

Constitution

Foundation for Developing Cambodian Communities Ltd ACN 134 664
903 ("Company")

A company limited by guarantee

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Constitution

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Constitution

1 Definitions and interpretation

1.1 Definitions

In this Constitution unless the contrary intention appears:

Alternate Director means a person appointed as an alternate director under article 12.11.

Chairperson means the person elected by the Directors in accordance with Article 12.7.

Chief Executive Officer means a person appointed as an executive director under Part 13.

Committee means a committee of Directors constituted under article 11.7.

Company means the Foundation for Developing Cambodian Communities Ltd.

Constitution means this constitution as amended from time to time, and a reference to an article is a reference to an article of this Constitution.

Corporations Act means the Corporations Act 2001 (Cth).

Current Membership Fee means the fee payable by Members in accordance with articles 6.7 and 6.9.

Director means a person holding office as a director, and where appropriate includes an Alternate Director.

Directors means all or some of the Directors acting as a board.

Disclosure of Director's Interest Policy means the Company's policy in respect of the disclosure of Directors' interest and handling of conflict of interest as adopted, reviewed and amended from time to time.

Executive Director means a person appointed as an executive director under article 11.9.

Managing Director means a person appointed as a managing director under article 11.9.

Mekhala House means the Mekhala House home for underprivileged children in Prey Veng, Cambodia.

Member means a person entered in the register of members as a member of the Company.

Membership Rules means the membership rules set by the Directors in accordance with article 6.1, as amended from time to time.

Part means a Part of this Constitution.

Public Fund means the FDCC Fund established and maintained in accordance with Part 3 for the principal object of the Company, as outlined in article 2.2.

Registered Office means the registered office of the Company.

Representative means a person appointed to represent a corporate Member at a general meeting of the Company in accordance with the Corporations Act.

Responsible person means an individual who at the time of his first appointment as a director of the Company is a person who do to their past or present tenure of some public office or position or activity in the community may be expected to have a high degree of responsibility to the public and includes, but without limiting the generality of the foregoing, a person who is a resident in Australia and who is:

- (a) a member of the Commonwealth or a State parliament;
- (b) a judge of a superior court in Australia;
- (c) a member of the council or governing body of an Australian university;
- (d) a professor at an Australian university;
- (e) a senior academic of an Australian university;
- (f) a barrister or solicitor of the Supreme Court of an Australian State or Territory;
- (g) a member of the Australian Society of Certified Practising Accountants;
- (h) a member of the Institute of Chartered Accountants in Australia;
- (i) a member of a professional association having a code of ethics or rules of conduct;
- (j) a Principal of an Australian school;
- (k) a minister of a Church;
- (l) a Justice of the Peace;
- (m) a town clerk;
- (n) a town councillor;
- (o) a director of a company whose shares are listed on the Australian Stock Exchange;
- (p) the recipient of a formal recognition from government for services to the community; or
- (q) approved as a Responsible Person by the Commissioner.

Secretary means a person appointed under Part 14 as a secretary of the Company, and where appropriate includes an acting secretary and a person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

Tax Act means the Income Tax Assessment Act 1997 (Cth).

Trust Finance and Accounting Policy means the policy to be adopted by the Directors in accordance with articles 5 and 5.1.

1.2 Interpretation

In this Constitution unless the contrary intention appears:

- (a) **(gender)** words importing any gender include all other genders;
- (b) **(person)** the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (c) **(singular includes plural)** the singular includes the plural and vice versa;
- (d) **(meaning not limited)** a reference to the words “include”, “including”, “for example” or “such as”, when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (e) **(regulations)** a reference to a law includes regulations and instruments made under the law;
- (f) **(amendments to statutes)** a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise;
- (g) **(from time to time)** a power, an authority or a discretion reposed in a Director, the Directors, the Company in general meeting or a Member may be exercised at any time and from time to time;
- (h) **(signed)** where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Directors;
- (i) **(writing)** “writing” and “written” includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and
- (j) **(currency)** a reference to \$ is a reference to the lawful currency of Australia.

1.3 Corporations Act

In this Constitution unless the contrary intention appears:

- (a) an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act; and
- (b) “section” means a section of the Corporations Act.

1.4 Headings and Parts

Headings are inserted for convenience and are not to affect the interpretation of this Constitution.

This Constitution is divided into Parts as indicated by its Contents.

1.5 Replaceable rules not to apply

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

2 Objects and purposes of Company

2.1 Charitable purpose

The Company may only pursue charitable purposes, associated with its objects.

2.2 Objects

- (a) The principal object for which the Company is established is to promote the relief of poverty, sickness, suffering, distress, helplessness or the needs of Cambodians by providing employment opportunities, training and support directly to Cambodians.
- (b) Without limiting the generality of article (a), the objects of the Company also include:
 - (i) to provide assistance, support and opportunities to improve the lives of female children in Cambodia who are orphaned or at risk of exploitation, including but not limited to providing them with:
 - (A) safe and caring homes;
 - (B) nutritional food;
 - (C) medical care;
 - (D) education; and
 - (E) emotional support;
 - (ii) to create employment for people living in communities in Cambodia;

- (iii) to establish sustainable development programs that directly benefit communities in Cambodia;
- (iv) to assist people living in communities in Cambodia to develop skills that empower them and give them greater control over their lives;
- (v) to allow for expansion of the size of the Company;
- (vi) to undertake activities which further the objects of the Company;
- (vii) to do all other things as may be incidental or ancillary to the attainment of these objects; and
- (viii) subject to the requirements of Part 3, to establish and maintain a public fund to be called the FDCC Fund (“**Public Fund**”) for the specific purpose of supporting the objects and purposes of the Company.

