

ALLIANCE FRANCAISE DE SYDNEY
CULTURAL FOUNDATION LIMITED
A.C.N. 630 718 937

(A public company limited by guarantee)

Constitution

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1. Interpretation

1.1 Definition

In this Constitution:

"ACNC Act" means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth).

"Alliance" means Alliance Française de Sydney (ACN 000 783 139).

"The Board" or "the board" means the board of directors of Alliance Française de Sydney Cultural Foundation Limited.

"Business Day" means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in the place where the company's registered office is located.

"Chair" means the chair of a general meeting appointed in accordance with rule 8.5.

"The Company" or "the company" means Alliance Française de Sydney Cultural Foundation Limited.

"Constitution" or "constitution" means this constitution.

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

"Cultural Foundation" means the company, Alliance Française de Sydney Cultural Foundation Limited.

"Member" or "member" means Alliance Française de Sydney.

"Representative", in relation to a body corporate, means a representative of the body corporate appointed under section 250D of the Corporations Act or a corresponding previous law.

"Seal" means any common seal, duplicate seal, seal or certificate seal of the company.

"Signed" and "signature" include verifiable electronic signature.

"Special Resolution" means a resolution:

(a) of which notice has been given under clause 8.2(b), and

- (b) that has been passed by at least 75% of the votes cast by the members present and entitled to vote on the resolution.

“Writing” and “written” include email and electronic communications via a website.

1.2 General

- (a) Words in the singular include the plural and vice versa.
- (b) Headings are included for the sake of convenience only and do not affect the meaning of the articles to which they relate.
- (c) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provisions substituted for it and all regulations and statutory instruments issued under it.
- (d) A member is to be taken to be present at a general meeting if the member is present in person or by proxy, attorney or Representative.
- (e) A director is to be taken to be present at a meeting of directors if the director is present in person, using technology.
- (f) Where a provision of this constitution establishes an office of chair, the chair may be referred to as a chairman, chairwoman or chairperson, as appropriate.
- (g) A reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (h) a reference to a person includes that person's successors and legal personal representatives;
- (i) This constitution is to be interpreted subject to the Corporations Act and the ACNC Act.
- (j) The replaceable rules contained in the Corporations Act from time to time do not apply to the company.
- (k) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the Corporations Act, has the same meaning as in that provision and an expression in a rule that is defined in section 9 of the Corporations Act has the same meaning as in that section.
- (l) Where this constitution provides that a person or body may do a particular act or thing and the word "may" is used, the act or thing may be done at the discretion of the person or body.

2. Not for profit public company limited by guarantee

- 2.1 The name of the company is "Alliance Française de Sydney Cultural Foundation Limited".
- 2.2 The company is a not for profit public company limited by guarantee.
- 2.3 The liability of the member is limited. The member guarantees to contribute up to a maximum of ten Australian dollars (\$10.00) to the assets of the company if it is wound up while they are a member, or within one year afterwards, and at the time of winding up the debts and liabilities of the company exceed its assets. The liability of the member is limited to making such contribution and no more.

3. Principal purpose and objects of the company

- 3.1 The principal purpose of the Cultural Foundation is the promotion of French and Francophone culture in the Greater Sydney region and throughout Australia by the promotion of French literature, music, performing arts, visual arts, craft, design, film video, television, radio and community arts.
- 3.2 The Cultural Foundation has no political affiliation and must act at all times without any form of discrimination.
- 3.3 The Cultural Foundation forms part of a network of Alliance Française organisations around the world with similar objects, the principal member of the network being Alliance Française de Paris, itself a not for profit organisation having its registered office at 101 boulevard Raspail, Paris, 75006 France. Whilst operating independently and pursuant to relevant Australian laws, the company also adheres to the principles and recommendations of the Fondation Alliance Française, having its registered office at 101 boulevard Raspail, Paris, 75006, France.
- 3.4 The registered office of the Cultural Foundation is 257 Clarence Street, Sydney in the State of New South Wales, 2000.

4. Legal capacity and powers of the company

- (a) The company has all of the powers of a natural person and of a body corporate, including those set out in the Corporations Act.
- (b) The company may exercise in any manner permitted by the Corporations Act any power which under the Corporations Act a company limited by guarantee may exercise if authorised by its constitution.
- (c) Where this constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.

