

56 850 637 447

Constitution: Xin Yi Dai Incorporated



STATEMENT OF PURPOSES
AND
CONSTITUTION
OF
XIN YI DAI INCORPORATED

ORGANISATION NUMBER A0032315G

AUSTRALIAN BUSINESS NUMBER 56 850 637 447

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STATEMENT OF PURPOSES

1. To provide educational services to the general community, migrants and overseas students by a variety of means including day schools, after-hours schools, language schools and tutoring
2. To promote and develop Chinese culture and traditions including Chinese language
3. To promote, enrich, support and enhance the interaction between different cultures particularly between Chinese and Australian cultures

NAME

Rule 1

The name of the Association is Xin Yi Dai Inc, in these rules "The Association".

INTERPRETATION

Rule 2

2.1 In these Rules, unless contrary intention appears:

Committee means the Committee of Management of the Association

Financial year means the year ending 31st December

General Meeting means a general meeting of the members convened in accordance with Rule 11.

Member means a member of the Association.

Ordinary Member of the Committee means a member of the Committee who is not an officer of the Association under Rule 21.

The Act means the *Associations Incorporation Act 1981*.

The Regulations means regulations under the Act.

2.2 In these Rules, a reference to the Secretary of an Association is a reference:

- (a) where a person holds office under these Rules as Secretary of the Association to that person and
- (b) In any other case, to the Public Officer of the Association

2.3 Words of expressions contained in these rules shall be interpreted in accordance with the provisions of the *Acts Interpretation Act 1958* and the Act as in force from time to time.

MEMBERSHIP

Rule 3

3.1 Membership of the Association shall be open to:

- (a) school teachers
- (b) parents; and
- (c) community members.

3.2 A natural person or an organization nominated and approved for membership as provided in these Rules is eligible to be a member of the Association on payment of the entrance fee and annual subscription payable under these Rules.

- 3.3 A person who is not a member of the Association at the time of incorporation of the Association (or who was such a member at the time but has ceased to be a member) shall not be admitted to membership:
- (a) unless he/she is nominated as provided in sub-clause 3.5; and
 - (b) his/her admission as a member is approved by the Committee.
- 3.4 The nomination of a person for membership of the Association:
- (a) shall be made in writing in the form set out in Appendix 1; and
 - (b) shall be lodged with the secretary of the Association
- 3.5 As soon as is practicable after the receipt of a nomination, the Secretary shall refer the nomination to the Committee.
- 3.6 Upon a nomination being referred to the Committee, the Committee shall determine whether to approve or to reject the nomination.
- 3.7 Upon a nomination being approved by the Committee, the Secretary shall, with as little delay as possible, notify the nominee in writing that he/she is approved for membership of the Association and request payment within the period of 28 days after the receipt of the notification of the sum payable under these Rules as the entrance fee and the first years' annual subscription.
- 3.8 The Secretary shall, upon payment of the amounts referred to in sub-clause 3.6, within the period referred to in that sub-clause, enter the nominee's name in the register of members kept by him/her and, upon the name being so entered, the nominee becomes a member of the Association.
- 3.9 A right, privilege, or obligation of a person by reason of his/her membership of the Association:
- (a) is not capable of being transferred or transmitted to another person;
 - (b) terminates upon the cessation of his/her membership whether by death or resignation or otherwise.

ENTRANCE FEE AND ANNUAL SUBSCRIPTION

Rule 4

Entrance and subscription fees will be determined by Committee as required.

REGISTER OF MEMBERS

Rule 5

The Secretary shall keep and maintain a register of members in which shall be entered the full name, address, and date of entry of the name of each member and the register shall be available for inspection by members at the address of the Public Officer.

RESIGNATION OF MEMBER

Rule 6

- 6.1 A member of the Association who has paid all moneys due and payable by him/her to the Association may resign from the Association by first giving one month notice in writing to the Secretary of his/her intention to resign and upon the expiration of that period of notice, the member shall cease to be a member.
- 6.2 Upon the expiration of a notice given under sub-clause 6.1, the Secretary shall make in the register of members an entry recording the date on which the member by whom the notice was given, ceased to be a member.

DISCIPLINE, SUSPENSION AND EXPULSION OF MEMBER

Rule 7

- 7.1 Subject to these Rules, the Committee may by resolution:
- (a) expel a member from the Association
 - (b) suspend a member from membership of the Association for a specified period; or
 - (c) fine a member in accordance with The Regulations (not exceeding \$500), if the Committee is of the opinion that the member
 - (i) has refused or neglected to comply with these Rules; or
 - (ii) has been guilty of conduct unbecoming a member or prejudicial to the interests of the Association.
- 7.2 A resolution of the Committee under sub-clause 7.1:
- (a) does not take effect unless the Committee, at a meeting held not earlier than 14 days and not later than 28 days after the service on the member of a notice under sub-clause 7.3 confirms the resolution in accordance with this clause; and
 - (b) where the member exercises a right of appeal to the Association under this clause does not take effect unless the Association confirms the resolution in accordance with this clause.