3 Public Fund Requirements

3.1 Establishing Public Fund

The Company must establish a Public Fund for the purposes of receiving gifts of money or property to the Company no later than the date that the Company applies to the Minister for Foreign Affairs to be declared to be an approved organisation within the meaning of section 30-85(2) of the Tax Act.

3.2 Public fund at all times

The Public Fund must at all times be open to subscription by all members of the public.

3.3 Name of the Public Fund

The name of the Public Fund is the FDCC Fund.

3.4 Purpose and Objects of the Public Fund

The purpose of the Public Fund is to solicit and receive gifts towards the carrying out of the objects of the Public Fund.

The objects of the Public Fund are to provide development assistance and relief from poverty to Cambodians, consistent with the objects of the Company as described in Clause 2.2.

3.5 Maintaining Public Fund

The Company must maintain the Public Fund for the purposes of the Company such that:

- (a) all gifts of money or property for the purposes of the Company are made to the Public Fund;
- (b) investment of monies in the Public Fund will be made in accordance with guidelines for public funds as specified by the Australian Tax Office;
- (c) the Public Fund does not receive any other money or property and is only used for the purposes of the Company; and
- (d) a separate bank account is maintained for the Public Fund.

3.6 Receipts for gifts

Receipts for gifts to the Public Fund must state:

- (a) the name of the Public Fund;
- (b) the Australian Business Number of the Public Fund;
- (c) the fact that the receipt is for a gift; and
- (d) any other matter required to be included on the receipt pursuant to the requirements of the Tax Act.

3.7 Public Fund to be administered by Responsible Persons

The Public Fund will be administered by the Directors or a committee of the Directors, with a majority of the Directors or a majority of the Committee of Directors (as the case may be) being Responsible Persons;

3.8 No distributions to Members or Directors

No monies or assets in the Public Fund will be distributed to Members, office bearers or Directors of the Company, except as reimbursement of out-of-pocket expenses incurred on behalf of the Public Fund or proper remuneration for administrative services.

3.9 Public Fund is Operated on a Non Profit Basis

The assets and income of the Public Fund shall be applied solely in furtherance of the objects of the Public Fund and no portion shall be distributed directly or indirectly to any individual except as bona fide compensation for services rendered or expenses incurred on behalf of the Relief Fund and which have been agreed in advance by the Directors responsible for administering the Public Fund.

3.10 Winding up of the Public Fund or Revocation of Endorsement

If upon the winding up or dissolution of the Public Fund or revocation of endorsement of the Company as a Deductible Gift Recipient, there remains after satisfaction of all its debts and liabilities, any property or funds, the property or funds shall not be paid to or distributed among the Members, but shall be given or transferred to some other fund, authority or institution having

objects similar to the objects of the Company and which income tax deductible donations can be made by reason of endorsement under Subdivision 30-B, section 30-80 of the Tax Act and which has been declared by the Treasurer to be a developing country relief fund for the purposes of the Tax Act.

3.11 Changes to the Public Fund

The Company will inform the Australian Taxation Office of any changes within the Company, reflecting on the operational or financial arrangements of the Public Fund

4 Income and property of Company

4.1 Application of income and property for purposes and objects only

The profits (if any), other income and property of the Company, however derived, must be applied solely in furtherance of the promotion of the purposes and objects of the Company as set out in Part 2.

4.2 No dividend, bonus or profit paid to Members

No part of the profits, income or property of the Company may be distributed or transferred to a Member, either directly or indirectly by way of dividend, bonus or otherwise except as bona fide compensation for services rendered or expenses incurred on behalf of the organisation.

4.3 Payments by Company in good faith

Subject to articles 10.11, 10.12 and 10.13, article 4.2 does not prevent payment in good faith to an officer of the Company or a Member, or to a firm of which an officer of the Company or a Member is a partner:

- (a) of remuneration for services to the Company;
- (b) for goods supplied in the ordinary course of business;
- (c) of interest at a rate not exceeding the rate fixed for the purposes of this article by the Company in general meeting on money borrowed from an officer of the Company or a Member;
- (d) of reasonable rent for premises let by an officer of the Company or a Member; or
- (e) any other expenses considered necessary or desirable in achieving the objects and purpose of the Company as set out in article 2.

4.4 Fundraising Appeals Act

Funds raised by means of a fundraising appeal within the meaning of the Fundraising Appeals Act 1998 (Vic) and corresponding legislation in other jurisdictions (as applicable) must be maintained in accordance with those Acts.

5 Trust Finance and Accounting Policy

Following the adoption of this Constitution, the Directors should as soon as reasonably practicable adopt and approve a Trust Finance and Accounting Policy.

