

Constitution of Australian Indigenous Education Foundation

As amended on 15 October 2008



AUSTRALIAN
**indigenous
education**
FOUNDATION

The Corporations Act

A company limited by guarantee

Registered in New South Wales

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Constitution of Australian Indigenous Education Foundation, a public company limited by guarantee.

1. Definitions and Interpretation

1.1 Definitions

The following definitions apply in this Constitution unless the context requires otherwise:

Approved School means a registered education institution in Australia approved by the Foundation from time to time which provides courses in primary education, secondary education or tertiary education and supports the objects and vision of the Foundation.

ATO means the Australian Taxation Office.

Chief Executive Officer means the chief executive appointed by the Directors under rule 15.1.

Corporations Act means the *Corporations Act 2001* (Cth).

Deductible Gift Recipient has the meaning given in the Tax Act.

Director means a person appointed or elected to the office of director of the Foundation in accordance with this Constitution and, where appropriate, includes an alternate director.

Foundation means the company, known as Australian Indigenous Education Foundation

Gift means a donation, contribution, gift, settlement, benefaction or other voluntary transfer or disposition of money, money's worth, property or benefits and whether inter vivos or by will.

Member means a person who is entered in the register of members of the Foundation for the time being in accordance with the provisions of this Constitution.

Member Present means, in connection with a meeting, the Member present at the venue or venues for the meeting, in person or by proxy, by attorney or, where the Member is a body corporate, by representative.

person and words importing persons means any person including partnerships, associations and bodies corporate, unincorporated bodies and all other entities or associations recognised by law as well as individuals.

Public Gift Fund means a fund established under rule 3.

Responsible Person means an individual who is considered to have a degree of responsibility to the community as a whole, including an individual who:

- (a) performs a significant public function;
- (b) is a member of a professional body having a code of ethics or rules of conduct;
- (c) has received formal recognition from government for services to the community; or
- (d) is approved as a Responsible Person by the Commissioner of Taxation.

Secretary means a person appointed as secretary of the Foundation in accordance with this Constitution.

Tax Act means the *Income Tax Assessment Act 1936* (Cth) and the *Income Tax Assessment Act 1997* (Cth).

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless any contrary intention appears in this Constitution or the context requires otherwise:

- (a) The singular includes the plural and conversely.
- (b) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (c) A reference to any legislation or to any provision of any legislation includes any modification or re enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- (d) A word or phrase given a meaning in the Corporations Act has the same meaning in this Constitution.

1.3 Replaceable rules

The replaceable rules contained in the Corporations Act do not apply to the Foundation.

2. Vision and Objects

2.1 Vision Statement

The Foundation aims to increase opportunities for Indigenous Australians to participate in the mainstream of the Australian community and economy whilst recognising and respecting the history and culture of Indigenous Australians.

2.2 Objects of the Foundation

The objects of the Foundation are to:

- (a) fund, promote, participate in or deliver any initiative or activity that may contribute to improved educational or career outcomes for Indigenous Australians. This may include, without limitation:
 - (i) provision of educational scholarships and financial assistance for Indigenous Australians through any Public Gift Fund maintained by the Foundation;
 - (ii) building leadership capacity among Indigenous Australians;
 - (iii) improving Indigenous education or career outcomes;
 - (iv) supporting teachers or other individuals involved in Indigenous education or pastoral care;
 - (v) supporting Indigenous students in transition from school to careers or higher education;
 - (vi) mentoring or similar support initiatives for Indigenous Australians;

- (vii) fostering collaboration, networking and skill transfers among Indigenous students, parents, teachers, communities, schools, businesses, governments or other individuals or organisations involved in initiatives aimed at improved educational or career outcomes for Indigenous Australians;
- (viii) acting as an information gathering centre and distributor for any schools or other organisations or individuals involved in Indigenous education or career or transition initiatives;
- (ix) promoting Indigenous education;
- (x) providing administrative, management or other support to schools, higher education providers or other organisations involved in Indigenous education, scholarship, careers or transition initiatives;
- (b) Develop partnerships with individuals, corporations, governments or other organisations in order to assist in the achievement of any of these objectives.
- (c) Raise funds in order to assist in the achievement of these objectives.
- (d) Do all such things as the Directors consider to be incidental or conducive to the achievement of these objectives.

The Foundation may choose to focus its efforts on any one or more of these objectives from time to time to the exclusion of the others.

The Foundation shall not have any religious or political affiliations nor allow religious or political considerations to influence its decisions or activities.

2.3 Application of income and property to objects

- (a) Subject to paragraph (b), the income and property of the Foundation must only be used to further the objects of the Foundation set out in rules 2.1 and 2.2 and no part of that income or property may be paid or transferred, directly or indirectly, to any Member or Director of the Foundation by way of dividend, bonus or otherwise.
- (b) Paragraph (a) does not prevent the Foundation from making a payment in good faith to a Member or Director of the Foundation:
 - (i) of reasonable and proper remuneration for services provided to the Foundation;
 - (ii) for goods supplied in the ordinary course of business; or
 - (iii) of reasonable and proper rent for premises let by a Member.

3. Public Gift Funds

3.1 Establishment of Public Gift Funds

The Foundation may maintain two separate public funds (the Public Gift Funds), one to be called the Australian Indigenous Education Foundation Scholarship Fund (Scholarship Fund) and the other to be called the Australian Indigenous Education Fund (AIEF Fund).

3.2 Scholarship Public Gift Fund

The Foundation may maintain a fund (the Scholarship Fund) and use the property and income of the Scholarship Fund for the purpose of providing money for scholarships, bursaries or prizes to any Australian Indigenous person to attend any Approved School, to cover costs such as school fees, school levies, text-books, clothing, equipment, boarding fees, excursions, travel costs, living expenses, and any other incidental expenses related to the education and pastoral care of the recipient.