- (d) Where this constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- (e) Where this constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
 - (i) to appoint a person to act in the office or position until a person is appointed to the office or position;
 - (ii) subject to any contract between the company and the relevant person, to remove or suspend any person appointed, with or without cause; and
 - (iii) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (f) Where this constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (g) Where this constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (h) Where this constitution confers power on a person or body to delegate a function or power:
 - (i) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
 - (ii) the delegation may be either general or limited in any manner provided in the terms of delegation;
 - (iii) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
 - (iv) the delegation may include the power to delegate;
 - (v) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and

- (vi) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

5. Membership

The sole member of the company is Alliance Française de Sydney. The company is a closely-held subsidiary of Alliance Française de Sydney.

6. No profits for members

6.1 Transfer of income or property

Subject to the operation of rule 6.2, the assets and income of the company shall be applied solely in furtherance of the principal purposes of the company and its objects and no portion of the income or assets of the company may be paid or transferred, directly or indirectly to the member.

6.2 Payments, services and information

Nothing in rule 6.1 prevents the payment in good faith of:

- (a) any expenses incurred on behalf of the company;
- (b) remuneration to any officers or employees of the company for services actually rendered to the company and to directors for professional services other than acting as a director rendered to the company which have been approved by the Board;
- (c) an amount to the member in return for any services actually rendered to the company (whether by the member or any corporation or partnership in which the member has an interest or is a member) or for goods supplied in the ordinary and usual course of business;
- (d) reasonable and proper interest on money borrowed from the member; or
- (e) reasonable and proper rent for premises let by the member to the company.

6.3 Public Fund

- (a) The company may establish and maintain a public fund to receive tax deductible donations, philanthropic gifts, grants, scholarships and other such monies gifted in support of the principal purpose and objects of the Cultural Foundation.
- (b) Donations, philanthropic gifts and other monies gifted to the public fund will be deposited into the public fund listed on the Register of Cultural Organisations. These monies will be kept separate from the other funds of Alliance Française de Sydney Cultural Foundation Limited and will only be used to further the principal purpose of the company. Investment of monies in this fund will be made in

association with guidelines for public funds as specified by The Australian Taxation Office.

- (c) The fund will be administered by the board of directors and company officers or a subcommittee of the board of directors, the majority of whom, because of their tenure of some public office or their professional standing, have an underlying community responsibility, as distinct from obligations solely in regard to the cultural objectives of Alliance Francaise de Sydney Cultural Foundation Limited.
- (d) No monies/assets in this fund will be distributed to the member or office bearers of Alliance Francaise de Sydney Cultural Foundation Limited, except as reimbursement of out-pocket expenses incurred on behalf of the fund or proper remuneration for administrative services or as payment for the provision of services other than as a director for work performed for the company that has been approved by the board.
- (e) The Department responsible for the administration of the Register of Cultural Organisations will be notified of any proposed amendments or alterations to provisions for the public fund, to assess the effect of any amendments on the public fund's continuing Deductible Gift Recipient status.
- (f) Receipts for gifts to the public fund must state:
 - (i) the name of the public fund and that the receipt is for a gift made to the public fund;
 - (ii) the Australia Business Number of the company; and
 - (iii) the fact that the receipt is for a gift; and
 - (iv) any other matter required to be included on the receipt pursuant to the requirements of the Income Tax Assessment Act 1997.
- (g) The company must comply with any rules that the Treasurer or the Federal Minister responsible for the Arts make to ensure that gifts made to the public fund will be only used for the company's principal purpose. The company must provide to the Department responsible for the administration of the Register of Cultural Organisations statistical information on the gifts made to the public fund every 6 months.
- (h) The public will be invited to contribute to the fund.

7. Board of Directors

7.1 Directors

- (a) The board of Alliance Française de Sydney Cultural Foundation Limited shall consist of the directors of Alliance Française de Sydney ex officio, unless otherwise resolved by Special Resolution.

- (b) The minimum number of directors is five (5). The maximum number of directors is to be fixed by the directors, but must not be more than 9 unless otherwise resolved by the member. The directors must not determine a maximum which is less than the number of directors in office at the time the determination takes effect. If the number of directors of Alliance Française de Sydney is varied, the number of directors of the company shall be varied by way of resolution of the board of the Cultural Foundation accordingly.

7.2 Officer-bearers

- (a) The company will have the following officer-bearers of the company:
 - (i) the President;
 - (ii) one or more Vice-President(s);
 - (iii) an Honorary Treasurer.
- (b) The officer-bearers of Alliance Française de Sydney will assume the same offices of the company.

