditor any communications relating to the general meeting that a member of the company is entitled to receive.

20 Notices

20.1 Notices by the company to members

In addition to any other way allowed by the Act, the company may give a notice or other communication, including a notice of general meeting to a member:

(a) personally;

(b) by sending it by post to the address for the member in the Register of Members or the alternative address (if any) nominated by the member; or

(c) by sending it to the current email address for notices (if any) nominated by the member.

20.2 Notices by the company to directors

Subject to this constitution, a notice may be given by the company to any director by:

(a) serving it personally at the director's usual residential or business address;

(b) sending it by post in a prepaid envelope to the director's usual residential or business address; or

(c) by electronic means to such email address as the director has supplied to the company for giving notices.

20.3 Notices by member or directors to the company

Subject to this constitution, a notice may be given by a member or director to the company by:

(a) serving it on the company at the registered office of the company;

(b) sending it by post in a prepaid envelope to the registered office of the company; or

(c) by electronic means to the principal email address of the company.

20.4 Time of service

(a) Where a notice is sent by post, service of the notice is taken to be given:

(i) within Australia to an Australian address, three Business Days after posting; or

(ii) outside of Australia to an Australian address or within Australia to an address outside of Australia, seven Business Days after posting.

(b) Where a notice is sent by email, service of the notice is taken to be given when the email has been sent to the recipient's valid address, unless the sender receives an automated delivery failure notification indicating that the email has not been delivered to the information system of the recipient.

(c) If service under **rules 20.4(a)** and **20.4(b)** is given:

(i) after 4.00 pm in the place of receipt; or

(ii) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

the notice is regarded as having been received at 9.00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

20.5 Other communications and documents

Rules 20.1 to **20.4** (inclusive) apply, so far as they can and with any necessary changes, to the service of any communication or document.

20.6 Notices in writing

(a) Any notice, statement or other communication under this constitution must be in writing, except that any notice convening a meeting of directors does not need to be in writing.

(b) A reference in this constitution to a written notice includes a notice given by electronic transmission or any other form of written communication.

21 Definitions and interpretation

21.1 Definitions

The meanings of the terms used in this constitution are set out below.

Term	Meaning
ACNC Act	the *Australian Charities and Not-for-profits Commission Act 2012* (Cth).
Act	the *Corporations Act 2001* (Cth).
Auditor	the auditor of the company.
Business Day	a day which is not a Saturday, Sunday or bank or public holiday in the place where the registered office of the company for the time being is located.
Commissioner	the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of ITAA 97.
Deductible Contribution	a deductible contribution of money or property as described in item 7 or item 8 of the table in section 30-15 of the ITAA 97 in relation to a fund-raising event held for the purposes of the Public Fund in **rule 17.1**.
Gift	a gift of money or property as described in item 1 of the table in section 30-15 of the ITAA 97 for the purposes of the Public Fund in **rule 17.1**.
Indemnified Officer	(a) each person who is or has been a director or executive officer (within the meaning of **rule 15.2(a)**) of the company; and (b) any other officers or former officers of the company as the directors in each case decide.
ITAA 97	the *Income Tax Assessment Act 1997* (Cth).
Public Fund	the fund established in **rule 17**.
Registered Address	a member's address as notified to the company by the member and recorded in the company's records.
Register of Members	the register of members of the company maintained pursuant to the Act.
Responsible Person	the meaning outlined in **rule 17.3(a)**.

21.2 Interpretation

In this constitution:

(a) the words 'including', 'include' and 'includes' are to be construed without limitation;

(b) references to notices include formal notices of meeting and all documents and other communications from the company to its member;

(c) a reference to any legislation or a provision of any legislation includes any amendment to that legislation or provision, any consolidation or replacement of that legislation or provision and any subordinate legislation made under that legislation;

(d) a reference to a member present at a general meeting is a reference to a member present in person or by proxy, attorney or representative;

(e) a reference to writing and written includes printing, lithography and other ways of representing or reproducing words in a visible form; and

(f) the singular (including defined terms) includes the plural and the plural includes the singular

21.3 Headings

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

22 Application of the Act

22.1 What parts of the Act apply

Unless the contrary intention appears:

(a) an expression used in a rule that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision; and

(b) subject to **rule 22.1(a)**, an expression in a rule that has a defined meaning for the purposes of the Act has the same meaning as in the Act.

22.2 Replaceable rules displaced

(a) This constitution displaces each provision of a section or subsection of the Act that applies (or would apply but for this rule) 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 Act.

(c) If there is any inconsistency between the terms of this constitution and the Act or the ACNC Act, then the Act and the ACNC Act take precedence.