The Foundation shall award such scholarships, bursaries or prizes on the basis of merit or for reasons of equity.

Applications for a scholarship, bursary or prize under the Scholarship Fund will be open to all Australian Indigenous people.

The award of a scholarship, bursary or prize will be conditional upon the applicant being offered an enrolment at an Approved School.

3.3 AIEF Public Gift Fund

The Foundation may maintain a fund (the AIEF Fund) and use the property and income of the AIEF Fund for the purpose of providing relief to or for the maintenance, advancement, education or benefit of Indigenous persons in Australia who are in necessitous circumstances.

3.4 Rules of the Public Gift Funds

The Foundation may maintain the Scholarship Fund and the AIEF Fund subject to the following:

- (a) the Foundation will invite members of the public to make Gifts to the Public Gift Funds;
- (b) any Gifts received by the Foundation under paragraph (a) will be accepted by the Foundation in the following manner:
 - (i) they will be placed in a separate account established for the purposes of the relevant Public Gift Fund; and
 - (ii) receipts under the name of the Foundation will be issued to the person who made the Gift to the Foundation and will state:
 - (A) the Australian Business Number of the Foundation;
 - (B) the name of the Public Gift Fund to which the Gift has been credited; and

- (C) any other information which is required under the Tax Act;
- (c) all Gifts made to a Public Gift Fund must be separately identified and kept separately from any other funds of the Foundation;
- (d) the Public Gift Funds must be managed by the Directors or a committee of the Directors appointed under rule 13.10 (a majority of whom must be Responsible Persons). The Foundation may accumulate, invest and allocate the income and capital of the Public Gift Funds in accordance with this Constitution and as it sees fit provided such actions are consistent with the objects and requirements of the Public Gift Funds as set out in this Constitution;
- (e) The Public Gift Funds must operate on a non-profit basis and money in the funds must not be distributed to Directors or the Foundation, except as reimbursement for out-of-pocket expenses properly incurred by them in carrying on their duties, as proper remuneration for services performed in satisfaction of the objects of the relevant Public Gift Fund or as proper payment for the expenses and costs incurred in the administration of the relevant Public Gift Fund; and
- (f) the Public Gift Funds must operate otherwise in accordance with any applicable requirements of the Tax Act.

3.5 Accounting policies

The Foundation must establish and maintain internal accounting policies exclusively for money, property and benefits received for the each Public Gift Fund.

3.6 Books of account

The Foundation must ensure that proper books of account and other records are kept in respect of all receipts and payments and otherwise in relation to each Public Gift Fund.

3.7 Notice to ATO

The Foundation must notify the ATO of any changes to the rules governing the Public Gift Funds.

3.8 Establishment of future funds

The Foundation may in the future establish and maintain other funds. If such other funds are established they will be operated and maintained separately and independently of the existing Public Gift Funds and no transfers will be made from the existing Public Gift Funds to any other existing or future funds, except in the case of winding up of the Public Gift Funds or a revocation of endorsement, in accordance with rule 18.1.

3.9 Winding up or revocation of endorsement

On the earlier of:

- (a) the winding up of one a Public Gift Fund; and
- (b) if the Foundation is endorsed as a Deductible Gift Recipient because of that Public Gift Fund, the revocation of that endorsement,

any property whatsoever of that Public Gift Fund that remains after satisfaction of all debts and liabilities attributable to the Public Gift Fund, must be dealt with in the same manner as is described in rule 18.1.

4. Advisory Council

4.1 Role of the Advisory Council

Without limiting the rights and powers of the Foundation, the Directors may establish a committee called the Advisory Council to provide advice to the Foundation in relation to:

- (a) leadership;
- (b) governance;
- (c) oversight;
- (d) strategic direction and focus;
- (e) engaging with businesses;
- (f) engaging with governments;
- (g) engaging with the media and the public;
- (h) engaging with other individuals and organisations;
- (i) promoting initiatives of the Foundation and the relevant Public Gift Fund; and

maintaining the integrity of the brand, profile and reputation of the Foundation and the relevant Public Gift Fund.

The Directors may delegate to the Advisory Council (or revoke any such delegated authority) any of its powers or authorities which it is legally able to delegate, on such terms as the Directors determine from time to time.

The members of the Advisory Council will leverage their professional networks, profile, reputation, energy, experience and influence to promote the Foundation and its objects and to ensure the success of the relevant Public Gift Fund and its fundraising functions.

The Advisory Council shall liaise directly with the Foundation and the Chief Executive Officer in the execution of its functions and will only have such executive functions of its own as are delegated to it by the Foundation or pursuant to this Constitution.

4.2 Membership of the Advisory Council

The Advisory Council shall consist of such persons as the Directors from time to time determine.

The Chief Executive Officer of the Foundation will be an ex-officio member of the Advisory Council.

4.3 Term of Appointment of Advisory Council

The Term of Appointment for members of the Advisory Council is three years.

A member of the Advisory Council whose term has or will expire, may apply in writing to the Directors for another three-year appointment as a member of the Advisory Council if such application is endorsed by the chair of the Advisory Council (or, in the case of renewal of the appointment for the member who is the chair from time to time, that person may apply to the Directors for another three year appointment as a member of the Advisory Council without requiring such a formal endorsement).

There is no maximum number of three-year terms a member of the Advisory Council may serve.

4.4 Advisory Council Meetings

The Directors may convene meetings of the Advisory Council at such times and places as considered necessary or desirable by the Directors and the Advisory Council from time to time.

The conduct of meetings of the Advisory Council may be determined by the Advisory Council.

The Advisory Council shall from time to time designate one of its members to chair the Advisory Council.

4.5 Sub-Committees

The Advisory Council may form sub-committees and working parties as may be required or desirable from time to time.

