

AUSTRALIAN MUSEUM FOUNDATION LIMITED

ABN 62 115 165 449

Incorporated in New South Wales

CONSTITUTION

A COMPANY LIMITED BY GUARANTEE

Constitution

of

AUSTRALIAN MUSEUM FOUNDATION LIMITED

ABN 62 115 165 449

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Constitution unless it is inconsistent with the subject or context in which it is used:

“**Alternate Director**” means any person appointed under clause 11.6;

“**Board**” means the Board of Directors of the Company from time to time or any committee thereof;

“**Cessation Event**” means:

- (a) if a Member is an individual:
 - (i) the death or bankruptcy of that Member
 - ; or
 - (ii) that Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under the laws relating to mental health; or
- (b) if a Member is not an individual, the deregistration or termination of that Member under the laws of its formation or its governing document; or
- (c) the Directors so decide in their absolute discretion, that the Member is untraceable because the person has ceased to reside at, attend or otherwise communicate through, his or her Registered Address.

“**Charitable Body**” means a fund, authority or institution:

- (a) which is charitable at law; and
- (b) gifts to which are deductible under item 1 of the table in section 30-15 of the ITAA;

“**Company**” means Australian Museum Foundation Limited (ABN 61 115 165 449);

“**Constitution**” means this Constitution as supplemented, substituted or amended from time to time;

“**Control**” means, with respect to an entity, including a company, the power to direct the management and policies of such entity, directly or indirectly, whether:

- (a) formal or informal;
- (b) having legal or equitable force or not;
- (c) whether based on legal or equitable rights; or

(d) directly or indirectly, including through one or more other entities.

“Director” means a person appointed or elected from time to time to the office of Director of the Company in accordance with this Constitution and includes any Alternate Director duly appointed as a Director;

“Executive Officer” means an executive director, Secretary or assistant secretary appointed under clause 13;

“Expulsion Event” means, in respect of a Member:

- (a) the Member has willfully refused or neglected to comply with the provisions of this Constitution;
- (b) the conduct of the Member, in the opinion of the Directors, is unbecoming of the Member or prejudicial to the interests or reputation of the Company; or
- (c) the Member is the subject of an Insolvency Event.

“Initial Members” means the persons consenting to be Members of the Company on its incorporation;

“Insolvency Event” means any of the following events in respect of a Member:

- (a) a court of competent jurisdiction makes an order or a resolution is passed for the dissolution or administration of that Member or for the appointment of a receiver, trustee, custodian or other similar official over it or any of its material assets;
- (b) any person takes any steps to appoint a liquidator, manager, receiver, administrator, administrative receiver or other similar officer in respect of any material assets of the Member and such action is not withdrawn or discharged within ninety (90) days;
- (c) the Member convenes a meeting of its creditors or makes or proposes any arrangement or composition with or any assignment for the benefit of its creditors; or
- (d) anything analogous or having substantially the same effect as any of the events specified above under the laws applicable to the Member.

“ITAA” means the *Income Tax Assessment Act 1997* of the Commonwealth of Australia;

“Law” means the *Corporations Act 2001* of the Commonwealth of Australia;

“Office” means the registered office from time to time of the Company;

“Member” means any person who qualifies as a Member of the Company and whose name is recorded in the Register;

“Named Institution” means Australian Museum of 1 William Street, Sydney, New South Wales;

“Present” means, in relation to a Member at a meeting, present in person, or by proxy, or by attorney, or if a corporation, by a representative appointed pursuant to this Constitution or the Law;

“Register” means the register of Members of the Company maintained pursuant to the Law;

“Registered Address” means the address of a Member specified on a transfer or any other address of which the Member notifies the Company as a place at which the Member will accept service of notices;

“**Seal**” means the common seal, if any, from time to time, of the Company;

“**Secretary**” means a person appointed as secretary of the Company and includes any person appointed to perform the duties of secretary;

“**State**” means New South Wales;

“**Trust**” means the Australian Museum Foundation trust.

1.2 Interpretations

In this Constitution:

- (a) references to “clauses” are references to clauses of this Constitution;
- (b) words in the singular include the plural and vice versa;
- (c) words importing a gender include each other gender;
- (d) words importing persons include partnerships, associations and corporations unincorporated and incorporated by Ordinance, Act of Parliament or registration as well as individuals;
- (e) words and phrases which are given a special meaning by the Law have the same meaning in these rules unless a contrary intention appears;
- (f) a reference to the Law or any other statute or regulations is to be read as though the words as modified or substituted from time to time were added to the reference; and
- (g) the headings and sidenotes do not affect the construction of these rules.

2. COMPANY

2.1 Name of Company

The name of the Company is Australian Museum Foundation Limited.

2.2 Company limited by guarantee

The Company is a public company limited by guarantee.

2.3 Liability of Members

The liability of Members is limited.