7.3 Vacation of office of director

The office of a member of the board shall become vacant if the director:

- (a) ceases to be a director of Alliance Française de Sydney;
- (b) is removed as a director by the member.

7.4 Remuneration of directors

- (a) Directors shall not be remunerated out of the funds of the company for performing the functions of a director of the company. With the approval of the board of directors, individual directors may be paid for professional services they provide to the company at the request of the board of directors in relation to particular matters and/or disbursements arising in relation thereto that they are able to provide due to their particular skills for the benefit of the company.
- (b) Directors may be paid travelling and other expenses properly incurred by them in connection with the affairs of the company, including attending and returning from general meetings of the company or meetings of the directors or of committees of the directors.

7.5 Conflicts of interest

- (a) A director is not disqualified merely because of being a director from being employed by the company or acting in any professional capacity, other than auditor, on behalf of the company.
- (b) A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of the board (or that is proposed in a circular resolution):

- (i) to the other directors; or
 - (ii) if all of the directors have the same conflict of interest, to the member.
- (c) The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- (d) Each director who has a material personal interest in a matter that is being considered at a meeting of the board (or that is proposed in a circular resolution) must not, except as provided under sub-rule (e):
- (i) be present at the meeting while the matter is being discussed; or
 - (ii) vote on the matter.
- (e) A director may still be present and vote if:
- (i) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the company;
 - (ii) their interest relates to an indemnity payment by the company, or any contract relating to an indemnity that is allowed under the Corporations Act;
 - (iii) the Australian Securities and Investments Commission makes an order allowing the director to vote on the matter; or
 - (iv) the directors who do not have a material personal interest in the matter pass a resolution that:
 - (A) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the company; and
 - (B) says that those directors are satisfied that the interest should not stop the Director from voting or being present.
- (f) The directors may make by-laws setting out the policies regarding the disclosure of interests that a director, and any person deemed by the directors to be related to or associated with the director, may have in any matter concerning the company or a related body corporate. Any by-laws made under this rule bind all directors and apply in addition to any obligations imposed on the directors by the Corporations Act and the ACNC Act to disclose interests to the company.
- (g) Subject to rules 3 and 6, the directors are expressly authorised to act in the best interests of the holding company Alliance Française de Sydney pursuant to section 187 of the Corporations Act

7.6 Powers and duties of directors

- (a) The directors are responsible for managing the business of the company and may exercise to the exclusion of the company in general meeting all the powers of the company which are not required by the Corporations Act or this constitution to be exercised by the company in general meeting.
- (b) Without limiting the generality of sub-rule (a), the directors may exercise all the powers of the company to borrow or otherwise raise money, to charge any property or business of the company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the company or of any other person.
- (c) The directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments or other documents must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the company.
- (d) The directors 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.
- (e) The directors may:
 - (i) appoint or employ any person to be an officer, agent or attorney of the company for the purposes, for the period and on the conditions as they think fit;
 - (ii) grant a power of attorney that may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors think fit.
 - (iii) resolve to delegate any of their powers to an officer, agent or attorney and the officer, agent or attorney must exercise the powers delegated in accordance with any directions of the directors;
 - (iv) 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
 - (v) subject to any contract between the company and the relevant officer, agent or attorney, remove or dismiss any officer (excluding a director of the company), agent or attorney of the company at any time, with or without cause.
- (f) The directors may make and approve bylaws, regulations and rules for the operation of the company and interpretation and implementation thereof.
- (g) The directors must comply with their duties as directors under legislation and common law (judge-made law), and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are:

- (i) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the company;
- (ii) to act in good faith in the best interests of the company and to further the charitable purpose(s) of the Company set out in rule 3.1;
- (iii) not to misuse their position as a director;
- (iv) not to misuse information they gain in their role as a director;
- (v) to disclose any perceived or actual material conflicts of interest in the manner set out in rule 7.5;
- (vi) to ensure that the financial affairs of the company are managed responsibly; and
- (vii) not to allow the company to operate while it is insolvent.

7.7 Proceedings of board meetings

- (a) The directors may hold meetings for the conduct of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) Subject to the Corporations Act, the directors may hold board meetings by using any technology that is agreed to by all of the directors. Such agreement may be a standing one and a director may only withdraw their consent within a reasonable period before the meeting.