- 7.3 Where the Committee passes a resolution under sub-clause 7.1, the Secretary shall, as soon as practicable cause to be served on the member, a notice in writing:
- (a) setting out the resolution of the Committee and the grounds on which it is based;
 - (b) stating that the member or his/representative may address the Committee at a meeting to be held not earlier than 14 days and no later than 28 days after service of the notice;
 - (c) stating the date, place and time of that meeting;
 - (d) informing the member that he/she may do one or more of the following:
 - (i) Attend that meeting
 - (ii) Give to the Committee before the date of that meeting a written statement seeking revocation of the resolution;
 - (iii) Not later than 24 hours before the date of the meeting, lodge with the Secretary a notice to the effect that he/she wishes to appeal to the Association in general meeting against the resolution.
- 7.4 At a meeting of the Committee held in accordance with sub-clause 7.2, the Committee:
- (a) shall give to the member an opportunity to be heard;
 - (b) shall give due consideration to any written statement by the member;
- and
- (c) shall by resolution determine whether to confirm or to revoke the resolution.
- 7.4 A If at the meeting of the Committee, the Committee confirms the resolution under sub-clause 7.4, the member may, not less than 48 hours after that meeting, give the Secretary a notice to the effect that he/she wishes to appeal to the Association in general meeting against the decision
- 7.5 Where the Secretary receives a notice under sub-clause 7.3 (iii) or under 7.4A, he/she must notify the Committee and the Committee shall convene a general meeting of the Association to be held within 21 days after the date on which the Secretary received the notice.
- 7.6 At a general meeting of the Association convened under sub-clause 7.5:
- (a) no business other than the question of the appeal shall be transacted;
 - (b) the Committee may place before the meeting details of the grounds for the resolution and the reason for the passing of the resolution;
 - (c) the member shall be given an opportunity to be heard; and
 - (d) the members present shall vote by secret ballot on the question whether the resolution should be confirmed or revoked.
- 7.7 If at the general meeting:
- (a) two-thirds of the members vote in person or by proxy in favour of the confirmation of the resolution, the resolution is confirmed; and
 - (b) in any other case, the resolution is revoked

DISPUTES AND MEDIATION

Rule 7B

- 7B.1 The grievance procedure set out in this Rule applies to disputes under these Rules between:
- (a) a member and another member; or
 - (b) a member and the Association.
- 7B.2 The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of the parties.
- 7B.3 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.
- 7B.4 The mediator must be:
- (a) a person chosen by agreement between the parties; or
 - (b) in absence of agreement:
 - (i) in the case of dispute between a member and another member, a person appointed by the Committee of the Association; or
 - (ii) in the case of a dispute between a member and the Association, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- 7B.5 A member of the Association can be a mediator
- 7B.6 A mediator cannot be a member who is party to the dispute
- 7B.7 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- 7B.8 The mediator, in conducting the mediation, must:
- (a) give the parties to the mediation process every opportunity to be heard; and
 - (b) allow due consideration by all parties of any written statement submitted by any party; and
 - (c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- 7B.9 The mediator must not determine the dispute.
- 7B.10 If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

ANNUAL GENERAL MEETING

Rule 8

- 8.1 The Association shall in each calendar year convene an annual general meeting of its members.
- 8.2 The annual general meeting shall be held on such day as the Committee determines
- 8.3 The annual general meeting shall be specified as such in the notice convening it.
- 8.4 The ordinary business of the annual general meeting shall be:
 - (a) to confirm the minutes of the last annual general meeting and of any general meeting held since that meeting;
 - (b) to receive from the Committee reports upon the transactions of the Association during the last preceding financial year;
 - (c) to elect officers of the Association and the ordinary members of the Committee; and
 - (d) to receive and consider the statement submitted by the Association in accordance with section 30.3 of the Act.
- 8.5 The annual general meeting may transact special business of which notice is given in accordance with these Rules.
- 8.6 The annual general meeting shall be in addition to any other general meetings that may be held in the same year.

SPECIAL GENERAL MEETING

Rule 9

All general meetings other than the annual general meeting shall be called special general meetings.