2.4 Guarantee by Members

Every Member undertakes to contribute an amount of not more than \$100 to the property of the Company if it is wound up while he or she is a Member or within one year after he or she ceases to be a Member, for:

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

2.5 Replaceable rules

The replaceable rules of the Law do not apply to the Company except those which operate as mandatory rules for public companies under the Law.

3. OBJECTS AND EXERCISE OF POWERS

3.1 Company's objects

The objects for which the Company is established are to accept the appointment and to act as trustee of the Australian Museum Foundation.

3.2 Company's powers

In order to achieve the Company's objects, the Company may:

- (a) **(fundraising)** raise funds and invite and receive contributions, grants, gifts (by will or otherwise), loans and deposits from any person;
- (b) **(grants)** provide funds or other material benefits by way of grant or otherwise to further the Company's purpose;
- (c) **(decline gifts)** decline or otherwise refuse to accept any gift (by will or otherwise), donation, settlement or other disposition of money or property;
- (d) **(management)** generally manage the real and personal property of the Trust;
- (e) **(acquisition)** purchase or acquire any real or personal property, or any part of share or interest in any real or personal property (including units in any unit trust), wherever in the world it may be located;
- (f) **(sale)** sell, exchange, partition, lease, hire, mortgage or otherwise turn to account any of the assets of the Trust;
- (g) **(dealings and dispositions)** invest in, hold, use, purchase, construct, demolish, maintain, repair, renovate, reconstruct, develop, improve, sub-divide, sell, transfer, convey, assign, discount, factor, surrender, let, lease (for any term), hire, take on, lease (new or renewed), exchange, take and grant options or rights to alienate, mortgage, charge, pledge, reconvey, release or discharge or otherwise deal with or dispose of any real or personal property or any interest in it wherever in the world it may be located including (without limitation):
 - (i) any lease or licence;
 - (ii) the benefit of any contract;
 - (iii) any thing in action;
 - (iv) chattels of every description;
 - (v) any securities (with or without deferred, restricted, qualified or special rights attaching to them);
 - (vi) units in any unit trust;
 - (vii) any interest in any trust or partnership;
 - (viii) any interest in any scheme for a retirement village or for time share of accommodation; or
 - (ix) any revisionary interest or deferred property or deferred rights of any description;
- (h) **(borrowing)** borrow or raise or secure the payment of money in any manner and secure the repayment of any debt, liability, contract, guarantee or other engagement in any way and, in particular, by mortgage, charge, lien, encumbrance, debenture or other security, fixed or floating, over any present or future asset of any kind and wherever situated;
- (i) **(agreements)** enter into and sign and execute any agreement or deed whatever;
- (j) **(appoint attorney)** appoint any attorney to execute any deed, agreement or document or to perform any act on behalf of the Trustee anywhere in the world;

- (k) **(proxy)** appoint any person as proxy in relation to any securities;
- (l) **(use of nominee)** permit any asset of the Trust Fund to be held or registered in the name of any nominee of the Trustee anywhere in the world;
- (m) **(custodian)** deposit anywhere in the world securities or documents of title belonging to or related to the Trust Fund with any bank, lawyer or person who carries on business as a custodian;
- (n) **(agents and employees)** even if the Trustee is a person of the same calling, employ as a contractor or as an employee a professional person, broker or agent or any other person to transact any business or do any act required to be done in connection with the Trust inside or outside New South Wales including the receipt or payment of money or anything requiring the exercise of discretion;
- (o) **(payment of agents)** pay all proper fees, charges, commissions or disbursements in connection with or incidental to that employment;
- (p) **(bank)** place moneys on deposit either on current account or at interest with any bank and either in a separate account, or in a general trust account operated by the Trustee together with moneys forming part of any other trust fund of which the Trustee is also trustee;
- (q) **(legal proceedings)** institute or defend proceedings at law or in equity in any court or before any arbitrator and proceed to the end or final determination of those proceedings or compromise them;
- (r) **(taxes)** pay any duty or any income or other tax or any other impost of any nature payable in respect of this deed or the Trust;
- (s) **(professional fees)** pay any legal or other professional fees, costs or expenses incurred in the establishment, maintenance or administration of the Trust or in maintaining proper records and accounts relating to the Trust Fund;
- (t) **(publications)** print and publish newspapers, periodicals, books or leaflets or otherwise publish information in hard copy or by electronic means;
- (u) **(patrons)** appoint patrons of the company;
- (v) **(donations)** make donations for charitable purposes;
- (w) **(conferences)** co-ordinate and arrange conferences, meetings, standing committees and commissions and other forums; and
- (x) do all other things that are incidental or conducive to attaining the Company's objects.

3.3 Additional powers

In addition to the powers listed in clause 3.2, the Company may, by resolution or special resolution as the Law requires, exercise from time to time any power which, by the Law, a company limited by guarantee may exercise but only to the extent necessary or convenient to carry out, or incidental to carrying out, the Company's objects.