5.1 Terms of the Trust Finance and Accounting Policy

The Trust Finance and Accounting Policy should provide financial guidelines and controls that ensure:

- (a) that all monies and properties of the Company are disbursed and applied in accordance with article 4.1;
- (b) all gifts of money or property received by the Company are received, maintained and accounted for in accordance with article 3.2; and
- (c) accounting records of all transactions entered into by the Company are maintained at such a standard to allow:
 - (i) accurate financial reports to be produced at the end of each financial year; and
 - (ii) the Company to be externally audited in accordance with article 20.

5.2 Amendment of the Trust Finance and Accounting Policy

The Trust Finance and Accounting Policy may only be amended with the approval of a majority of the Directors under article 12.

6 Membership

6.1 Membership Rules

Following the adoption of the Constitution, the Directors may adopt and approve the Membership Rules.

6.2 Becoming a Member

Except for a person who was a Member at the time when this Constitution was adopted, a person may only become a Member under article 6.3.

6.3 Admission as a Member

The Directors may admit as a Member any person who supports the objectives of the Company and agrees to be bound by this Constitution, the Membership Rules and any other rules, by-laws, policies or other standards prescribed by the Directors from time to time.

6.4 Member to notify changes

A Member must promptly notify the Company of any change in the details with respect to that Member which are recorded in the register of Members.

6.5 Ceasing to be a Member

A person ceases to be a Member on:

- (a) resignation; or
- (b) in the case of a natural person:
 - (i) death;
 - (ii) becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally;
 - (iii) becoming of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
 - (iv) the termination of the person's membership by the Directors or by the Company in general meeting in accordance with this Constitution; and
 - (v) the person does not, at any time, meet the Membership Rules,
- (c) in the case of a body corporate:
 - (i) being dissolved or otherwise ceasing to exist;
 - (ii) having a liquidator or provisional liquidator appointed to it; or
 - (iii) being insolvent.

6.6 Resignation

A Member may by written notice to the Company resign from membership with immediate effect or with effect from a specified date occurring not more than 30 days after the service of the notice. A Member remains liable after resignation for all money due by the Member to the Company, in addition to any sum for which the Member is liable as a Member under article 19.1.

6.7 Requirement to pay the Current Membership Fee

All Members are required to pay the Current Membership Fee in accordance with article 6.9 to support the activities of the Company in pursuing its purposes and objectives as set out in articles 2.1 and 2.2.

6.8 Amount of the Current Membership Fee

The amount of the Current Membership Fee is the amount specified in the Membership Rules..

6.9 Payment of the Current Membership Fee

The Current Membership Fee is payable annually on 1 July of each year.

6.10 Failure to pay Current Membership Fee

If a Member fails to pay the Current Membership Fee within 6 months of the date the Current Membership Fee falls due under article 6.9, the right of a Member to vote at general meetings under article 8.17 is suspended until the Company receives payment of the Current Membership Fee.

6.11 Limited liability

A Member has no liability as a Member except as set out in articles 6.7 and 19.2.

7 General meetings

7.1 Annual general meeting

Annual general meetings of the Company are to be held in accordance with the Corporations Act.

7.2 Convening a general meeting

The Directors may convene and arrange to hold a general meeting of the Company when they think fit and must do so if required to do so under the Corporations Act.

7.3 Members have power to convene general meeting

In addition to the powers of the Directors to convene and arrange to hold a general meeting of the Company under article 7.2, if the greater of 10 Members or 10% or more of the number of all Members request, in writing, the Directors must convene a general meeting of the Company at the cost of the Company.

7.4 Notice of general meeting

Notice of a general meeting must be given in accordance with Part 16 and the Corporations Act and may be given as set out below.

If a Member nominates:

- (a) an electronic means by which the Member may be notified that notices of meeting are available; and
- (b) an electronic means the Member may use to access notices of meeting,

the Company may give the Member notice of the meeting by notifying the Member (using the notification means nominated by the Member):

- (c) that the notice of meeting is available; and

- (d) how the Member may use the electronic means nominated by the Member to access the notice of meeting.

A notice of meeting given to a Member by this electronic means is taken to be given on the day after the day on which the Member is notified that the notice of meeting is available.

7.5 Calculation of period of notice

In computing the period of notice under article 7.4, both the day on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

7.6 Directors entitled to notice of general meeting

A Director is entitled to receive notice of and to attend all general meetings of the Company and is entitled to speak at those meetings.

7.7 Cancellation or postponement of general meeting

Where a general meeting (including an annual general meeting) is convened by the Directors, they may by notice, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them or change the place for the meeting.

This article does not apply to a meeting convened in accordance with the Corporations Act by a single Director, by Members, by the Directors on the request of Members, or to a meeting convened by a court.

7.8 Notice of cancellation, postponement or change of place of general meeting

Written notice of cancellation or postponement or change of place of a general meeting must be given to all persons entitled to receive notices of general meetings from the Company. The notice must be given at least 5 days before the date for which the meeting is convened or such lesser period as the members agree and must specify the reason for the cancellation, postponement or change of place. A notice of a change of place of a general meeting must specify the different place for the holding of the meeting.

7.9 Contents of notice postponing general meeting

A notice postponing the holding of a general meeting must specify:

- (a) a date and time for the holding of the meeting;
- (b) a place for the holding of the meeting, which may be either the same as or different from the place specified in the notice convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.

7.10 Number of clear days for postponement of general meeting

The number of clear days from the giving of a notice postponing the holding of a general meeting to the date specified in that notice for the holding of the postponed meeting must not be less than the number of clear days notice of the general meeting required to be given by this Constitution or the Corporations Act.