7.8 Convening of meetings of directors

- (a) A director may, whenever the director thinks fit, convene a meeting of the directors.
- (b) A secretary must, on the requisition of a director, convene a meeting of the directors.

7.9 Notice of meetings of directors

- (a) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice a director, other than a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
 - (i) must specify the time and place of, or form of technology for, the meeting;
 - (ii) must state the nature of the business to be transacted at the meeting;
 - (iii) may be given in person, by post or, subject to the Corporations Act, by a form of technology.

- (c) A director may waive notice of a meeting of directors by notifying the company to that effect in person, by post or by a form of technology.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the director appointed by the director:
 - (A) has waived or waives notice of that meeting under sub-rule (c); or
 - (B) has notified or notifies the company of their agreement to that act, matter, thing or resolution personally, by post or by a form of technology.
- (e) Attendance by a person at a meeting of directors waives any objection that person may have to a failure to give notice of the meeting.

7.10 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless there is a quorum of directors at the time the business is dealt with.
- (b) A quorum consists of five (5) directors.
- (c) If there is a vacancy in the office of a director, the remaining director or directors may act but, if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, the remaining director or directors may act only in an emergency or for the purpose of increasing the number of directors to a number sufficient to constitute a quorum or of convening a general meeting of the company.

7.11 Chair of board meetings

The President shall preside as chair at every meeting of the board, or if the President is not present within fifteen minutes after the time for holding the meeting the Vice-President shall act as chair; or if the Vice-President is not present the directors may choose one of their number to be the chair of the meeting.

7.12 Decisions of directors

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under this constitution.
- (b) Questions arising at a meeting of directors are to be decided by a majority of votes cast by the directors present and a decision of that kind is for all purposes a determination of the directors.
- (c) In the case of an equality of votes upon any proposed resolution at a meeting of directors, the chair shall have a second or casting vote.

7.13 Written resolutions

- (a) An act, matter or thing is taken to have been done or a resolution passed by a meeting of the directors, if a document containing a statement to that effect is assented to by all of the directors other than:
- (i) a director on leave of absence approved by the directors;
 - (ii) a director who disqualifies himself or herself from considering the act, matter or thing in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest; and
 - (iii) a director who the directors reasonably believe is not entitled to do the act, matter or thing or to vote on the resolution in question,

and the directors who assent to the document would have constituted a quorum at a meeting held to consider that act, matter, thing or resolution.

- (b) The act, matter or thing is taken to have been done or the resolution passed when the document is last assented to by a director and communicated to the President.
- (c) Two or more separate documents in identical terms each of which is assented to by one or more directors may be taken as constituting one document.
- (d) A director may signify assent to a document by signing the document or by notifying the company of the director's assent in person or by post, facsimile, electronic, telephone or other method of written, audio or audio visual communication.
- (e) Where a director signifies assent to a document otherwise than by signing the document, the director must by way of confirmation sign the document at the next meeting of the directors attended by that director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.
- (f) Where a document is assented to in accordance with this rule 7.13, the document is to be taken as a minute of a meeting of directors.

7.14 Board committees

- (a) The directors may resolve to delegate any of their powers to a committee or committees consisting of such number of directors as they think fit. The directors may revoke or vary any power so delegated.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The provisions of this constitution applying to meetings and resolutions of directors apply, so far as they can and with any necessary changes, to meetings and resolutions of a committee of directors.

- (d) Membership of a board committee may be treated as an extra service or special exertion performed by the members of the committee.

7.15 Validity of acts

All acts done by any meeting of the board or a committee or by any person acting as a member of the board or of committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such member of the board or person acting as aforesaid, or that the members of the board or committee or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a member of the board or committee.

8. General meetings

8.1 Convening of general meetings

- (a) A general meeting may be convened by:
 - (i) the directors by resolution of the board; or
 - (ii) the member or the court in accordance with sections 249E, 249F and 249G the Corporations Act.
- (b) A general meeting must be convened by the directors if requested by the member, in accordance with section 249D of the Corporations Act.
- (c) The company must hold an annual general meeting if required by, and in accordance with, the Corporations Act.
- (d) Subject to rule 8.1(f), the directors may postpone, cancel or change the venue for a general meeting by giving notice not later than five Business Days before the time at which the general meeting was to be held to each person who is at the date of the notice:
 - (i) the member;
 - (ii) a director; or
 - (iii) an auditor of the company.
- (e) A notice postponing or changing the venue for a general meeting must specify the date, time and place of the general meeting.
- (f) A general meeting convened under section 249D of the Corporations Act may not be postponed beyond the date by which section 249D requires it to be held and may not be cancelled without the consent of the member who requested it.
- (g) A general meeting may be held in 2 or more places linked together by any technology that gives the participants as a whole in those places a reasonable opportunity to participate in proceedings, enables the chair to be aware of

proceedings in each place, and enables the Member in each place to vote on a show of hands and on a poll.