4.6 Resignation

A member of the Advisory Council may resign by giving notice in writing to the Secretary. The resignation will be effective from the date the notice is received by the Secretary.

4.7 Termination

Notwithstanding rule 4.3, the Directors may terminate the appointment of a member of the Advisory Council at any time and for any reason.

4.8 Liability

Neither the Advisory Council nor the individual members of the Advisory Council will be liable for any loss or damage to the Directors or the Foundation arising by reason of any mistake or omission made in good faith or by reason of any other matter or thing except fraud or negligence on the part of the member of the Advisory Council who is sought to be made so liable.

5. School Council

5.1 Role of the School Council

Without limiting the rights and powers of the Foundation, the Directors may establish a School Council as a consultative body to assist and advise the Foundation in the pursuit of the Foundation's objects.

The Directors may delegate to the School Council (or revoke any such delegated authority) any of its powers or authorities which it is legally able to delegate, on such terms as the Directors determine from time to time.

The School Council will be known as the Australian Indigenous Education Foundation School Council or any other name nominated by the Foundation.

The School Council shall carry out its activities in a way that will at all times maintain the integrity of the brand, profile and reputation of (i) the individual schools or other organisations represented on the School Council (ii) the Foundation and (iii) the Public Gift Funds.

The role of the School Council is to convene a collaborative group of interested education professionals with a common interest in the vision and objects of the Foundation, in a forum where they can:

- (a) serve as a source of independent advice to the Foundation on its strategic direction and focus;
- (b) serve as a source of independent advice to the Foundation on the structure and content of its strategies and activities;
- (c) serve as a reference point to ensure that the activities of the Foundation are relevant to the education sector;
- (d) serve as a source of independent advice to the Foundation on the perspectives of young Indigenous people;
- (e) exchange ideas, experiences and learning with the Foundation and among themselves;
- (f) develop a set of best practice principles and guidelines for Indigenous education programmes that can be shared among other schools, higher education providers and interested parties throughout Australia;
- (g) help to raise awareness of Indigenous education issues among schools, higher education providers and throughout the broader community;
- (h) collaborate with the Foundation and with each other to improve Indigenous education and career outcomes;
- (i) identify issues where further improvement is required to improve Indigenous education and career outcomes, and develop solutions to address such issues;
- (j) assist in the development of programmes, initiatives, events or publications for young Indigenous people on issues such as mentoring, transitions, leadership, education, careers, job-readiness and skills training;
- (k) share experiences and learning on better ways of preparing, engaging and mentoring young Indigenous people in education and careers;
- (l) provide support and assistance to schools, higher education providers or other organisations with an interest in Indigenous education or newly established Indigenous education initiatives;

- (m) make recommendations to the Foundation on candidates for new members of the School Council; and
- (n) collaborate on anything incidental to any of the above or the objects of the Foundation.

The School Council members will leverage their professional networks, profile, reputation, energy, experience and influence to support the objects of the Foundation.

The School Council shall liaise directly with the Foundation in the execution of its functions and will only have such executive functions of its own as are delegated to it by the Foundation (if any). The Foundation will be responsible for all external activities and communications unless any such activities and communications are delegated to the School Council.

5.2 Membership of the School Council

The School Council shall consist of such schools, higher education providers or other persons or organisations and on such terms, as the Directors from time to time determine.

The Chief Executive Officer and any other staff member designated by the Chief Executive Officer will be members of the School Council.

5.3 Resignation

A member of the School Council may resign by giving notice in writing to the Secretary of the Foundation. The resignation will be effective from the date notice is received by the Secretary of the Foundation.

5.4 Termination of Membership

The Foundation may terminate the appointment of a member of the School Council at any time and for any reason.

5.5 Liability

Neither the School Council nor the individual members of the School Council will be liable for any loss or damage to the Directors, the Foundation or the Public Gift Funds arising by reason of any mistake or omission made in good faith or by reason of any other matter or thing except fraud or negligence on the part of the member of the School Council who is sought to be made so liable.

6. Ambassadors

6.1 Role of Ambassadors

Without limiting the rights and powers of the Foundation, the Directors may appoint any individual as an Ambassador of the Foundation and/or any Public Gift Fund, on such terms, as the Directors from time to time determine.

The mandate of Ambassadors is to provide views, opinions and advice to the Foundation in relation to:

- (a) promoting initiatives of the Foundation and the Public Gift Funds;
- (b) the strategic direction and focus of the Foundation;
- (c) its engagement with stakeholders; and
- (d) maintaining the integrity of the brand, profile and reputation of the Foundation and the Public Gift Funds.

Ambassadors will also leverage their professional networks, profile, reputation, energy, experience and influence to support the objects of the Foundation and fundraising campaigns for the Public Gift Funds.

Ambassadors shall liaise directly with the Foundation and the Chief Executive Officer in the execution of their functions and will only have such executive functions of their own as are delegated to them by the Foundation (if any).

6.2 Term of Appointment of Ambassadors

- (a) The term of Appointment for Ambassadors is three years.
- (b) An Ambassador whose term has or will expire, may apply to the Foundation for another three year appointment as an Ambassador if such application is endorsed by the Chief Executive Officer.
- (c) There is no maximum number of three year terms an Ambassador may serve.

6.3 Resignation of Ambassadors

An Ambassador may resign by giving notice in writing to the Secretary. The resignation will be effective from the date the notice is received by the Secretary.

6.4 Termination

Notwithstanding rule 6.2, the Directors may terminate the appointment of an Ambassador at any time and for any reason.

6.5 Liability of Ambassadors

An Ambassador will not be liable for any loss or damage to the Directors, Foundation or the Public Gift Funds arising by reason of any mistake or omission made in good faith or by reason of any other matter or thing except fraud or negligence on the part of the Ambassador who is sought to be made so liable.