7.11 Business at postponed general meeting

The only business that may be transacted at a general meeting, the holding of which is postponed, is the business specified in the original notice convening the meeting.

7.12 Non-receipt of notice

The non-receipt of, or accidental omission to give, a notice of a general meeting or cancellation, postponement or change of place of a general meeting by, or to, a person entitled to receive notice does not invalidate any resolution passed at the general meeting or at a postponed or changed place meeting or the cancellation or postponement of a meeting.

7.13 Proxy, attorney or Representative at postponed general meeting

Where by the terms of an instrument appointing a proxy or attorney or of an appointment of a Representative:

- (a) the appointed person is authorised to attend and vote at a general meeting or general meetings to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy, power of attorney or appointment of Representative,

then, by force of this article, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney or appointment of Representative unless the Member appointing the proxy, attorney or Representative gives to the Company at its Registered Office notice in writing to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

8 Proceedings at general meetings

8.1 Reference to a Member

Unless the contrary intention appears, a reference to a Member in this Part 5 means a person who is a Member, or:

- (a) a proxy;
- (b) an attorney; or

(c) a Representative

of that Member.

8.2 Number for a quorum

Subject to article 8.5, a quorum at a general meeting will be 4 Directors and the greater of 10 Members or 10% or more of the number of all Members present in person or by proxy, attorney or Representative:

8.3 Requirement for a quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the time the first item of business is transacted, it is taken to be present when the meeting proceeds to consider each subsequent item of business unless the Chairperson of the meeting (on the Chairperson's own motion or at the request of a Member, proxy, attorney or Representative who is present) declares otherwise.

8.4 If quorum not present

If within 15 minutes after the time appointed for a general meeting a quorum is not present, the meeting:

- (a) if convened by a Director, or at the request of Members, is dissolved; and
- (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

8.5 Adjourned meeting

At a meeting adjourned under article 8.4(b):

- (a) 3 Directors ; and
- (b) five persons each being a Member, proxy, attorney or Representative

present at the meeting are a quorum. If a quorum is not present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

8.6 Chairperson of general meeting

If the Directors have elected one of their number as Chairperson in accordance with Article 12.7 of their meetings, that person is entitled to preside as Chairperson at a general meeting of the Company.

8.7 Absence of Chairperson at general meeting

If a general meeting is held and:

- (a) the Company does not have a Chairperson ; or
- (b) the elected Chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be a chairperson of the meeting,

(“**Alternative Chairperson**”).

8.8 Conduct of general meetings

The Chairperson of a general meeting:

- (a) has charge of the general conduct of the meeting and the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the Chairperson’s opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the Chairperson considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the Chairperson under this article is final.

8.9 Minutes of general meeting

The Secretary is required to keep minutes of all general meetings held. If the Secretary is not in attendance at a general meeting, then the Chairperson of the general meeting should select a person in attendance at the general meeting to keep minutes of the general meeting.

8.10 Adjournment of general meeting

The Chairperson of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and place, but:

- (a) in exercising this discretion, the Chairperson may, but need not, seek the approval of the Members present in person or by proxy, attorney or Representative; and
- (b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

Unless required by the Chairperson, a vote may not be taken or demanded by the Members present in person or by proxy, attorney or Representative in respect of any adjournment.

8.11 Notice of adjourned meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

8.12 Questions decided by majority

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

8.13 Equality of votes - no casting vote for Chairperson

If there is an equality of votes, whether on a show of hands or on a poll, the Chairperson of the general meeting is not entitled to a casting vote in addition to any votes to which the Chairperson is entitled as a Member or proxy, attorney or Representative of a Member.

8.14 Voting on show of hands

At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is effectively demanded and the demand is not withdrawn. A declaration by the Chairperson that a resolution has on a show of hands been carried or carried unanimously, or 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. Neither the Chairperson nor the minutes need state and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution.

8.15 Demanding a poll

At a general meeting of the Company, a poll may be demanded by:

- (a) the greater of:
 - (i) at least 2 Members entitled to vote on the resolution; or
 - (ii) Members with at least 10 % of the votes that may be cast on the resolution on a poll; or
- (b) the Chairperson of the meeting.

8.16 Poll

If a poll is effectively demanded:

- (a) it must be taken in the manner and at the date and time directed by the Chairperson and the result of the poll is a resolution of the meeting at which the poll was demanded;
- (b) on the election of a Chairperson or on a question of adjournment it must be taken immediately;
- (c) the demand may be withdrawn; and
- (d) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

8.17 Entitlement to vote

Subject to the rights and any restrictions attached to any class of Members and to this Constitution:

- (a) on a show of hands, each Member present in person and each other person present as proxy, attorney or Representative of a Member has one vote; and
- (b) on a poll, each Member present in person has one vote and each person present as proxy, attorney or Representative of a Member has one vote for each Member that the person represents.

8.18 Objection to voting qualification

An objection to the right of a person to attend or vote at a general meeting or adjourned general meeting or to vote on a poll:

- (a) may not be raised except at that meeting or adjourned meeting or when that poll is taken; and
- (b) must be referred to the Chairperson of the meeting, whose decision is final.

A vote not disallowed under the objection is valid for all purposes.