4. INCOME AND PROPERTY

4.1 Application solely for Company's objects

The Company's income and property must be applied solely towards promoting the Company's objects.

4.2 No distributions

Subject to clause 4.3, the Company must not make any distribution of any income or property to any Members or Directors, whether by way of dividend, bonus, fee, surplus on winding up or otherwise.

4.3 Remuneration

The restriction in clause 4.2, does not prohibit making a payment approved by the Directors for:

- (a) out-of-pocket expenses incurred by a Director in performing a duty as a Director of the Company; or
- (b) a service rendered to the Company by a Director in a professional or technical capacity, other than in the capacity as a Director of the Company, where:
 - (i) the provision of the service has the prior approval of the Directors; and
 - (ii) the amount payable is not more than an amount which is a commercially reasonable payment for the service,or
- (c) indemnification of, or payment of premiums on contracts of insurance for, any Director to the extent permitted by law and this Constitution.

4.4 Winding up

On the winding up of the Company, any surplus assets must be transferred to:

- (a) the Named Institution or any successor in law to the Named Institution which is a Charitable Body; or
- (b) if the Named Institution is no longer in existence and has no successor as outlined above, then to or for one or more Charitable Bodies as the Directors decide, and which have objects similar to those of the Named Institution.

5. MEMBERS

5.1 Membership

The Members are:

- (a) the Directors at the time of adoption of this paragraph; and
- (b) any other persons the Directors admit to membership in accordance with this Constitution.

5.2 Number of Members

The number of Members shall not be more than fifteen or any greater number set by the Members..

5.3 Application for membership

- (a) Every applicant for membership of the company (except the initial Members) must be proposed by one and seconded by another Member.
- (b) Each application for membership must be:

- (i) made in writing and signed by the applicant and his or her proposer and seconder; and
 - (ii) in the form prescribed by the Directors.
- (c) An application will be taken to have been made by a person upon that person consenting to become a Director.

5.4 Directors' decision

The Directors must decide whether to accept or reject an application at the next meeting of Directors following the receipt of the application. But when they resolve to appoint a person a Director they will be taken to have approved an application by the person to be a Member.

5.5 Notice of Directors' decision

- (a) If an application to become a Member is accepted, the Company must:
 - (i) give written notice of the acceptance to the applicant; and
 - (ii) enter the applicant's name in the Register.
- (b) If an application to become a Member is rejected, the Company must give written notice of the rejection to the applicant. The Directors are not required to give any reason for the rejection of any application to become a Member.

5.6 No transfers

The rights of a Member are not transferable whether by operation of law or otherwise.

5.7 Ceasing to be a Member

- (a) A person will cease to be a Member:
 - (i) if the person ceases to be a Director;
 - (ii) if the Member resigns in accordance with clause 5.8; or
 - (iii) if the Member is expelled under clause 5.9; or
 - (iv) if a Cessation Event occurs in respect of that Member.
- (b) The estate of a deceased Member is not released from any liability in respect of that person being a Member.

5.8 Resignation

5.9 A Member may resign as a Member by giving the Company notice in writing. Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Company. Expulsion

- (a) Subject to clause 5.9(b), the Directors may resolve to expel a Member if:
 - (i) an Expulsion Event occurs in respect of the Member; and
 - (ii) the Company has given that Member at least 5 Business Days' notice in writing:
 - (A) stating the Expulsion Event and that the Member is liable to be expelled; and
 - (B) informing the Member of its right under 5.9(b).
- (b) Before the passing of any resolution under clause 5.9(a), a Member is entitled to give the Directors, either orally or in writing, any explanation or defence of the Expulsion Event the Member may think fit.

- (c) Where a resolution is passed under clause 5.9(a), the Company must give that Member notice in writing of the expulsion within 5 Business Days of the resolution.
- (d) A Member may by notice in writing to the Company within 5 Business Days of receipt of the notice referred to in clause 5.9(c), request that a resolution under clause 5.9(a) be reviewed by the Company at the next general meeting.
- (e) If a request under clause 5.9(d) is made, the Directors must propose at the next general meeting of the Company that a resolution be moved to confirm the expulsion of the Member concerned.
- (f) A resolution under clause 5.9(a) takes effect:
 - (i) if the Member gives a notice under clause 5.9(d), the date (if any) the resolution is confirmed by a general meeting of the Company; or
 - (ii) if the Member does not give a notice under clause 5.9(d), the date of the resolution.
- (g) The Directors may reinstate an expelled Member on any terms and at any time as the Directors resolve, including a requirement that all amounts due but unpaid by the expelled Member are paid.

6. VARIATION OF CLASSES AND CLASS RIGHTS

- (a) Subject to the Law and the terms of a particular class of membership, the rights attached to any class of membership may, whether or not the Company is being wound up, be varied with the consent in writing of Members with at least 75% of the votes in the class, or with the sanction of a special resolution passed at a separate meeting of the holders of the Members of that class.
- (b) To every such separate meeting the provisions of this Constitution relating to general meetings shall apply (with the necessary changes being made).