7. Patrons

7.1 Role of Patrons

Without limiting the rights and powers of the Foundation, the Directors may appoint any one or more individuals as a Patron of the Foundation and/or any Public Gift Fund, on such terms, as the Directors from time to time determine.

A Patron should be a distinguished and respected member of the Australian community, who has consented to be identified with the Foundation, and who, through their own

example, represents a strong and positive role model for the Foundation and those the Foundation engages with.

A Patron should possess qualities or professional achievements of such a nature that would help to promote the Foundation and its activities.

A Patron will assist in the development and promotion of the Foundation and/or the Public Gift Funds in a manner appropriate to the seniority and status of the Patron.

A Patron will be expected to understand and publicly support the role and objects of the Foundation and the Public Gift Funds.

A Patron may also be requested to preside at significant gatherings and events such as official openings, launches, presentations and similar events.

A Patron will be encouraged to offer advice or counsel on any relevant issue to the Foundation, the Directors, Members, staff, the Public Gift Funds, the Advisory Council, the School Council or any Ambassador.

Patrons shall liaise directly with the Foundation and the Chief Executive Officer in the execution of their functions and will only have such executive functions of their own as are delegated to them by the Foundation (if any).

7.2 Term of Appointment

- (a) The term of Appointment for a Patron is four years.
- (b) A Patron whose term has or will expire, may apply to (or be invited by) the Foundation for another four year appointment as a Patron if such application is endorsed by the Chief Executive Officer to serve another four year term.
- (c) There is no maximum number of four year terms a Patron may serve.

7.3 Resignation of Patrons

A Patron may resign by giving notice in writing to the Secretary. The resignation will be effective from the date it is received by the Secretary.

7.4 Termination

Notwithstanding rule 7.2, the Directors may terminate the appointment of a Patron at any time and for any reason.

7.5 Liability

A Patron will not be liable for any loss or damage to the Directors, Foundation or the Public Gift Funds arising by reason of any mistake or omission made in good faith or by reason of any other matter or thing except fraud or negligence on the part of the Patron who is sought to be made so liable.

8. General Meetings

8.1 Annual general meetings

As prescribed by the Corporations Act, an Annual General Meeting will be held at least once per year and within five months of the end of the Foundation's financial year.

8.2 Power to call a general meeting

Any two Directors or two Members may convene a general meeting of the Foundation whenever they think fit.

8.3 Power to cancel or postpone a general meeting

The Directors or Members that convened a general meeting under rule 8.2 may cancel or postpone that general meeting convened by those Directors or Members by notice in writing to all persons who were entitled to receive notice of that meeting, except where the cancellation or postponement would be contrary to the Corporations Act. Any failure to give notice of cancellation or postponement does not invalidate the cancellation or postponement or any resolution passed at a postponed meeting.

8.4 Non-receipt of notice

The fact that a person entitled to receive notice of a general meeting does not receive that notice or is accidentally not given notice, does not invalidate any resolution passed at the meeting.

8.5 Business of general meetings

Unless all Members are present as Members Present and agree otherwise, the only business to be transacted at a general meeting will be that set out in the notice.

8.6 Right of others to attend general meeting

- (a) A Secretary or Director who is not a Member is entitled to be present and, at the request of the chair, to speak at any general meeting.
- (b) Any other person (whether a Member or not) requested by the Members to attend any general meeting is entitled to be present and, at the request of the chair, to speak at that general meeting.
- (c) Any person attending at a general meeting who is not a Member may be required to leave the meeting before a Member's resolution is put to vote.

9. Proceedings at General Meetings

9.1 Number for a quorum

Except as otherwise provided in this Constitution, two-thirds of all Members constitutes a quorum.

9.2 Requirement for a quorum

No business may be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.

9.3 No quorum

- (a) If there is no quorum at a general meeting within 30 minutes after the time specified in the notice of the meeting, the meeting is dissolved unless the Directors adjourn the meeting to a date, time and place determined by the Directors.
- (b) If no quorum is present at any adjourned meeting within 30 minutes after the time appointed for the meeting, the meeting is dissolved.

9.4 Chair of general meetings

The Members may elect one of their number as the chair for general meetings.

9.5 Absence of Chair

Where a general meeting is held and:

- (a) there is no chair; or
- (b) the chair is not present within 15 minutes after the time appointed for the meeting or does not wish to act as chair of the meeting,

the Members Present may elect one of their number to be chair of the meeting.

9.6 Conduct of general meetings

- (a) The general conduct of each general meeting of the Foundation and the procedures to be adopted at the meeting are as determined at, during or prior to the meeting by the chair of the meeting.
- (b) The chair of the meeting may make rulings without putting the question (or any question) to the vote if the chair of the meeting considers action is required to ensure the orderly conduct of the meeting.
- (c) At any time the chair of the meeting considers it necessary or desirable for the proper and orderly conduct of the meeting, the chair of the meeting may demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members Present.
- (d) Any determination by the chair of the meeting in relation to matters of procedure (including any procedural motions moved at, or put to, any meeting) or any other matter arising directly or indirectly from the business is final (including any procedural motions moved at, or put to, any meeting). Any challenge to a right to vote (whether on a show of hands or on a poll) or to a determination to allow or disregard to vote may only be made at the meeting and may be determined by the chair of the meeting whose decision is final.

- (e) If a person purports to cast a vote in contravention of the Corporations Act, the chair of the meeting may determine that the vote be disregarded and treated as not having been cast.
- (f) Nothing contained in this rule limits the powers conferred on a chair of a meeting by law.