Rule 10

- 10.1 The Committee may, whenever it thinks fit, convene a special general meeting of the Association and, where, but for this sub-clause, more than 15 months would lapse between annual general meetings, shall convene a special general meeting before the expiration of that period.
- 10.2 The Committee shall, on the requisition in writing of members representing not less than 5% of the total number of members, convene a special general meeting of the Association.

- 10.3 The requisition for a special general meeting shall state the objects of the meeting and shall be signed by the members making the requisition and be sent to the address of the Secretary and may consist of several documents in a like form, each signed by one or more of the members making the requisition.
- 10.4 If the Committee does not cause a special general meeting to be held within one month after the date on which the requisition is sent to the address of the Secretary, the members making the requisition, or any of them, may convene a special general meeting to be held not later than 3 months after that date.
- 10.5 A special general meeting convened by members in pursuance of these rules shall be convened by the Committee in the same manner as nearly as possible as that in which those meetings are convened by the Committee and all reasonable expenses incurred in convening the meeting shall be refunded by the Association to the persons incurring the expenses.

NOTICE OF MEETING

Rule 11

- 11.1 The Secretary of the Association shall, at least 14 days before the date fixed for holding a general meeting of the Association, cause to be sent to each member of the Association at his/her address appearing in the register of members, a notice by pre-paid post stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- 11.2 No business other than that set out in the notice convening the meeting shall be transacted at the meeting.
- 11.3 A member desiring to bring any business before a meeting may give notice of that business in writing to the Secretary, who shall include that business in the notice calling the next general meeting after the receipt of the notice.

PROCEEDINGS AT MEETINGS

Rule 12

- 12.1 All business that is transacted at a special general meeting and all business that is transacted at the annual general meeting with the exception of that specially referred to in these Rules as being the ordinary business of the annual general meeting shall be deemed to be special business.
- 12.2 No item of business shall be transacted at a general meeting unless a quorum of members entitled under these Rules to vote is present during the time when the meeting is considering that item.

- 12.3 Five members personally present (being members entitled under these Rules to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- 12.4 If within half an hour after the appointed time for the commencement of the general meeting, a quorum is not present, the meeting if convened upon the requisition of members shall be dissolved and in any other case shall stand adjourned to the same day in the next week at the same time and (unless another place is specified by the Chairperson at the time of the adjournment or by written notice to members given before the day to which the meeting adjourned) at the same place and if at the adjourned meeting the quorum is not present within half an hour of the time appointed for the commencement of the meeting, the members present (being not less than three) shall be a quorum.

Rule 13

- 13.1 The Chairman, or in his/her absence, the Vice Chairman shall preside as Chairperson, at each general meeting of the Association.
- 13.2 If the Chairman and Vice Chairman are absent from a general meeting, the members present shall elect one of their number to preside as Chairperson at the meeting.

Rule 14

- 14.1 The Chairperson of a general meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- 14.2 Where a meeting is adjourned for 14 days or more, a like notice of the adjourned meeting shall be given as in the case of the general meeting.
- 14.3 Except as provided in sub-clauses 14.1 and 14.2, it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

Rule 15

A question arising at a general meeting of the Association shall be determined on a show of hands and unless before or on the declaration of the show of hands a poll is determined, a declaration by the Chairperson that a resolution has, on a show of hands, been carried unanimously or carried by a particular majority or lost, and an entry to that effect in the Minute Book of the Association is evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

Rule 16

- 16.1 Upon any question arising at a general meeting of the Association, a member has one vote only.
- 16.2 All votes shall be given personally or by proxy.
- 16.3 In the case of an equality of voting on a question, the Chairperson of the meeting is entitled to exercise a second or casting vote.

Rule 17

- 17.1 If at a meeting a poll on any question is demanded by not less than three members, it shall be taken at the meeting in such a manner as the Chairperson may direct and the resolution of the poll shall be deemed to be a resolution of the meeting on that question.
- 17.2 A poll that is demanded on the election of the Chairperson or on a question of the adjournment shall be taken forthwith and a poll that is demanded on any other question shall be taken at such time before the close of the meeting as the Chairperson may direct.

Rule 18

A member is not entitled to vote at any general meeting unless all moneys due and payable by him/her to the Association have been paid, other than the amount of the annual subscription payable in respect of the current financial year.

Rule 19

- 19.1 Each member shall be entitled to appoint as his/her proxy by notice given to the Secretary no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.
- 19.2 The notice appointing the proxy shall be in the form set out in Appendix 2.