7. CERTIFICATES

7.1 Issue of certificates

The Company may issue to each Member, free of charge, a certificate evidencing that person as a Member.

7.2 Replacement certificates

The Company may issue a replacement certificate of being a Member if:

- (a) the Company receives and cancels the existing certificate; or
- (b) the Company is satisfied that the existing certificate is lost or destroyed, and the Member pays any fee as the Directors resolve.

8. GENERAL MEETINGS

8.1 Calling general meetings

- (a) A general meeting shall be held at least once in every calendar year at such time and place as may be determined by the Board.
- (b) General meetings may be called by the Board and held in the manner determined by the Board. Except as permitted by the Law, no other person may convene a general meeting of the Company. By resolution of the Board, any general meeting (other than a general meeting which has been requisitioned or called by Shareholders or by a single Director if

permitted by the Law) may be cancelled or postponed prior to the date on which it is to be held.

- (c) A person, whether or not a Member, who is requested by the Board or the Chair to attend a general meeting, is entitled to be present.

8.2 Notice of general meeting

- (a) Not less than 14 days' notice of a general meeting, or such other period prescribed by the Law, may be given by the Board in the form and in the manner the Board thinks fit including notice of any general meeting at which the Board proposes that an election of Directors be held. Notice of meetings shall be given to the Members, the Directors and to such persons as are entitled to receive notice under this Constitution or the Law.
- (b) The non-receipt of a notice of any general meeting by, or the accidental omission to give notice to, any person entitled to notice does not invalidate any resolution passed at that meeting.
- (c) If the meeting is to be held at two or more places the notice is to set out details of the technology that will be used to facilitate such a meeting and any other matters required to be stated by the Law in relation to the use of such technology.
- (d) A person's attendance at a general meeting waives any objection that person may have to:
 - (i) a failure to give notice, or the giving of a defective notice, of the meeting unless, at the beginning of the meeting, the person objects to the holding of the meeting; and
 - (ii) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

9. PROCEEDINGS OF MEETINGS

9.1 Quorum

- (a) No business may be transacted at any general meeting unless a quorum is present at the commencement of the business.
- (b) A quorum consists of:
 - (i) if the Members have fixed a number for the quorum, that number of Members; and
 - (ii) in any other case, two Members Present.

9.2 If quorum not present

If within 30 minutes after the time appointed for a meeting a quorum is not Present, the meeting:

- (a) if convened 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.

9.3 Adjourned meeting

At a meeting adjourned under clause 9.2(b), the Members, proxies, attorneys or representatives Present at the meeting will be deemed to constitute a quorum.

9.4 Chair

- (a) The Chair of the Board is entitled to take the chair at every general meeting.
- (b) If at any general meeting:
 - (i) the Chair of the Board is not present at the specified time for holding the meeting; or
 - (ii) the Chair of the Board is present but is unwilling to act as Chair of the meeting, the Members Present must elect as Chair of the meeting:
 - (iii) another Director who is present and willing to act; or
 - (iv) if no other Director is present and willing to act, a Member who is present and willing to act.

9.5 General conduct of meeting

Except as provided by the Law, the general conduct of each general meeting of the Company and the procedures to be adopted at the meeting are as determined by the Chair.

9.6 Adjournment

The Chair may at any time during the course of the meeting adjourn from time to time and place to place the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion and may adjourn any business, motion, question, resolution, debate or discussion either to a later time at the same meeting or to an adjourned meeting. If the Chair exercises a right of adjournment of a meeting pursuant to this rule, the Chair has the sole discretion to decide whether to seek the approval of the Members Present to the adjournment and unless the Chair exercises that discretion, no vote may be taken by the Members Present in respect of the adjournment. No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

9.7 Decisions at general meetings

- (a) Except where by Law or this Constitution a resolution requires a special majority, questions arising at a general meeting must be decided by a majority of votes cast by the Members Present at the meeting.
- (b) Each question submitted to a general meeting is to be decided in the first instance by a show of hands of the Members Present and entitled to vote.
- (c) At any meeting, unless a poll is demanded, a declaration by the Chair that a resolution has been passed or lost, having regard to the majority required, and an entry to that effect in the book to be kept of the proceedings of the Company signed by the Chair of that or the next succeeding meeting, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (d) A poll may be demanded:
 - (i) before a vote is taken;
 - (ii) before the voting results on a show of hands are declared; or
 - (iii) immediately after the voting results on a show of hands are declared.
- (e) A poll may be demanded by:
 - (i) the Chair;
 - (ii) a Member or Members Present with at least 5% of the votes that may be cast on the resolution on a poll.