9.7 Adjournments

- (a) During the course of a general meeting, the chair of the meeting may, and if so directed by the meeting must, adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion either to a later time at the same meeting or to a meeting held at another time and place determined by the chair of the meeting.
- (b) If the chair of the meeting exercises a right of adjournment under paragraph (a), the chair of the meeting has the sole discretion to decide whether to seek the approval of the Members Present to the adjournment and, unless the chair of the meeting exercises that discretion, no vote may be taken by the Members Present in respect of the adjournment.
- (c) The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- (d) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting. Otherwise it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

9.8 Voting at general meetings

- (a) Any resolution submitted to a general meeting is to be decided by a show of hands of the Members Present and entitled to vote unless a poll is demanded.
- (b) In the case of an equality of votes, the chair of the meeting does not have, both on a show of hands and on a poll, a casting vote in addition to the vote or votes to which the chair of the meeting may be entitled as a Member or as a proxy, attorney or properly appointed representative of a Member.
- (c) Unless a poll is demanded, a declaration by the chair of the meeting following a vote on a show of hands that a resolution has been passed or lost is conclusive.
- (d) A poll may be demanded by a Member in accordance with the Corporations Act (and not otherwise) or by the chair of the meeting. No poll may be demanded on the election of a chair of a meeting or, unless the chair of the meeting otherwise determines, the adjournment of a meeting. A demand for a poll may be withdrawn.

9.9 Procedure for polls

- (a) When demanded, a poll may be taken in the manner and at the time the chair of the meeting directs.

- (b) The result of a poll may be announced in the manner and at the time (whether during the relevant meeting or afterwards) as the chair of the meeting considers appropriate.
- (c) The result of the poll is the resolution of the meeting at which the poll was demanded.
- (d) The demand for a poll does not prevent a meeting from continuing for the transaction of any business other than that on which a poll has been demanded. A poll demanded on any question of adjournment is to be taken at the meeting and without adjournment.

10. Votes of Members

10.1 Voting rights

Subject to this Constitution and any rights or restrictions for the time being placed on any Member:

- (a) at meetings of Members each Member entitled to attend and vote may attend and vote in person or by proxy, by attorney or (where the Member is a body corporate) by representative;
- (b) a Member is not entitled to vote at a general meeting unless all sums presently payable by the Member in respect of membership of the Foundation (if any) have been paid; and
- (c) each Member has one vote both on a show of hands and a poll.

10.2 Right to appoint proxy

- (a) A Member may appoint one proxy.
- (b) A proxy need not be a Member.

10.3 Form of proxy

A form of appointment of a proxy is valid if it is in accordance with the Corporations Act or in any form (including electronic) which the Directors may prescribe or accept.

10.4 Lodgement of proxies

An instrument appointing a proxy is not valid unless it and the power of attorney or other authority (if any) under which the instrument is signed is received at the registered office of the Foundation or, if notice of a meeting provides for electronic lodgement of proxies, at the electronic mail address specified in the notice, at any time before the meeting commences.

10.5 Validity of proxies

- (a) A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite:
 - (i) the previous death or unsoundness of mind of the principal; or

- (ii) the revocation of the instrument (or of the authority under which the instrument was executed) or the power,

if no notice in writing of the death, unsoundness of mind or revocation (as the case may be) has been received by the Foundation at its registered office at least 48 hours (or any shorter period as the Directors may permit or specified by the Corporations Act) before the commencement of the meeting, or adjourned meeting at which the instrument is used or the power is exercised.

- (b) A proxy is not revoked by the principal attending and taking part in the meeting unless the principal actually votes at the meeting on a resolution for which the proxy is proposed to be used.

10.6 Where proxy is incomplete

- (a) No instrument appointing a proxy is treated as invalid merely because it does not contain:
 - (i) the address of the appointor or of a proxy;
 - (ii) the proxy's name or the name of the office held by the proxy; or
 - (iii) in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.
- (b) Where the instrument does not specify the name of a proxy, the instrument is taken to be given in favour of the chair of the meeting.
- (c) A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.

11. Appointment, Removal and Remuneration of Directors

11.1 Appointment of Directors

- (a) The number of Directors (not including alternate Directors) must be not less than three.
- (b) The first Directors are the persons specified in the application to register the Company lodged under section 117 of the Corporations Act 2001 and who have consented to become Directors.
- (c) The Directors may at any time appoint a person to be a Director to fill a casual vacancy or as an addition to the existing number of Directors.
- (d) Any Director appointed under paragraph (c) may hold office only until the next annual general meeting of the Foundation and is then eligible for election at that meeting.

11.2 Term of Appointment

- (a) The Term of Appointment for Directors is two years and then through to the next-following Annual General Meeting.

- (b) Each retiring Director is eligible, after receiving the chair's approval, to apply for re-election by lodging a written notice with the Secretary at least 14 days prior to the Annual General Meeting at which the Director's retirement would otherwise take place.

11.3 Remuneration

- (a) No Director is entitled to be paid a fee for his or her service as a Director.
- (b) The Directors will be entitled to be paid or reimbursed for all out-of-pocket expenses properly incurred by them in the performance of their duties as Directors where the amount payable has been approved by the Directors.
- (c) A Director may be engaged by the Foundation in any other capacity (other than auditor) and may be appointed on such terms as to remuneration, tenure of office and otherwise as has been approved by the Directors.

11.4 Vacation of office

- (a) 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:
 - (i) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (ii) resigns from the office of Director by notice in writing to the Foundation;
 - (iii) dies.
- (b) The office of a Director who is an employee of the Foundation is terminated on the Director ceasing to be employed but the person concerned is eligible for reappointment or re election as a Director of the Foundation.