8.19 Chairperson to determine voting dispute

If there is a dispute as to the admission or rejection of a vote, the Chairperson of the general meeting must decide it and the Chairperson's decision made in good faith is final and conclusive.

8.20 Circulating resolutions of Members

Unless the Corporations Act requires otherwise, the Members may pass a resolution without a general meeting being held if all of the Members who are entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Members if the wording of the resolution and statement is identical in each copy. The resolution is taken to be passed (and if it is required to be a special resolution to be effective, passed as

a special resolution), as if it had been passed unanimously at a duly convened general meeting, at the time the Secretary has evidence that the last Member has signed it.

8.21 Right to appoint attorney

A Member may by power of attorney appoint an attorney to act on the Member's behalf at all or any meetings of the Company or of any class of Members.

To be effective, an instrument appointing an attorney under this article, together with any evidence of non-revocation the Directors require, must be received by the Company at least 48 hours before the meeting.

9 Advisory council

9.1 Setting up an advisory council

The Directors may set up (and disband) an advisory council for the purposes of providing guidance and advice to the Directors (which advice will not be binding on the Directors) and for any other informal purposes as the Directors may decide from time to time.

9.2 Directors' discretion

The Directors have complete discretion as to the composition, functions and rules for proceedings (including frequency of meetings) of any advisory council set up under article 9.1.

10 Directors

10.1 Number of Directors

- (a) Unless otherwise determined by the Company in general meeting, the number of Directors may not be less than 3 nor more than 10.
- (b) The Directors in office at the time of adoption of this Constitution continue in office subject to this Constitution.

10.2 Election of Directors

- (a) The Chairperson shall announce an upcoming election and call for nominations for Directors at least four weeks before the expiry of the term of office or following a resignation.
- (b) Following a resignation, the Chairperson may elect to keep the Director's position vacant until the term of the remaining Directors expires, at which point a call for nominations will be made.

10.3 Nomination

- (a) Nominations must be made directly to the Chairperson. Nominations may be made in writing or via electronic mail. The nominations should also contain the approval of the candidate in the form of a signed consent to nomination.
- (b) Nominations must be received within two weeks of the call for nominations. The nominator shall be a Member of the Company.
- (c) Nominations will only be accepted by those Members that satisfy the Membership Rules.

10.4 Election

- (a) An election shall be held if there is more than one nomination for any position. The election shall be decided by a simple majority of Members.
- (b) Ballots shall be sent to all Members, either via post or via electronic mail. Each Member shall have one vote.
- (c) The Chairperson shall appoint a Returning Officer who shall be responsible for running the election. The Returning Officer shall prepare and distribute the ballot paper with instructions on the completion and return of the ballot paper.
- (d) The Chairperson shall establish the date by which ballots must be returned if they are to be counted as valid.
- (e) The ballot papers shall be returned to the Returning Officer who will count the votes in the presence of at least one Director who is not retiring at the next convened meeting of the Directors. The Returning Officer shall announce the outcome of the election to the Directors. In the event of a tied vote, a draw shall be made by the Returning Officer to decide the outcome.

10.5 Change of number of Directors

The Company in general meeting may by resolution increase or reduce the number of Directors.

10.6 Rotation of Directors

At each annual general meeting of the Company:

- (a) one half of Directors (not including a person appointed to be a Director under article 10.10 (Casual Vacancy)) who have held office for the previous two years or more since last being elected, must retire from office; and
- (b) if more than half of the Directors are eligible to retire, the Directors who have held office for the longest period will retire in preference. If two or more persons became Directors on the same day, those to retire

must be determined by lot unless they otherwise agree among themselves.

10.7 Office held until conclusion of meeting

A retiring Director holds office until the conclusion of the meeting at which that Director retires but is eligible for re-election.

10.8 Directors elected at general meeting

The Company may, at a general meeting at which a Director retires or otherwise vacates office, by resolution fill the vacated office by electing a person to that office.

10.9 Eligibility for election as Director

- (a) A person is not eligible to hold office as a Director unless they are a Member.
- (b) Subject to article 10.9(a), except for:
 - (i) a person who is eligible for election or re-election under article 10.7 or 10.10; or
 - (ii) a person recommended for election by the Directors,

a person is not eligible for election as a Director at a general meeting of the Company unless a consent to nomination signed by the candidate has been lodged at the Registered Office at least 5 business days before the general meeting.

10.10 Casual vacancy

The Directors may appoint a person to be a Director to fill a casual vacancy provided that the total number of Directors does not exceed the maximum number, if any, determined in accordance with article 10.1.

A person appointed to be a Director under this article if appointed by the Directors and not a Managing Director nominated by the Directors under article 11.11, holds office until the conclusion of the next annual general meeting of the Company but is eligible for election as a Director at that meeting.

10.11 Remuneration of Directors

A Director must not be paid any remuneration for services as a Director.

10.12 Reimbursement of expenses

A Director is entitled to be reimbursed out of the funds of the Company for their reasonable travelling, accommodation and other expenses incurred when travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the business of the Company. A Director shall submit a

request for reimbursement to the Chairperson and will only be reimbursed for expenses if approval is received from a majority of the Directors.

10.13 Payments to Director

Any payment to a Director which is not prohibited under article 10.11 (including a payment permitted under article 10.12) must be approved by the Directors.