9.8 Taking a Poll

If a poll is effectively demanded:

- (a) it must be taken in the manner and at the place and time directed by the Chair and the result of the poll is deemed to be the resolution of the meeting at which the poll was demanded;
- (b) on the election of a Chair or on a question of adjournment, it must be taken immediately;
- (c) the demand may be withdrawn;
- (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; and
- (e) in the case of any dispute as to the admission or rejection of a vote, the Chair's determination in respect of the dispute made in good faith is final.

9.9 Voting rights

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

9.10 Equality of votes

In the case of an equality of votes, the Chair, both on a show of hands and at a poll, has a casting vote.

10. PROXIES, ATTORNEYS AND REPRESENTATIVES

10.1 Appointment of proxies, attorneys and representatives

- (a) Any Member entitled to attend and vote at a general meeting may appoint:
 - (i) a proxy;
 - (ii) an attorney; or
 - (iii) where the Member is a body corporate, a representative, to attend and vote for that Member at the general meeting.
- (b) A proxy, attorney or representative need not be a Member of the Company.
- (c) The instrument appointing a proxy, attorney or representative must be in writing under the hand of the appointor or its attorney duly authorised in writing or, if the appointor is a corporation, in accordance with the constitution of that corporation.
- (d) Unless otherwise provided in the instrument, an instrument appointing a proxy, attorney or representative is taken to confer authority:
 - (i) to agree to a meeting being convened by shorter notice than is required by the Law or by this Constitution;

- (ii) to speak to any proposed resolution on which the proxy, attorney or representative may vote;
- (iii) to demand or join in demanding a poll on any resolution on which the proxy, attorney or representative may vote;
- (iv) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or representative how to vote on those resolutions:
 - (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (B) to vote on any procedural motion, including any motion to elect the Chair, to vacate the chair or to adjourn the meeting; and
 - (C) to act generally at the meeting; and
- (v) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (e) An instrument appointing a proxy, attorney or representative may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution. Where an instrument contains such a direction, the proxy, attorney or representative is not entitled to vote on the proposed resolution except as directed in the instrument.

10.2 Instrument of appointment

- (a) The instrument appointing a proxy, attorney or representative and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of that power or authority must be received by the Company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote (unless a shorter period is specified in the notice of general meeting to which the proxy relates) and, in default, the instrument of proxy shall be treated as invalid.
- (b) For the purposes of clause 10.2(a), an instrument appointing a proxy, attorney or representative must be received by the Company at any of the following:
 - (i) the Office of the Company;
 - (ii) the fax number at the Office of the Company; or
 - (iii) a place, fax number or electronic address specified for that purposed in the notice of meeting.
- (c) An instrument appointing a proxy, attorney or representative may be in any usual form or in any other form which the Directors may approve.
- (d) A vote given in accordance with the terms of an instrument appointing a proxy, attorney or representative is valid despite the revocation of the instrument, or of the authority under which the instrument was executed, if the company has not received written notice of revocation by the time and at one of the places at which the instrument appointing the proxy or attorney is required to be received under clause 10.2(b).

10.3 Attendance of appointer

The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on a resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

11. DIRECTORS

11.1 Number and appointment of Directors

- (a) The number of Directors (not including Alternate Directors) shall not be less than three and, subject to clause 11.1(b) , not more than fifteen.
- (b) The Company may from time to time by resolution, fix the number of Directors or increase or reduce the number of Directors (but so that the number shall not be less than the minimum number required by clause 11.1(a) or the Law).
- (c) The first Directors are the persons who have consented to act as proposed Directors and who are named as proposed Directors in the application for registration of the Company.
- (d) The Board may appoint any individual as a Director, either to fill a casual vacancy or as an addition to the existing Directors. The Members may elect Directors at a General Meeting. But in each case the total number of Directors must not at any time exceed the maximum number allowed under this Constitution.
- (e) Subject to paragraph (a), each of the following who consents to be a Director, shall be a Director:
 - (i) the chief executive officer of the Named Institution.
 - (ii) any trustee of the Named Institution who is, or is nominated by, its President,so long as they hold the respective office, and are less than one half of the number of Directors. The President may withdraw a nomination and the nominee shall then cease to be a Director.

If at any time the number of Directors appointed under this paragraph (e) would otherwise equal or exceed one half of the number of Directors, sufficient Directors appointed under sub-paragraph (ii) (selected in order of appointment) will cease to be Directors so that it will be less than one half.

11.2 Qualification of Directors

A majority of the Directors at any time must be residents of Australia and satisfy the Australian Tax Office's requirements for the Trust to be a public ancillary fund or have similar tax status.

11.3 Director need not be a Member

- (a) A Director need not be a Member to qualify for appointment.
- (b) A Director may attend and speak at general meetings even though that Director is not a Member.