8.2 Notice of general meetings

- (a) Subject to this constitution, notice of a general meeting must be given within the time limits prescribed by the Corporations Act to each person who is at the date of the notice:
 - (i) the member;
 - (ii) a director; or
 - (iii) an auditor of the company.
- (b) A notice of a general meeting must specify the date, time and place of 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, except as provided in rule 8.2(c), state the general nature of the business to be transacted at the meeting and any other matters required under the Corporations Act. If a Special Resolution is to be proposed, the notice must specify the words of the proposed Special Resolution
- (c) It is not necessary for a notice of an annual general meeting to state that the business to be transacted at the meeting includes the consideration of the annual financial report and the reports of the directors and auditor, the appointment of directors or the appointment or fixing of the remuneration of the auditor of the company.
- (d) A person may waive notice of any general meeting by notice in writing to the company.
- (e) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this rule 8.2 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
 - (i) the non-receipt or failure occurred by accident or error; or
 - (ii) before or after the meeting, the person:
 - (A) has waived or waives notice of that meeting under rule 8.2(d); or
 - (B) has notified or notifies the company of the person's agreement to that act, matter, thing or resolution by notice in writing to the company.
- (f) A person's attendance at a general meeting:
 - (i) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and

- (ii) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting or in rule 8.2(c), unless the person objects to considering the matter when it is presented.

8.3 Admission to general meetings

- (a) The chair of a general meeting may refuse admission to a person, or require that person to leave and remain out of the meeting, if that person:
 - (i) has a camera, tape recorder or video camera, smartphone or other audio or visual recording device that they use or intend to use to record and/or to stream or otherwise broadcast the meeting;
 - (ii) has a placard or banner;
 - (iii) has an article which the chair considers to be dangerous, offensive or liable to cause disruption;
 - (iv) refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
 - (v) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
 - (vi) refuses to comply with a direction or order of the chair or otherwise breaches conditions of attendance at the meeting, including a direction that mobile phones be switched off during the meeting.
- (b) A person who is entitled to receive notice of a meeting or who is requested by the directors or the chair to attend a general meeting is entitled to be present, whether the person is a member or not.

8.4 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum is present when the meeting proceeds to business and remains present throughout the meeting.
- (b) A quorum consists of the member who is present at the meeting in person, by proxy, attorney or Representative and five (5) directors .
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (i) where the meeting was convened by, or at the request of, the member, the meeting must be dissolved; or
 - (ii) in any other case:
 - (A) the meeting stands adjourned to the day, time and place, as the directors determine or, if no determination is made by the

directors, to the same day in the next week at the same time and place; and

- (B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

8.5 Chair of general meetings

- (a) The chair of directors must preside as chair at each general meeting if present within 10 minutes after the time appointed for the meeting and willing to act.
- (b) The directors present at a general meeting may elect a person present to chair the meeting if:
- (i) there is no chair of directors;
 - (ii) the chair of directors is not present within 10 minutes after the time appointed for the meeting; or
 - (iii) the chair of directors is present within that time but is not willing to act as chair of the meeting.
- (c) Subject to rules 8.5(a) and (b), if at a general meeting:
- (i) a chair has not been elected by the directors; or
 - (ii) an elected chair is not available or is not willing to act as a chair of the meeting (or part of the meeting),

the member present must appoint as chair of the meeting another person who is present and willing to act.