11.5 Alternate Director

Subject to this Constitution, each Director may appoint any person (who, if there are other Directors, is approved by a majority of the other Directors) to act as an alternate Director in the Director's place, either for a stated period or until the happening of a specified event, whenever by absence or illness or otherwise the Director is unable to attend to duties as a Director. The appointment must be in writing and signed by the Director and a copy of the appointment must be given to the registered office or to a meeting of the Directors. The appointment takes effect on (if there are other Directors) approval by a majority of the other Directors or, where the approval has been granted, at any later time specified in the appointment. The following provisions apply to any alternate Director:

- (a) the appointment of the alternate Director is terminated or suspended on receipt at the registered office of notice in writing from the Director by whom the alternate Director was appointed;
- (b) the alternate Director is entitled to receive notice of meetings of the Directors and to attend and vote at the meetings if the Director by whom the alternate Director was appointed is not present;

- (c) the alternate Director is entitled to exercise all the powers (except the power to appoint an alternate Director) and perform all the duties of a Director, to the extent the Director by whom the alternate Director was appointed has not exercised or performed them or they have not been limited by the instrument appointing the alternate Director;
- (d) the alternate Director will be entitled to be reimbursed under rule 11.3(b) as if the alternate Director were a Director;
- (e) the office of the alternate Director is terminated on the death of, or termination of office by, the Director by whom the alternate Director was appointed;
- (f) the alternate Director is not to be taken into account in determining the number of Directors or rotation of Directors; and
- (g) the alternate Director is, while acting as a Director, responsible to the Foundation for the alternate Director's own acts and defaults and is not the agent of the Director by whom the alternate Director was appointed.

12. Powers of Directors

The business of the Foundation will be managed by the Directors, who may exercise all powers of the Foundation which are not, by the Corporations Act or this Constitution, required to be exercised by the Foundation in general meeting.

13. Proceedings of Directors

13.1 Directors meetings

The Directors may meet together for conducting business and may adjourn and otherwise regulate their meetings as they see fit.

13.2 Power to call for a Directors meeting

A Director may at any time, and the Secretary must on the request of a Director, call a meeting of the Directors.

13.3 Quorum for Directors meetings

The number of Directors necessary to form a quorum at a meeting of the Directors is three Directors or such higher number as the Directors agree.

13.4 Notice

Reasonable notice must be given to every Director of the place, date and time of every meeting of the Directors. Notice of a meeting of the Directors may be given by mail (electronic or otherwise), personal delivery or facsimile transmission to the usual place of business or residence of the Directors or at any other address given to the Secretary by the Director or by any technology agreed to by all the Directors.

13.5 Directors meetings by technology

- (a) For the purposes of the Corporations Act, each Director, by consenting to be a Director (or by reason of the adoption of this Constitution), consents to the use of each of the following technologies for holding a Directors meeting:
 - (i) video conference;
 - (ii) telephone;
 - (iii) electronic mail;
 - (iv) any other technology which permits each Director to communicate with every other Director; or
 - (v) any combination of these technologies.

A Director may withdraw the consent given under this rule in accordance with the Corporations Act.

- (b) Where the Directors are not all in attendance at one place and are holding a meeting using technology and each Director can communicate with the other Directors:
 - (i) the participating Directors are, for the purpose of every provision of this Constitution concerning meetings of the Directors, taken to be assembled together at a meeting and to be present at that meeting; and
 - (ii) all proceedings of those Directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were physically present in one location.

13.6 Chair of Directors

- (a) The Directors may elect one of their number as their chair and may decide the period for which the chair is to hold office as chair. That person may be referred to as the chairman of the Foundation.
- (b) Where a meeting of the Directors is held and:
 - (i) a chair has not been elected as provided by paragraph (a); or
 - (ii) the chair is not present at the time appointed for the holding of the meeting or does not wish to chair the meeting,the Directors present may elect one of their number to be chair of the meeting.

13.7 Directors' voting rights

- (a) Subject to this Constitution, questions arising at a meeting of the Directors are decided by a majority of votes of Directors present and voting.
- (b) In the case of an equality of votes, the chair does not have a casting vote in addition to the chair's deliberative vote.
- (c) Subject to rule 13.9, a Director who has a material personal interest in a matter may vote in respect of that matter if it comes before the Directors and be counted as part of the quorum.

13.8 Conflict of interests

- (a) A Director is not disqualified from contracting with the Foundation in any capacity by reason of holding the office of Director.
- (b) In relation to a contract or arrangement in which a Director is in any way interested:
 - (i) the fact that the Director signed the document evidencing the contract or arrangement will not in any way affect its validity;
 - (ii) the contract or arrangement may not be avoided merely because the Director is a party to the contract or arrangement or otherwise interested in it; and
 - (iii) the Director will not be liable to account to the Foundation for any profit derived in respect of the contract or arrangement merely because of the Director's office or the fiduciary relationship it entails.

13.9 Material personal interest

- (a) Subject to paragraph (b), a Director who has a material personal interest in a matter that relates to the affairs of the Foundation must give the other Directors notice of his or her interest in accordance with the Corporations Act.
- (b) A Director with a material personal interest in a matter that relates to the affairs of the Foundation is not required to give notice in the following circumstances:
 - (i) if all of the following conditions are met:
 - (A) the Director has already given notice of the nature and extent of the interest and its relation to the affairs of the Foundation;
 - (B) if a person who was not a Director at the time the notice was given is appointed as a Director, the notice is given to that person; and
 - (C) the nature or extent of the interest has not materially increased above that disclosed in the notice;
 - (ii) if the Director has given a standing notice of the nature and extent of the interest in accordance with the Corporations Act and that standing notice is still effective in relation to the interest; or
 - (iii) as otherwise permitted under the Corporations Act.
- (c) A Director who has a material personal interest in a matter that is being considered at a meeting of the Directors must not be present while the matter is being considered at the meeting or vote on the matter, except as permitted in accordance with the Corporations Act.
- (d) Nothing in this rule affects the duty of a Director:
 - (i) who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with the Director's duties or interests as a Director, to declare at a meeting of the Directors, the fact and the nature, character and extent of the conflict; or
 - (ii) to comply with the Corporations Act or any other law.