10.14 Director's interests

Subject to complying with the Corporations Act regarding disclosure of and voting on matters involving material personal interests, a Director may:

- (a) hold any office in the Company, except that of auditor, unless being or becoming a Director would breach any law by reason of holding that office;
- (b) hold any office in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
- (c) enter into a contract or arrangement with the Company;
- (d) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;
- (e) if the other Directors determine that the Director's interest should not disqualify the Director from considering or voting on a matter, participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors and may be present at any meeting where any matter is being considered by the Directors; and
- (f) sign or participate in the execution of a document by or on behalf of the Company,

provided that:

- (g) the Director fully discloses to all Directors as soon as practical in accordance with the Company's Disclosure of Director's Interest Policy:
 - (i) any material personal interest they have in a matter which relates to the affairs of the company; and
 - (ii) any other interest which the Director believes is appropriate to disclose in order to avoid an actual conflict of interest or the perception of a conflict of interest; and
- (h) any payment contemplated under this clause 10.14 must not contravene the rule set out in article 4.2 and may only provide for bona fide compensation for services rendered or expenses incurred in compliance with article 4.3.

A reference to the Company in this article is also a reference to each related body corporate of the Company.

10.15 Vacation of office

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (b) resigns office by notice in writing to the Company;
- (c) is not present personally or by Alternate Director at 3 consecutive meetings of the Directors without leave of absence from the Directors (effective from the date of the third consecutive meeting missed without leave of absence); or
- (d) is convicted of an indictable offence (effective from the date of conviction).
- (e) does not satisfy the Membership Rules.

11 Powers and duties of Directors

11.1 Directors to manage Company

The Directors are to manage the business of the Company and may exercise all the powers of the Company that are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting.

11.2 Specific powers of Directors

Without limiting the generality of article 11.1, the Directors may exercise all the powers of the Company to create by-laws, Membership Rules and any other rules, policies or other standards, to borrow or raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

11.3 Responsibilities of Directors

Without limiting the generality of article 11.1 or any other provisions of this Constitution, the responsibilities of the Directors include:

- (a) developing the strategy, planning, protocols and operational requirements (where appropriate) for Mekhala House;
- (b) establishing sustainable development programs that directly benefit communities in Cambodia;
- (c) overseeing the budgets for the Company;

- (d) developing and overseeing fundraising and promotional activities to fund Mekhala House and other community development projects in Cambodia;
- (e) being accountable for the operations of its projects in Cambodia; and
- (f) developing the capabilities of staff in Cambodia.

11.4 Appointment of attorney

The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the purposes and with the powers, authorities and discretions vested in or exercisable by the Directors for the period and subject to the conditions they think fit.

11.5 Provisions in power of attorney

A power of attorney granted under article 11.4 may contain any provisions for the protection and convenience of persons dealing with the attorney that the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney.

11.6 Signing of cheques

The Directors may determine the manner in which and persons by whom cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and receipts for money paid to the Company, may be signed, drawn, accepted, endorsed or otherwise executed.

11.7 Committees

The Directors may delegate (and revoke the delegation of) any of their powers, other than powers required by law to be dealt with by Directors as a board, to a Committee or Committees consisting of one or more of their number as they think fit.

11.8 Powers delegated to Committees

A Committee to which any powers have been delegated under article 11.7 must exercise those powers in accordance with any directions of the Directors.

11.9 Appointment of Managing and Executive Directors

The Directors may appoint a Member who is not a Director of the Company to the office of Managing Director or Executive Director of the Company, for the period determined at the time of appointment and on the terms they think fit.

11.10 Termination of appointment of Managing or Executive Director

Whether or not the appointment of a Managing Director or Executive Director was expressed to be for a specified term, the appointment of a Managing Director or Executive Director terminates if:

- (a) the Managing Director or Executive Director ceases for any reason to be a Member; or
- (b) the Directors remove the Managing Director or Executive Director from the office of Managing Director or Executive Director (which, subject to any contract between the Company and the Managing Director or Executive Director, the Directors have power to do); or
- (c) the Managing Director or the Executive Director ceases to be employed by the Company.

11.11 Managing and Executive Directors exempt

A Managing Director or Executive Director is, while holding that office, exempt from retirement by rotation under article 10.6.

11.12 Remuneration of Managing and Executive Directors

The remuneration of a Managing Director or an Executive Director may be fixed by the Directors by way of bona fide salary or commission and in any circumstances may not contravene the rule set out in article 4.2.

11.13 Powers of Managing and Executive Directors

The Directors may:

- (a) confer on a Managing Director or an Executive Director such of the powers exercisable by them, on such terms and conditions and with such restrictions, as they think fit; and
- (b) withdraw or vary any of the powers conferred on a Managing Director or an Executive Director.

11.14 Powers of delegation

The Directors may delegate any of their powers to any persons they select for any period, to be exercised for any objects and purposes on any terms and subject to any conditions and restrictions as they think fit, and may revoke, withdraw, alter or vary the delegation of any of those powers.

The powers of delegation expressly or impliedly conferred by this Constitution on the Directors are conferred in substitution for, and to the exclusion of, the power conferred by section 198D of the Corporations Act.

12 Proceedings of Directors

12.1 Directors' meetings

The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.