8.6 Conduct of general meetings

- (a) The chair of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting and may require the adoption of any procedures which are in their opinion necessary or desirable for:
- (i) proper and orderly debate or discussion, including limiting the time that a person present may speak on a motion or other item of business before the meeting; and
 - (ii) the proper and orderly casting or recording of votes at the general meeting, whether on a show of hands or on a poll, including the appointment of scrutineers.
- (b) Subject to sections 250S and 250T of the Corporations Act, the chair of a general meeting may at any time they considers it necessary or desirable for the proper and orderly conduct of the meeting:
- (i) terminate 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 member present;
or

- (ii) allow debate or discussion on any business, question, motion or resolution being considered by the meeting to continue.
- (c) Subject to sections 250S and 250T of the Corporations Act, the chair of a general meeting may:
- (i) refuse to allow debate or discussion on any business, question, motion or resolution which is not within the business referred to in the notice of meeting or rule 8.2(c); and
 - (ii) refuse to allow any amendment to be moved to a resolution of which notice has been given under rule 8.2(a).
- (d) A decision by a chair under rules 8.6(a), (b) or (c) is final.
- (e) The chair of a general meeting may at any time during the course of the meeting adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting.
- (f) If the chair exercises their right under rule 8.6(e), it is in the chair's sole discretion whether to seek the approval of the members present to the adjournment.
- (g) If the chair does seek the member's approval, the chair must adjourn the meeting if the member present agrees or directs that the chair must do so.
- (h) The chair's rights under rule 8.6(e) are exclusive and, unless otherwise required by the chair, no vote may be taken or demanded by the member present in respect of any adjournment.
- (i) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (j) Notice of an adjournment and the business to be transacted at an adjourned meeting must be given to all persons who were entitled to receive notice of the meeting the subject of the adjournment.
- (k) Subject to rule 8.1(f), where a meeting is adjourned, the directors may postpone, cancel or change the venue of the adjourned meeting.

8.7 Voting rights

- (a) The member has one vote.
- (b) A body corporate member shall nominate one Representative to vote on its behalf.
- (c) The member's Representative will vote as authorised by the board of directors of the member.

9. Executive officers

9.1 Executive Officers

Executive officers shall include the General Manager, the Secretary and such other executive officers as the directors may approve and appoint.

9.2 General Manager

- (a) The General Manager shall attend board meetings, discuss and provide information on matters relevant to the operations of the company.
- (b) The General Manager shall work together with the staff and the board in managing the operations of the company.

9.3 Secretary

- (a) The directors shall appoint a Secretary. The Secretary shall attend board meetings, discuss and provide information on matters relevant to the operations of the company, record minutes and other records of proceedings and comply with the requirements of the Corporations Act and other relevant laws relating to the role of secretary.
- (b) The Secretary shall in accordance with the Corporations Act be appointed by the board of directors for such term, at such remuneration and upon such conditions as it thinks fit, in accordance with the constitution, and any secretary so appointed may be removed by it.

9.4 Provisions applicable to all other executive officers

- (a) A reference in this rule 9.4 to an executive officer is a reference to executive officers other than the General Manager or the Secretary.
- (b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions the directors deem fit.
- (c) Subject to any contract between the company and the relevant executive officer, an executive officer of the company may be removed or dismissed by the directors at any time, with or without cause.
- (d) The directors may:
 - (i) confer on an executive officer the powers, discretions and duties as they think fit, and may resolve to delegate any powers, discretions and duties vested in or exercisable by the directors;
 - (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 the executive officer.

- (e) An act done by a person acting as an executive officer is not invalidated by reason only 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.

10. Accounts; Inspection of accounts; Audit

10.1 Accounts

The board of directors shall cause proper accounting and other records to be kept and shall distribute copies of every income statement and statement of financial position (including every document required by law to be attached thereto) accompanied by a copy of the Auditor's report thereon as required by the Corporations Act provided, however, that the board of directors shall cause to be made out and laid before each Annual General Meeting a statement of financial position and income statement made up to a date not more than six months before the date of the meeting.

10.2 Inspection of Accounts

The annual audited financial reports shall be placed on the company's website.

10.3 Audit

- (a) A properly qualified Auditor shall be appointed and their remuneration fixed and duties regulated in accordance with the Corporations Act.
- (b) At least once in every year the accounts of the company shall be examined and the correctness of the balance sheet ascertained by a properly qualified Auditor.

11. Seal

11.1 Adoption of common seal

- (a) The directors may determine that the company have a common seal or for the company to no longer have a common seal.
- (b) Rules 11.2 and 11.3 only apply if the company has a common seal.

11.2 Safe custody of Seal

The directors must provide for the safe custody of the Seal.

11.3 Use of Seal

- (a) The Seal must be used only by the authority of the directors or a committee of the directors authorised by the directors to authorise the use of the Seal.
- (b) The authority to use the Seal may be given before or after the Seal is used.

- (c) Until the directors otherwise determine, the fixing of the Seal to a document must be witnessed by a director and by another director or the Secretary.