COMMITTEE OF MANAGEMENT

Rule 20

- 20.1 The affairs of the Association shall be managed by a Committee of Management constituted as provided in Rule 21.
- 20.2 The Committee:
- (a) shall control and manage the business and affairs of the Association;
 - (b) may, subject to these Rules, the Regulations and the Act, exercise all such powers and functions as may be exercised by the Association other than those powers and functions that are required by these Rules to be exercised by general meetings of the members of the Association; and
 - (c) subject to these Rules, the Regulations and the Act, has power to perform all such acts and things as appear to the Committee to be essential for the proper management of the business and affairs of the Association.

Rule 21

- 21.1 The officers of the Association will be:
- (a) a Chairman
 - (b) a Vice Chairman
 - (c) a Treasurer
 - (d) a Secretary
 - (e) the Principal
- 21.2 The provisions of Rule 23 so far as they are applicable and with the necessary modifications, apply to and in relation to the election of persons to any of the offices mentioned in sub-clause 21.1.
- 21.3 Each officer of the Association shall hold office until the annual general meeting next after the date of his/her election but is eligible for re-election.
- 21.4 In the event of a casual vacancy occurring in any office referred to in sub-clause 21.1, the Committee may appoint one of its members to the vacant office and the member so appointed may continue in office up to and including the conclusion of the annual general meeting next following the date of his/her appointment

Rule 22

- 22.1 Subject to section 23 of the Act, the Committee shall consist of:
- (a) officers of the Association; and
 - (b) up to three ordinary members each of whom shall be elected at the annual general meeting of the Association in each year.

- 22.2 Each ordinary member of the Committee shall, subject to these Rules, hold office until the annual general meeting next after the date of his/her election but is eligible for re-election.
- 22.3 In the event of a casual vacancy occurring in the office of an ordinary member of the Committee, the Committee may appoint a member of the Association to fill the vacancy and the member so appointed shall hold office, subject to these Rules, until the conclusion of the annual general meeting next following the date of his/her appointment.

ELECTION OF OFFICERS AND VACANCY

Rule 23

- 23.1 Nominations of candidates for election as officers of the Association or as ordinary members of the Committee:
- (a) shall be made in writing, signed by two members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination); and
 - (b) shall be delivered to the Secretary of the Association not less than seven days before the date fixed for the holding of the annual general meeting.
- 23.2 If insufficient nominations are received to fill all vacancies on the Committee, the candidates nominated shall be deemed to be elected and further nominations shall be received at the annual general meeting.
- 23.3 If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated shall be deemed to be elected.
- 23.4 If the number of nominations exceeds the number of vacancies to be filled, a ballot shall be held.
- 23.5 The ballot for the election of officers and ordinary members of the Committee shall be conducted at the annual general meeting in such usual and proper manner as the Committee may direct.
- 23.6 A nomination of a candidate for election under this Clause is not valid if that candidate has been nominated for another office for election at the same election.

Rule 24

For purposes for these Rules, the office of an officer of the Association or of an ordinary member of the Committee becomes vacant if the officer or member:

- (a) ceases to be a member of the Association
- (b) becomes an insolvent under administration within the meaning of the Companies (Victoria) Code; or
- (c) resigns his/her office by notice in writing given to the Secretary.

PROCEEDINGS OF COMMITTEE

Rule 25

- 25.1 The Committee shall meet at least three times in each year at such place and time as the Committee may determine.
- 25.2 Special meetings of the Committee may be convened by the Chairman or by any four members of the Committee.
- 25.3 Notice shall be given to members of the Committee of any special meeting specifying the general nature of the business to be transacted and other business shall be transacted at such a meeting.
- 25.4 Any four members of the Committee constitute a quorum for the transaction of the business of the Committee.
- 25.5 No business shall be transacted unless a quorum is present and if within half an hour of the time appointed for the meeting a quorum is not present the meeting shall stand adjourned to the same place and the same hour of the same day in the following week unless the meeting was a special meeting in which case it lapses.
- 25.6 At meetings of the Committee:
- (a) the Chairman or in his/her absence the Vice Chairman shall preside; or
 - (b) if the Chairman and Vice Chairman are absent, such one of the remaining members of the Committee as may be chosen by the members present shall preside.
- 25.7 Questions arising at a meeting of the Committee or of any sub-committee appointed by the Committee shall be determined on a show of hands or, if demanded by a member, by a poll taken in such a manner as the person presiding at the meeting shall determine.
- 25.8 Each member present at a meeting of the Committee or any sub-committee appointed by the Committee (including the person presiding at the meeting) is entitled to one vote and, in the event of an equality of votes on any question, the person presiding at the meeting may exercise a second or casting vote.
- 25.9 Written notice of each Committee meeting shall be served on each member of the Committee by delivering it to him/her at a reasonable time before the meeting or by sending it by pre-paid post addressed to him/her at his/her usual or last known place of abode at least two business days before the date of the meeting.
- 25.10 Subject to sub-clause 25.4, the Committee may act notwithstanding any vacancy on the Committee.