11.4 Term of office and re-election

- (a) Each Director appointed by the Board is appointed for an initial term expiring at the next Annual General Meeting after the appointment, at which the Director which may stand for re-election.
- (b) Each Director elected at an Annual General Meeting is elected for a term of three years , expiring on the Annual General Meeting which is three years after the Annual General Meeting at which they were last elected.
- (c) The Directors in office at the adoption of this clause 11.4 will have terms which expire on the four Annual General Meetings after adoption, allocated among them as determined by the Board.

- (d) Before the expiry of each term of three years of a Director a committee of the Board may review the contribution of the Director and make a recommendation as to whether the Director should stand for re-election.
- (e) This Clause 11.4 does not apply to a Director appointed under Clause 11.1(e).

11.5 Removal of Directors

The office of Director shall be vacated if the Director:

- (a) ceases to be a Director pursuant to any provision of the Law; or
- (b) dies, becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- (c) becomes prohibited from being a Director by reason of any order made under the Law; or
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under any relevant law relating to mental health; or
- (e) resigns his office by notice in writing to the Company; or
- (f) is removed from office by a resolution of the Company; or
- (g) is otherwise removed from office pursuant to this Constitution.

11.6 Alternate Directors

- (a) A Director may appoint a person as an alternate director of that Director for any period.
- (b) An Alternate Director need not be a Member.
- (c) The appointing Director may terminate the appointment of his or her Alternate Director at any time.
- (d) A notice of appointment, or termination of appointment, of an Alternate Director is effective only if:
 - (i) the notice is in writing;
 - (ii) the notice is signed by the Director who appointed that Alternate Director; and
 - (iii) the Company is given a copy of the notice.
- (e) If the Director who appointed an Alternate Director is not present at a meeting of Directors, that Alternate Director may, subject to this Constitution and the Law:
 - (i) attend, count in the quorum of, speak at, and vote at that meeting in place of that appointing Director; and
 - (ii) exercise any other powers (except the power under clause 11.6(a)) that the appointing Director may exercise.
- (f) An Alternate Director cannot exercise any powers of his or her appointing Director if that appointing Director ceases to be a Director.
- (g) An Alternate Director is an officer of the Company and not an agent of his or her appointing Director.

11.7 Interested Directors

- (a) Subject to clause 4, a Director may hold another position (except as auditor) in the Company or any related body corporate in conjunction with his or her directorship and may be appointed to that position on terms as to remuneration, tenure and otherwise that the Directors think fit.
- (b) A Director:

- (i) may be or become a director or other officer of, or otherwise interested in, any related body corporate or other body corporate promoted by the Company or in which the Company is interested as a shareholder or otherwise; and
 - (ii) is not accountable to the Company for any remuneration or other benefits he or she receives as a director or officer of, or from having an interest in, that body corporate.
- (c) The Directors may exercise the voting rights conferred by shares in any body corporate held or owned by the Company in the manner in all respects that they think fit. A Director may, if permitted by law, vote in favour of exercising those voting rights even though he or she is, or may be about to be appointed, a director or other officer of that other body corporate and, as such, interested in the exercise of those voting rights.
- (d) A Director is not disqualified merely because he or she is a Director from contracting with the Company in any respect including, but not limited to:
 - (i) selling property to, or purchasing property from, the Company;
 - (ii) lending money to the Company with or without interest or security;
 - (iii) guaranteeing the repayment of money borrowed by the Company for a commission or profit;
 - (iv) underwriting or guaranteeing the subscription for securities in any related body corporate or other body corporate promoted by the Company or in which the Company is interested as a shareholder or otherwise, for a commission or profit; or
 - (v) being employed by the Company or acting in any professional capacity (except as auditor) on behalf of the Company.
- (e) A contract made by a Director with the Company and a contract or arrangement entered into by or on behalf of the Company in which any Director may be in any way interested is not avoided or rendered voidable merely because the Director holds office as a Director or because of the fiduciary obligations arising out of that office.
- (f) A Director contracting with or being interested in any arrangement involving the company is liable to account to the company for any profit realised by or under that contract or arrangement unless the Directors otherwise decide.
- (g) Unless section 195 of the Law permits, a Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:
 - (i) be present while the matter is being considered at the meeting; or
 - (ii) vote on the matter.
- (h) The Directors may make regulations requiring the disclosure of interests that a Director, and any person considered by the Directors as related to or associated with the Director, may have in any matter concerning the Company or a related body corporate. Any regulations made under this Constitution bind all Directors.

11.8 Powers and duties of Directors

- (a) The management and control of the business and affairs of the Company are vested in the Board, which (in addition to the powers and authorities conferred upon them by this Constitution) may exercise all powers and do all things as are within the power of the Company and are not by this Constitution or by the Law directed or required to be exercised or done by the Company in general meeting.
- (b) No resolution made by the Company in a general meeting shall invalidate any prior act of the Directors which would have been valid if that resolution had not been made.