12.2 Number of Directors' meetings

There must be at least eight Directors' meetings held each year.

12.3 Director may convene a meeting

Subject to article 12.2, the Chairperson may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors.

12.4 Distribution of materials

The Secretary is required to distribute hard copy and electronic versions of the materials to be considered at all meetings of the Directors convened under article 12.3 at least one week prior to the scheduled time of the meeting.

12.5 Questions decided by majority

A question arising at a meeting of Directors is to be decided by a majority of votes of Directors present and entitled to vote and that decision is for all purposes a decision of the Directors.

12.6 Alternate Director or proxy and voting

A person who is present at a meeting of Directors as an Alternate Director or as a proxy for another Director has one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is an Alternate Director or proxy. If that person is also a Director, they have one vote as a Director in that capacity.

12.7 Appointment of Chairperson

The Directors may elect one of their number as chairperson of their meetings and may also determine the period for which the person remains as chairperson.

12.8 Responsibilities of the Chairperson

Without limiting the generality of any other provision of this Constitution, the Chairperson of the Directors is generally responsible for:

- (a) convening at least 8 meetings of Directors each year;
- (b) setting the agenda for meetings of Directors;
- (c) ensuring that all Directors have the right to an equal say at meetings of Directors;
- (d) liaising with external agencies and organisations on behalf of the Directors as required; and
- (e) acting as a spokesperson for the Directors and the Company.

12.9 Absence of Chairperson at Directors' meeting

If a Directors' meeting is held and:

- (a) a Chairperson has not been elected under article 12.7; or
- (b) the Chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be a chairperson of the meeting (“**Alternative Chairperson**”).

12.10 Chairperson’s casting vote at Directors’ meetings

The Chairperson of a Directors’ meeting has a casting vote, unless only two Directors are present and entitled to vote at the meeting on the question.

12.11 Appointment of Alternate Director

Subject to the Corporations Act, a Director may appoint a person approved by a majority of the other Directors, to be an Alternate Director in the Director’s place during such period that the Director thinks fit.

12.12 Alternate Director and meetings

An Alternate Director is entitled to notice of all meetings of the Directors and, if the appointor does not participate in a meeting, the Alternate Director is entitled to participate and vote in the appointor’s place.

12.13 Alternate Director’s powers

An Alternate Director may exercise all the powers of the appointor except the power to appoint an Alternate Director and, subject to the Corporations Act, may perform all the duties of the appointor except to the extent that the appointor has exercised or performed them.

12.14 Alternate Director responsible for own acts and defaults

Whilst acting as a Director, an Alternate Director:

- (a) is an officer of the Company and not the agent of the appointor; and
- (b) is responsible to the exclusion of the appointor for the Alternate Director’s own acts and defaults.

12.15 Alternate Director and remuneration

Articles 4.3, 10.11, 10.12 and 10.13 apply to an Alternate Director as if they were a Director.

12.16 Termination of appointment of Alternate Director

The appointment of an Alternate Director may be terminated at any time by the appointor even if the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor ceases to be a Director.

12.17 Appointment or termination in writing

An appointment, or the termination of an appointment, of an Alternate Director must be effected by a notice in writing signed by the Director who makes or made the appointment, and delivered to the Company.

12.18 Alternate Director and number of Directors

An Alternate Director is not to be taken into account separately from the appointor in determining the number of Directors.

12.19 Director attending and voting by proxy

A Director may participate in and vote by proxy at a meeting of the Directors if the proxy:

- (a) is another Director; and
- (b) has been appointed in writing signed by the appointor.

The appointment may be general or for one or more particular meetings. A Director present as proxy of another Director who would be entitled to vote if present at the meeting has one vote for the appointor and one vote in his or her own capacity as a Director.

12.20 Quorum for Directors' meeting

At a meeting of Directors, the number of Directors whose presence in person or by proxy is necessary to constitute a quorum is a majority of Directors.

12.21 Continuing Directors may act

The continuing Directors may act despite a vacancy in their number. If their number is reduced below the minimum fixed by article 10.1, the continuing Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or to convene a general meeting.

12.22 Chairperson of Committee

If a meeting of a Committee is held and:

- (a) a Chairperson has not been elected; or
- (b) the Chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Members involved may elect one of their number to be chairperson (“**Alternative Chairperson**”) of the meeting.

12.23 Meetings of Committee

A Committee may meet and adjourn as it thinks proper.

12.24 Determination of questions

Questions arising at a meeting of a Committee are to be determined by a majority of votes of the members of the Committee present and voting.

In the event of an equality of votes the Chairperson of the meeting has a casting vote, unless only two members of the Committee are present and entitled to vote at the meeting on the question.

12.25 Circulating resolutions

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

12.26 Validity of acts of Directors

All acts done at a meeting of the Directors or of a Committee, or by a person acting as a Director are, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
- (b) a person acting as a Director was disqualified or was not entitled to vote,

as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

12.27 Meeting by use of technology

A Director may not leave a telephone meeting by disconnecting the telephone without the consent of the Chairperson of the meeting. A Director is deemed to be present and form part of the quorum throughout the meeting unless the Director obtains the consent of the Chairperson of the meeting to leave the meeting.