12. Winding up and revocation of DGR status

12.1 Winding up

Upon the winding up or dissolution of the company, any assets remaining after satisfaction of all of the company's debts and liabilities, will not be paid or distributed to the member unless it meets the requirements in sub-rules (a) to (c), but will be transferred to some other organisation determined by the board at or before the time of winding up or dissolution of the company and, in default of any determination, by the Supreme Court of New South Wales, Australia:

- (a) which has objectives similar to or inclusive of the objectives of the company; and
- (b) whose constituent documents prohibit the distribution of its income and property among its members on terms substantially to the effect of rule 6; and
- (c) which, if the company has deductible gift recipient endorsement, is or are deductible gift recipients within the meaning of the *Income Tax Assessment Act 1997* (Cth).

12.2 Revocation of DGR status

If upon the winding-up or dissolution of the public fund listed on the Register of Cultural Organisations, or its endorsement as a deductible gift recipient is revoked (whether or not the company is to be wound up), any surplus gift funds must be transferred to one or more organisations determined by the board:

- (a) which has objectives similar to or inclusive of the objectives of the company;
- (b) whose constituent documents prohibit the distribution of its income and property among its members on terms substantially to the effect of rule 6; and
- (c) which, if the company has deductible gift recipient status, is or are deductible gift recipients within the meaning of the *Income Tax Assessment Act 1997* (Cth).

13. Minutes and records

13.1 Minutes

The directors must cause minutes of:

- (a) all proceedings and resolutions of general meetings;
- (b) proceedings and resolutions of meetings of the directors and of committees of the directors; and
- (c) resolutions passed by directors without a meeting,

to be recorded and entered in books kept for that purpose, within one month after the meeting is held or the resolution is passed.

13.2 Signing of minutes

- (a) Minutes of a meeting must be signed by the chair of the meeting or the chair of the next meeting within a reasonable time after the meeting.
- (b) Minutes of the passing of a resolution without a meeting must be signed by directors within a reasonable time after the resolution is passed.

13.3 Minutes as evidence

A minute that is recorded and signed in accordance with rules 13.1 and 13.2 is evidence of the proceeding, a resolution to which it relates, unless the contrary is proved.

13.4 Inspection of records

- (a) Subject to the Corporations Act, the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the company or any of them will be open to the inspection of the member other than directors.
- (b) The member other than a director does not have the right to inspect any books, records or documents of the company except as provided by law or authorised by the directors.
- (c) The company must establish and administer all registers required to be kept by the company in accordance with the Corporations Act and the member must provide the company with such information as is required for the company to comply with this rule 13.4(c). If events occur which would cause the information contained a register maintained by the company to be inaccurate the member must notify the company in writing of the change within 21 days of the date of such change occurring.
- (d) Unless proved incorrect, the register is sufficient evidence of the matters shown in the register.
- (e) The company must keep the financial records required by the Corporations Act.

13.5 Directors' access to documents

A director has a right of access to the financial records of the company at all reasonable times.

14. Indemnity and insurance

14.1 Persons to whom rules 14.2 to 14.4 apply

Rules 14.2 to 14.4 apply:

- (a) to each person who is or has been a director or executive officer (within the meaning of rule 8) of the company;
- (b) to such other officers or former officers of the company or of its related bodies corporate as the directors in each case determine; and
- (c) if the directors so determine, to any auditor or former auditor of the company or of its related bodies corporate.

14.2 Indemnity

- (a) The company shall indemnify, to the extent permitted by law, each person to whom this rule 14.2 applies for all losses or liabilities incurred by the person as an officer and, if the directors so determine, an auditor of the company or of a related body corporate including, but not limited to, a liability for negligence or for legal costs.
- (b) The company will not unreasonably or unjustly refuse to indemnify any person to whom this rule 14.2 applies.

14.3 Extent of Indemnity

The indemnity in rule 14.2:

- (a) is a continuing obligation and is enforceable by a person to whom rule 14.2 applies even though that person may have ceased to be an officer or auditor of the company or of a related body corporate;
- (b) applies to losses and liabilities incurred both before and after the date of adoption of that rule; and
- (c) operates only to the extent that the loss or liability is not paid by insurance.

14.4 Insurance

The company shall, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this rule 14.4 applies against any liability incurred by the person as an officer or auditor of the company or of a related body corporate including, but not limited to, a liability for negligence or for legal costs.