- (c) Without limiting the generality of clause 11.8(a), the Board may exercise all of the Company's powers to:
 - (i) borrow or otherwise raise money for such period and at such rate or rates of interest and otherwise upon such terms and conditions as the Board thinks fit;
 - (ii) charge any property or business of the Company; and
 - (iii) issue debentures or give any other security for a debt, liability or obligation of the company or of any other person.
- (d) The Board may decide how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed (as applicable) by or on behalf of the Company.
- (e) The Board may pay out of the Company's funds all expenses of the promotion, formation and registration of the company and the vesting in it of the assets acquired by it.
- (f) The Board may:
 - (i) appoint or employ a person to be an officer, agent or attorney of the company for the purposes, with the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the directors), for the period and on the conditions they think fit;
 - (ii) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (iii) subject to any contract between the Company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney at any time, with or without cause.
- (g) A power of attorney may contain any provisions for the protection and convenience of the attorney or persons dealing with the attorney that the Board thinks fit.

11.9 Emeritus Governors

The Board may at any time appoint any person who in its opinion has given distinguished service to the Company as an Emeritus Governor. Unless the Board otherwise directs, Such person shall have the right to attend but not vote at Board meetings and General Meetings, unless revoked by the Board..

12. PROCEEDINGS OF DIRECTORS

12.1 Written resolutions of Directors

- (a) The Directors may pass a resolution without a meeting of the Directors being held if all the Directors entitled to vote on the resolution assent to a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document referred to in clause 12.1(a) may be used for assenting to by Directors if the wording of the resolution and the statement is identical in each copy.
- (c) A Director may signify assent to a document under this clause 12.1 by signing the document or by notifying the Company of the assent of the Director in person or by post, telephone, fax, email or other electronic means.

12.2 Meetings of Directors

- (a) The Directors may meet, adjourn and otherwise regulate their meetings as they think fit.
- (b) A meeting of Directors may be held using any technology consented to by a majority of the Directors.

- (c) The contemporaneous linking together by telephone or other electronic means of a sufficient number of the Directors to constitute a quorum constitutes a meeting of the Directors. All the provisions in this Constitution relating to meetings of the Directors apply, so far as they can and with any necessary changes, to meetings of the Directors by telephone or other electronic means.
- (d) A Director who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
- (e) A meeting by telephone or other electronic means is taken as held at the place decided by the Chair of the meeting, as long as at least one of the Directors involved was at that place for the duration of the meeting.

12.3 Who can call meetings of Directors

- (a) A Director may call a meeting of Directors at any time.
- (b) On request of any Director, a Secretary of the Company must call a meeting of the Directors.

12.4 How to call meetings of Directors

- (a) Notice of a meeting of Directors must be given to each Director and Alternate Director.
- (b) A notice of meeting of Directors must:
 - (i) set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this); and
 - (ii) state the general nature of the business of the meeting.
- (c) The Company must give not less than 48 hours' notice of a meeting of Directors, unless all Directors agree otherwise.
- (d) A Director or Alternate Director may waive notice of a meeting of Directors by notice in writing to the Company to that effect.

12.5 Quorum

- (a) Subject to the Law, a quorum for a meeting of Directors is three (3).
- (b) In determining whether a quorum for a meeting of Directors is present:
 - (i) where a Director has appointed an Alternate Director, that Alternate Director is counted if the appointing Director is not present;
 - (ii) where a person is present as Director and an Alternate Director for another Director, that person is counted separately provided that there is at least one other Director or Alternate Director present; and
 - (iii) where a person is present as an Alternate Director for more than one Director, that person is counted separately for each appointment provided that there is at least one other Director or Alternate Director present.
- (c) A quorum for a meeting of Directors must be present at all times during the meeting.
- (d) If a quorum is not present within 30 minutes after the time appointed for a meeting of Directors, the meeting is adjourned.

12.6 Chair

- (a) The Directors may elect a Director as chair of Directors in consultation with the President of the Named Institution and may elect a Director as deputy chair of Directors for any period they resolve, or if no period is specified, until that person ceases to be a Director.

- (b) The chair of Directors must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of Directors.
- (c) If:
 - (i) there is no chair of Directors; or
 - (ii) the chair of Directors is not present within 15 minutes after the time appointed for the holding of a meeting of Directors; or
 - (iii) the chair of Directors is present within that time but is not willing to chair all or part of that meeting,
 then if the Directors have elected a deputy chair of Directors, the deputy chair of Directors must (if present within 15 minutes after the time appointed for the holding of the meeting and will to act) chair all or part of the meeting of Directors.
- (d) Subject to clauses 12.6(b) and (c), if:
 - (i) there is no deputy chair of Directors; or
 - (ii) the deputy chair of Directors is not present within 15 minutes after the time appointed for the holding of a meeting of Directors; or
 - (iii) the deputy chair of Directors is present within that time but is not willing to chair all or part of that meeting,
 the Directors present must elect one of themselves to chair all or part of the meeting of Directors.