13.10 Committees

- (a) The Directors may delegate any of their powers to committees consisting of any one or more Directors or any other person or persons as the Directors think fit and may revoke that delegation.
- (b) A committee to which any powers have been delegated under paragraph (a), must exercise those powers in accordance with any directions of the Directors except that in relation to a committee referred to in rule 3.4(d), the Directors shall receive, consider and be guided by the advice of that committee (to the extent that such advice does not conflict with the Directors' obligations under the Corporations Act). These powers are then taken to have been exercised by the Directors.
- (c) Subject to paragraph (b), the meetings and proceedings of any committee are to be governed by the provisions of this Constitution for regulating the meetings and proceedings of the Directors so far as they are applicable.
- (d) Nothing in this rule 13.10 limits the power of the Directors to delegate.

13.11 Written resolutions

- (a) A resolution in writing signed by all Directors or a resolution in writing of which notice has been given to all Directors and which is signed by a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the Directors) is a valid resolution of the Directors and is effective when signed by the last of all the Directors or the last of the Directors constituting the majority, as required.
- (b) For the purpose of this rule, the references to Directors include any alternate Director appointed by a Director who is not available to sign the document or is otherwise unable to sign the document within a reasonable time but do not include any other alternate Director.
- (c) The resolution may consist of several documents in the same form each signed by one or more of the Directors. A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is considered a document in writing signed by the Director and is deemed to be signed when received in legible form.

13.12 Defects in appointments

- (a) All acts done by any meeting of the Directors or person acting as a Director are as valid as if each person was duly appointed and qualified to be a Director or a member of a committee.
- (b) Paragraph (a) applies even if it is afterwards discovered that there was some defect in the appointment of a person to be a Director or to act as a Director or that a person so appointed was disqualified.

13.13 If less than minimum number of Directors

If the number of Directors is reduced below the minimum number fixed under this Constitution, the continuing Directors may act for the purpose of increasing the number of

Directors to that number or of calling a general meeting of the Foundation but for no other purpose.

14. Membership

14.1 Members of the Foundation

- (a) The Members are those persons admitted to the membership of the Foundation whose names are entered into the Foundation's register of Members.
- (b) On registration of the Foundation the Members will be those persons set out in schedule 1.
- (c) Two or more persons cannot be registered as holding a single membership interest, whether as joint tenants or as tenants in common.

14.2 Limited liability of Members

The liability of the Members of the Foundation is limited.

14.3 Members' liability on winding up

Each Member undertakes to contribute to the assets of the Foundation in the event of it being wound up while they are a Member, or within one year after they cease to be a Member, for payment of the debts and liabilities of the Foundation and of the costs, charges and expenses of winding up, such amount as may be required not exceeding \$10.

14.4 Admission as a Member

- (a) Except for the initial Members set out in schedule 1, applicants for membership must be nominated by two Members.
- (b) A person who wants to apply for membership must submit a written application to the Secretary signed by the applicant and the two Members making the nomination.
- (c) At the next general meeting of the Foundation after the receipt of an application for membership, the Members will consider the application and decide whether or not to admit the applicant in their absolute discretion.
- (d) If the Members decide not to admit an applicant to the membership, they do not have to give any reasons for their decision.
- (e) When an applicant is to be admitted, the Secretary must notify the applicant.
- (f) When the Members decide to admit the applicant as a Member, the applicant will be registered in the Foundation's register of Members and will immediately become a Member.

14.5 Resignation of a Member

A Member may resign from the Foundation by giving notice in writing to the Secretary. The resignation will be effective from the date it is received by the Secretary.

14.6 Termination of a Member

- (a) The Foundation must cancel and terminate the membership of any Member and remove the Member's name from the register of Members if directed to do so by resolution passed at a general meeting by a majority of no less than two-thirds of those present and voting (such voting will be by ballot).
- (b) At least 21 days before the general meeting at which a resolution will be put to cancel and terminate the membership of any Member, the Secretary must send a notice to the Member which states:
 - (i) the proposed resolution for the cancellation and termination of the Member's membership; and
 - (ii) that the Member has an opportunity to address the meeting either orally or in writing.

14.7 Ceasing to be a Member

A Member's membership of the Foundation will automatically cease and the Member will be removed from the register of Members:

- (a) in the case of a Member who is a natural person, on the date that:
 - (i) the Member dies;
 - (ii) the Member becomes of unsound mind; or
 - (iii) the Member becomes a person whose estate or assets are liable to be dealt with in any way under the laws relating to mental health, guardianship or the Protective Commissioner; or
- (b) in the case of a Member which is a body corporate, on the date that:
 - (i) a liquidator is appointed in connection with the winding up of the Member;
 - (ii) an order is made by a court for the winding up or deregistration of the Member; or
 - (iii) it merges or amalgamates with any other entity or organisation, unless such merger or amalgamation is approved by a resolution of Members at a general meeting of the Foundation.

14.8 Liability after a person ceases to be a Member

A person who ceases to be a Member must pay to the Foundation:

- (a) all amounts owing to the Foundation which are due and unpaid at the date that the person ceases to be a Member; and
- (b) amounts which the Member is liable to pay under rule 14.3.

14.9 Register of Members

The register of Members must be kept by the Secretary and must contain the full name and address of each Member and any other information required by law.

14.10 Address of Members

Every Member must inform the Secretary in writing of any change in their address and any such change of address must be entered in the register of Members. The latest address in the register of Members is deemed to be the Member's registered address.