14.5 Savings

Nothing in rules 14.2 to 14.4:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any loss or liability referred to in those rules; or
- (b) limits the capacity of the company to indemnify or provide insurance for any person to whom those rules do not apply.

15. Notices

15.1 Notices by the company to the member

- (a) A notice may be given by the company to the member:
 - (i) by serving it personally at, or by sending it by post in a prepaid envelope to, the member's address as shown in the register of members or any other address, or by facsimile or electronic mail to a facsimile number or electronic address, as the member has supplied to the company for the giving of notices; or
 - (ii) if the member does not have a registered address and has not supplied another address to the company for the giving of notices, by exhibiting it at the registered office of the company.
- (b) The fact that a person has supplied a facsimile number for the giving of notices does not require the company to give any notice to that person by facsimile.
- (c) A signature to any notice given by the company to the member under this rule 15 may be in writing or a facsimile printed or fixed by some mechanical or other means (including electronically).
- (d) A certificate signed by a director or secretary of the company to the effect that a notice has been given in accordance with this constitution is conclusive evidence of that fact.

15.2 Notices by the company to directors

Subject to this constitution, a notice may be given by the company to any auditor or director either by serving it personally at, or by sending it by post in a prepaid envelope to, the auditor's, or director's usual residential or business address, or such other address, or by facsimile or electronic mail to such facsimile number or electronic address, as the auditor or director has supplied to the company for the giving of notices.

15.3 Notices by member or directors to the company

- (a) Subject to this constitution, a notice may be given by the member, a director or director to the company by serving it on the company at, or by sending it by post in a prepaid envelope to, the registered office of the company or by facsimile or electronic mail to the principal facsimile number or electronic address at the registered office of the company.
- (b) The directors may resolve generally, or on a case by case basis, that a notice that is to be received by the company is not to be accepted if given by electronic means (excluding by facsimile).
- (c) If a resolution of directors is passed under rule 15.3(b), the company must give sufficient notice of the resolution to those required to give the particular notice to allow for the giving of notice by other means.

15.4 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
 - (i) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by facsimile, the notice is to be taken to be given on the Business Day after it is sent.
- (c) Where a notice is sent by electronic mail or other electronic means, service of the notice is taken to be effected if the sender receives a confirmation of delivery and is taken to have been effected on the Business Day after it is sent.
- (d) Where the company gives a notice under rule 15.1(a)(ii) by exhibiting it at the registered office of the company, service of the notice is to be taken to be effected when the notice was first so exhibited.

15.5 Other communications and documents

Rules 15.1 to 15.4 (inclusive) apply, so far as they can and with necessary changes, to the service of any communication or document.

15.6 Notices in writing

A reference in this constitution to a notice in writing includes a notice given by facsimile or another form of written communication.

16. By-laws

16.1 Power to formulate by-laws of the company

Without limiting the board's powers under this constitution, the board may from time to time pass resolutions to make or amend by-laws relating to:

- (a) procedure for nomination of directors;
- (b) the delegation by the board of its powers to committees;
- (c) the powers, role and function of any committee members, executive or directors (including the terms of appointment of any executive director); and
- (d) any other matter not being inconsistent with this constitution which relates to the operations or conduct of the company.

16.2 Inconsistency

In the event of any inconsistency between by-laws formulated pursuant to rule 16.1 and the provisions of this constitution or the provisions of the Corporations Act and the ACNC Act, the provisions of this constitution and the Corporations Act and the ACNC Act shall prevail.

16.3 Effects of the by-laws

The member and directors must comply with by-laws as if they were part of this constitution.

17. General**17.1 Submission to jurisdiction**

The member, directors and the company submit to the non-exclusive jurisdiction of the Supreme Court of New South Wales, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

17.2 Prohibition and enforceability

Any provision of, or the application of any provision of, this constitution which is void, illegal, prohibited or unenforceable in any place:

- (a) is, in that place, ineffective only to the extent to which it is void, illegal, prohibited or unenforceable; and
- (b) does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

17.3 Amending the constitution

- (a) Subject to sub-rule (b) below, the member may amend this constitution by passing a Special Resolution.
- (b) The member must not pass a Special Resolution that amends this constitution if passing it causes the company to no longer be a charity.

17.4 Dispute Resolution

Any disputes (disagreements) under this constitution between the member or a director and:

- (a) one or more directors; or
- (b) the company,

must be resolved in accordance with the dispute resolution procedures as set out in the relevant by-law passed by the Board from time to time.