12.7 Resolutions of Directors

- (a) A meeting of Directors at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the Board under this Constitution.
- (b) A resolution at a meeting of Directors is passed if supported by a majority of votes cast by the Directors present. Such a decision is for all purposes a decision of the Board.
- (c) Where the votes on a proposed resolution are equal, the chair of the meeting has a casting vote in addition to his or her deliberative vote.

12.8 Voting rights of Directors

- (a) Subject to clause 11.7(g) and this clause 12.8, each Director has one vote on a matter arising at a meeting of the Directors.
- (b) In determining the number of votes a Director has on a matter arising at a meeting of Directors:
 - (i) where a person is present as Director and an Alternate Director for another Director, that person has one vote as a Director and, subject to clause 11.6(e), one vote as an Alternate Director; and
 - (ii) where a person is present as an Alternate Director for more than one Director, that person has, subject to clause 11.6(e), one vote for each appointment.

12.9 Delegation of powers to Committees or to a Director

- (a) The Board may, subject to the constraints imposed by law, delegate any of its powers to Committees consisting of one or more Directors as the Board thinks fit. Any Committee formed or person or persons appointed to the Committee must, in the exercise of the powers delegated, conform to any regulations that may from time to time be imposed by the Board. A delegate of the Board may be authorised to sub-delegate any of the powers for the time being vested in the delegate.

- (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 Board so far as they are applicable.

12.10 Validity of acts

- (a) All acts done at any meeting of the Board or by a Committee or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any of the Directors or the Committee or the person acting as a Director or that any of them were disqualified, as valid as if every person had been duly appointed and was qualified and continued to be a Director or a member of the Committee (as the case may be).
- (b) If the number of Directors is reduced below the minimum number fixed pursuant to these rules, 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 Company but for no other purpose.

13. EXECUTIVE OFFICERS

13.1 Executive director

- (a) The Board may appoint one of the Directors as executive Director.
- (b) An executive Director's appointment as executive director automatically terminates if he or she ceases to be a Director.

13.2 Secretaries

- (a) The Board must appoint at least one Secretary and may appoint additional Secretaries.
- (b) The Board may appoint one or more assistant secretaries.

13.3 Provisions that apply to all executive officers

- (a) The appointment of an Executive Officer may be for the period, at the remuneration and on the conditions that the Board thinks fit.
- (b) Subject to any contract between the company and the relevant Executive Officer, an Executive Officer may be removed or dismissed by the Board at any time, with or without cause.
- (c) The Board may:
 - (i) confer on an Executive Officer the powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the Board) it thinks fit;
 - (ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on an Executive Officer; and
 - (iii) authorise the Executive Officer to delegate all or any of the powers, discretions and duties conferred on him or her.
- (d) An Executive Officer need not be a Member to qualify for appointment.
- (e) An act done by a person acting as an Executive Officer is not invalidated merely because of:
 - (i) a defect in the person's appointment as an Executive Officer; or
 - (ii) the person being disqualified to be an Executive Officer,if that circumstance was not known by the person when the act was done.

14. COMMITTEES

14.1 Establishment

- (a) The Board may:
 - (i) establish one or, more committees; and
 - (ii) appoint and remove, or make provision for the appointment and removal of, members of the committees.
- (b) Each committee will consist of the number of individuals the Board decides and unless the Board otherwise decides must include at least one Director.

14.2 Functions

- (a) The functions of each committee will be decided by the Board. They may including particular fundraising or to recommend to the Board grants to the Named Institution.
- (b) The Board may specify:
 - (i) the manner in which proceedings of each committee are to be conducted;
 - (ii) the matters which the committee must consider in carrying out its functions; and
 - (iii) any other matters concerning the committee or its functions that the directors decide.

15. INDEMNITY AND INSURANCE

15.1 Indemnity in favour of officers

- (a) The Company may indemnify a person who is, or has been, a Director, Alternate Director, Secretary, Executive Officer or other officer of the Company, to the full extent permitted by law, out of the property of the Company against:
 - (i) any liability incurred by the person as an officer of the Company; and
 - (ii) legal costs incurred in defending an action for a liability incurred by that person as an officer of the Company,except in respect of a liability or legal costs for which the Company is prohibited from indemnifying the officer pursuant to the Law.
- (b) For the avoidance of doubt, clause 15.1(a) will not apply so as to enable the Company to indemnify a person who is, or has been, an officer of the Company to the extent that the law precludes the giving of such an indemnity.

15.2 Insurance premium

The Company may pay a premium for a contract insuring a person who is, or has been, an officer of the Company against:

- (a) any liability incurred by the person as an officer of the Company; and
- (b) legal costs incurred in defending an action for a liability incurred by that person as an officer of the Company,

except any liabilities in respect of which the Company is prohibited from doing so pursuant to the Law.