15. Officers of the Foundation

15.1 Appointment of Chief Executive Officer

The Directors may appoint a person to be the Chief Executive Officer of the Foundation for such period and on such terms as they think fit. Subject to the terms of any agreement entered into in a particular case, the Directors may at any time terminate any such appointment.

15.2 Powers of a Chief Executive Officer

The Directors may delegate, on the terms and conditions and with any restrictions as they determine, to the Chief Executive Officer any of the powers exercisable by them under this Constitution and may at any time withdraw, suspend or vary any of those powers. Giving powers to the Chief Executive Officer does not prevent the exercise of those powers by the Directors.

15.3 Appointment of Secretary

There must be at least one Secretary who is to be appointed by the Directors.

15.4 Powers, duties and authorities of Secretary

A Secretary of the Foundation holds office on the terms and conditions, and with the powers, duties and authorities, as the Directors decide.

15.5 Termination of appointment of Secretary

The Directors may at any time terminate the appointment of a Secretary.

15.6 Appointment of other officers

The Directors may from time to time:

- (a) create any other position or positions in the Foundation with the powers and responsibilities as the Directors may from time to time decide; and
- (b) appoint any person, whether or not a Director, to any position or positions created under paragraph (a).

15.7 Termination of appointment of other officers

The Directors may at any time terminate the appointment of a person holding a position created under rule 15.6(a) and may abolish the position.

16. Seals

16.1 Seals and their use

The Foundation may have a common seal and a duplicate common seal which are to be used by the Foundation as determined by the Directors.

17. Notices

17.1 Notices generally

Any Member who has not left at or sent to the registered office, a place of address or an electronic mail address (for registration in the register) at or to which all notices and documents of the Foundation may be served or sent is not entitled to receive any notice.

17.2 How notice may be given

The Foundation may give notice to a Member, in its discretion, by:

- (a) serving it on the Member personally;
- (b) sending it by post to or leaving it at the Member's address as shown in the register of Members or an alternative address supplied by the Member;
- (c) sending it to the fax number or electronic mail address supplied by the Member;
- (d) serving it in any manner contemplated in this rule 17.2 on a Member's attorney as specified by the Member under a notice given under rule 17.3.

17.3 Notices to an attorney

By written notice to the Secretary left at or sent to the registered office, a Member may request that all notices to be given by the Foundation or the Directors be served on the Member's attorney at an address specified in the notice and the Foundation may do so in its discretion.

17.4 Personal service or delivery

A notice served on a Member personally or left at the Member's address is considered to have been served when delivered.

17.5 Notice by post

A notice 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 considered to have been served at the expiration of 24 hours after the notice is posted, provided that it is properly addressed.

17.6 Notice by fax or electronic mail

Any notice sent by fax or electronic mail is considered to have been served on the day it is sent, provided that it is properly addressed.

18. Winding Up or Revocation of Endorsement of the Foundation

18.1 Winding up or revocation of endorsement

On the earlier of:

- (a) the winding up or dissolution of the Foundation; and
- (b) if the Foundation is endorsed as a Deductible Gift Recipient, the revocation of that endorsement,

any property whatsoever (including any property in the Public Gift Fund established under rule 3.1), that remains, after satisfaction of all debts and liabilities, must not be paid to or distributed among the Members but must, within a reasonable period of time, be given or transferred to one or more organisations selected by the Members at or before the time of dissolution or revocation of endorsement:

- (c) having objects similar to the objects of the Foundation set out in rule 2.1;
- (d) which is covered by an item in any of the tables in subdivision 30-B of the Tax Act; and
- (e) which by its Constitution is required to apply its profits (if any) or other income in promoting its objects and is prohibited from distributing its income and property to its Members.

18.2 Amalgamation

Where it furthers the objects of the Foundation to amalgamate with any one or more other organisations having similar objects to the objects of the Foundation, the other organisation or organisations must have rules prohibiting the distribution of its income and property to Members.

19. Indemnity

- (a) The Foundation is to indemnify each officer of the Foundation out of the assets of the Foundation to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the Foundation or in or arising out of the discharge of the duties of the officer.
- (b) Where the Directors consider it appropriate, the Foundation may execute a documentary indemnity in any form in favour of any officer of the Foundation or a subsidiary.
- (c) Where the Directors consider it appropriate, the Foundation may:
 - (i) make payments by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the Foundation against any liability incurred by the officer in or arising out of the conduct of the business of the Foundation or in or arising out of the discharge of the duties of the officer; and

- (ii) bind itself in any contract or deed with any officer of the Foundation to make the payments.
- (d) Where the Directors consider it appropriate, the Foundation may:
 - (i) give a former Director access to certain papers, including documents provided or available to the Directors and other papers referred to in those documents; and
 - (ii) bind itself in any contract with a Director or former Director to give the access.
- (e) In this rule 19:
 - (i) **officer** means:
 - (A) a Director or Secretary, chief executive officer or employee; or
 - (B) a person appointed as a trustee by, or acting as a trustee at the request of, the Foundation,and includes a former officer.
 - (ii) **duties of the officer** includes, in any particular case where the Directors consider it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the Foundation or, where applicable, the subsidiary of the Foundation to any other corporation.
 - (iii) **to the relevant extent** means:
 - (A) to the extent the Foundation is not precluded by law from doing so;
 - (B) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, a subsidiary or an insurer under any insurance policy); and
 - (C) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.
 - (iv) **liability** means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.

1. Schedule 1

Initial Members

Each of the people named below as a Member consents to becoming a Member of the Foundation and agrees to the terms of this Constitution.

Name	Address	Signature
Andrew Michael Penfold	17 Boambillee Avenue, Vaucluse NSW 2030	
Thomas Quentin Drake-Brockman	3 Chilcott Road, Berrilee NSW 2159	
Michelle Lesley Gray	17 Boambillee Avenue, Vaucluse NSW 2030	