SECRETARY

Rule 26

The Secretary of the Association shall keep minutes of the resolutions and proceedings of each general meeting and each Committee meeting in books provided for that purpose together with a record of the names of persons present at each Committee meeting.

TREASURER

Rule 27

27.1 The Treasurer of the Association:

- (a) shall collect and receive all moneys due to the Association and make all payments authorised by the Association; and
- (b) shall keep correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association.

REMOVAL OF A COMMITTEE MEMBER

Rule 28

28.1 The Association in general meeting may by resolution remove a member of the Committee before the expiration of his/her term of office and appoint another member in his/her stead to hold office until the expiration of the term of the first mentioned member.

28.2 Where the member to whom a proposed resolution referred to in sub-clause 28.1 makes representations in writing to the Secretary or Chairman of the Association (not exceeding a reasonable length) and requests that they be notified to the members of the Association, the Secretary or the Chairman may send a copy of the representations to each member of the Association or, if they are not so sent, the member may require that they be read out at the meeting.

TRADING RULE

Rule 28B

The Association is authorised to trade under Section 51 rule of the *Associations Incorporation Act 1981*.

CHEQUES

Rule 29

All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by two members of the Committee.

SEAL

Rule 30

- 30.1 The Common Seal of the Association shall be kept in the custody of the Secretary.
- 30.2 The Common Seal shall not be affixed to any instrument except by the authority of the Committee and the affixing of the Common Seal shall be attested by the signature either of two members of the Committee or of one of the Committee and the Public Officer of the Association.

ALTERATION OF RULES AND STATEMENT OF PURPOSES

Rule 31

These Rules and the Statement of Purposes of the Association shall not be altered except in accordance with the Act.

NOTICES

Rule 32

- 32.1 A notice may be served by or on behalf of the Association upon any member either personally or by sending it by post to the member at his/her address shown in the Register of Members.
- 32.2 Where a document is properly address pre-paid and posted to a person as a Letter, the document shall, unless the contrary is proved, be deemed to have been given to the person at the time at which the letter would have been delivered in the ordinary course of post.

WINDING UP OR CANCELLATION

Rule 33

If upon the winding-up or dissolution of the Association there remains, after satisfaction of all debts and liabilities, any property, whatsoever, the same will not be paid to or distributed to any member of the Association, but will be given or transferred to such other association or associations having objects similar to the objects of the Association, and which prohibit the distribution of the assets and income to its members.

CUSTODY AND INSPECTION OF BOOKS AND RECORDS

Rule 34

- 34.1 Except as otherwise provided in these Rules, the Secretary shall keep in his/her actual custody or under his/her control all books, documents and securities of the Association.
- 34.2 All accounts, books, securities and any other relevant documents of the Association must be available for inspection free of charge by any member on request.
- 34.3 A member may make a copy of any accounts, books, securities and any other relevant documents of the Association.

FUNDS

Rule 35

The funds of the Association shall be derived from entrance fees, annual subscriptions, donations and other such sources as the Committee determines.

NON-PROFIT

Rule 36

The assets and income of the Association shall be applied solely in furtherance of its above mentioned objects and no portion shall be distributed directly or indirectly to the members of the Association except as bona fide compensation for services rendered or expenses incurred on behalf of the Association.

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APPENDIX 1

XIN YI DAI INCORPORATED

**MEMBERSHIP APPLICATION FORM
(Under Rule 3)**

I apply for membership of Xin Yi Dai Incorporated fully aware and totally accepting of the rights, privileges and obligations of a member conferred by the constitution.

Name of applicant.....

Address.....

.....Postcode.....

Telephone number.....(AH).....(BH)

Facsimile.....Email.....

Signature of Applicant.....

Date.....

Office use only:

Application received.....Acknowledged.....

Committee considered.....Decision.....

Nominee notified.....Fees paid.....

Entered on Register.....Membership number.....

APPENDIX 2

XIN YI DAI INCORPORATED

PROXY FORM

I appoint fellow member¹

As my proxy at the general meeting at (date).....

And instruct him/her to vote as follows on designated agenda items²

Agenda Item	Vote for	Vote against	Abstain

Name of member

Signature of member

Date

Notes:

- 1 When a proxy is not specified, the meeting Chairperson will be the proxy
- 2 If no instructions are given the proxy is empowered to decide how to vote