12.28 Minutes of Directors' meetings

The Secretary is required to keep minutes of all meetings of the Directors convened under article 12.3. If the Secretary is not in attendance at the meeting, the Directors in attendance at the meeting should select one of the Directors in attendance at the meeting to keep minutes of the meeting. A Director selected in this way is required to keep minutes of the meeting.

12.29 Distribution of minutes of Directors' meetings

The Secretary should arrange for all minutes of meetings of the Directors prepared under article 12.28 to be distributed to all Directors as soon as reasonably practicable after the meeting occurs.

13 Chief Executive Officer

The Directors may appoint a Chief Executive Officer. The Directors may give a Chief Executive Officer any of the powers conferred on them by this Constitution, subject, at the Directors' discretion, to:

- (a) any time period;
- (b) specific purposes; and
- (c) any other terms and restrictions.

All or any of those powers may be given collaterally with, or to the exclusion of, the powers of the Directors and may be revoked or varied by the Directors. The Chief Executive Officer may be or become a Director, but if the Chief Executive Officer then ceases to be a Director for any reason, that does not of itself affect the appointment, or terms of appointment, of the Chief Executive Officer.

14 Secretary

14.1 Appointment of Secretary

The Company must have at least one Secretary who is to be appointed by the Directors.

14.2 Suspension and removal of Secretary

The Directors may suspend or remove a Secretary from that office.

14.3 Powers, duties and authorities of Secretary

A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors. The exercise of those powers and authorities and the performance of those duties by a Secretary is subject at all times to the control of the Directors.

15 Seals

15.1 Safe custody of common seals

The Directors must provide for the safe custody of any seal of the Company.

15.2 Use of common seal

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Directors, or of a Committee authorised by the Directors to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person

appointed by the Directors to countersign that document or a class of documents in which that document is included.

16 Inspection of records

16.1 Inspection by Members

Subject to the Corporations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of Members (other than Directors).

16.2 Right of a Member to inspect

A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting.

17 Service of documents

17.1 Document includes notice

In this Part 17, a reference to a document includes a notice.

17.2 Methods of service

The Company may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register or an alternative address nominated by the Member;
- (c) by sending it to a fax number or electronic address nominated by the Member; or
- (d) by sending it to the Member by other electronic means nominated by the Member.

17.3 Post

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post; and
- (b) if sent to an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the day after the date of its posting.

17.4 Fax or electronic transmission

If a document is sent by fax or electronic transmission, delivery of the document is taken:

- (a) to be effected by properly addressing and transmitting the fax or electronic transmission; and
- (b) to have been delivered on the day following its transmission.

17.5 Evidence of service

A certificate in writing signed by a Director or a Secretary stating that a document was sent to a Member by post or by fax or electronic transmission on a particular date is prima facie evidence that the document was so sent on that date.

18 Indemnity and insurance

18.1 Indemnity

To the maximum extent permitted by law, the Company may indemnify any current or former Director or Secretary or executive officer of the Company out of the property of the Company against:

- (a) any liability incurred by the person in that capacity (except a liability for legal costs);
- (b) legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity, and
- (c) legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the Company or a subsidiary, if that expenditure has been approved in accordance with the Company's policy,

except to the extent that:

- (d) the Company is forbidden by law to indemnify the person against the liability or legal costs; or
- (e) an indemnity by the Company of the person against the liability or legal costs, if given, would be made void by law.

18.2 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director or Secretary executive officer of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by law to pay or agree to pay the premium;
or
- (b) the contract would, if the Company paid the premium, be made void by law.

18.3 Contract

The Company may enter into an agreement with a person referred to in articles 18.1 and 18.2 with respect to the matters covered by those articles. An agreement entered into pursuant to this article may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.

19 Winding up

19.1 Motion to dissolve

A motion to dissolve the Company shall be considered only at a special meeting, called for the purpose with at least twenty eight (28) days written notice. The motion to dissolve requires the approval of two-thirds of Members with voting rights present in person or by proxy.

19.2 Contributions on winding up

Each Member undertakes to contribute to the Company's property if the Company is wound up during, or within one year after the cessation of, the Member's membership on account of:

- (a) payment of the Company's debts and liabilities contracted before they ceased to be a Member;
- (b) the costs of winding up; and
- (c) adjustment of the rights of the contributories among themselves,

an amount not to exceed one dollar (\$ 1).

19.3 Application of property on winding up

If any property, other than the surplus assets of the Public Fund which shall be transferred in accordance with article 3.9, remain on the winding-up or dissolution of the Company and after satisfaction of all its debts and liabilities, that property may not be paid to or distributed among the Members but must be given or transferred to some other institution:

- (a) having objects and/or purposes similar to those of the Company; and
- (b) whose memorandum of association or constitution prohibits the distribution of its income and property among its members to an extent at least as great as imposed on the Company under this Constitution.

20 Amending the Constitution

This constitution may be amended by a two-thirds majority of Members with voting rights in person or by proxy at a meeting, provided that notice of the proposed amendment has been given at least twenty eight (28) days before the meeting.

21 Accounts

The Directors must cause the accounts of the Company to be maintained and audited in accordance with the requirements of the Corporations Act and the Fundraising Appeals Act 1998 (Vic).

22 Counterparts

This Constitution may consist of a number of copies (including facsimile copies) each signed by one or more parties to the Constitution. If so, the signed copies are treated as making up the one document.

Constitution

Signing page

DATED: