

CLAYTON UTZ

Constitution of Skin & Cancer Foundation Australia

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Constitution

Objects

1. Objects of the Foundation

The objects of the Foundation are to relieve poverty, sickness, suffering, distress, misfortune, destitution, or helplessness in persons in Australia without discrimination where this is in any way related to diseases of the skin, and for this purpose:

- (a) to develop the science of dermatology and its sub-specialties in Australia; and
- (b) to provide facilities for research and education and otherwise for the attainment of the objects of the Foundation.
- (c) in furtherance of the objects of the Foundation to hold or arrange competitions and provide or contribute towards the provision of prizes, awards and distinctions in connection therewith. Provided that no Member shall receive any prize, award or distinction of monetary value except as a successful competitor at any competition held or promoted by the Foundation or to the cost of the holding or promotion of which the Foundation may have subscribed out of its income or property and which under the regulations affecting the said competition may be awarded to him/her;
- (d) to subscribe to, become a member of and co-operate with or amalgamate with any other association or organization, whether incorporated or not, whose objects are altogether or in part similar to those of the Foundation. Provided that the Foundation shall not subscribe to or support with its funds or amalgamate with any association or organization which does not prohibit the distribution of its income and property among its members to an extent at least as great as that imposed on the Foundation under or by virtue of Article 2;
- (e) in furtherance of the objects of the Foundation to buy, sell and deal in all kinds of apparatus and all kinds of provisions, liquid and solid, required by the Members or persons frequenting the Foundation premises;
- (f) to purchase, take on lease or in exchange, hire and otherwise acquire any lands, buildings, easements or property, real and personal, and any rights or privileges which may be requisite for the purposes of, or capable of being conveniently used in connection with, any of the objects of the Foundation. Provided that in case the Foundation shall take or hold any property which may be subject to any trusts the Foundation shall only deal with the same in such manner as is allowed by law having regard to such trusts;
- (g) to enter into any arrangements with any Government or authority, supreme, municipal, local or otherwise, that may seem conducive from any such Government or authority any rights, privileges and concessions which the Foundation may think it desirable to obtain; and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (h) to appoint, employ, remove or suspend such managers, clerks, secretaries, servants, workmen and other persons as may be necessary or convenient for the purposes of the Foundation;
- (i) to establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or past

employees of the Foundation or the dependants or connections of any such persons; and to grant pensions and allowances; and to make payments towards insurance;

- (j) to construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences which may seem calculated directly or indirectly to advance the Foundation's interests, and to contribute to, subsidize or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control thereof;
- (k) to invest and deal with money of the Foundation not immediately required in such manner as may be permitted by law for the investment of trust funds;
- (l) to borrow or raise or secure the payment of money in such manner as the Foundation may think fit and to secure the same or the repayment or performance of any debt liability contract guarantee or other engagement incurred or to be entered into by the Foundation in any way and in particular by the issue of debentures perpetual or otherwise charged upon all or any of the Foundation's property (both present and future), and to purchase, redeem or pay off any such securities;
- (m) to make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- (n) in furtherance of the objects of the Foundation to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Foundation;
- (o) to take or hold mortgages, liens and charges to secure payment of the purchase price or any unpaid balance of the purchase price, of any part of the Foundation's property whatsoever kind sold by the Foundation, or any money due to the Foundation from purchasers and others;
- (p) to take any gift of property whether subject to any special trust or not, for any one or more of the objects of the Foundation but subject always to the proviso in Article 1(c);
- (q) to take such steps by personal or written appeals, public meetings or otherwise, as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Foundation, in the shape of donations, annual subscriptions or otherwise;
- (r) to print and publish any newspapers, periodicals, books or leaflets that the Foundation may think desirable for the promotion of its objects;
- (s) to waive the payment of any fees that would otherwise be payable to the Foundation to the extent that the person liable to pay the fees is unable to pay them in the opinion of the Board of Directors of the Foundation;
- (t) in furtherance of the objects of the Foundation to purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, institutions, societies or associations with which the Foundation is authorised to amalgamate;
- (u) in furtherance of the objects of the Foundation to transfer all or any part of the property, assets, liabilities and engagements of the Foundation to any one or more of the companies, institutions, societies or associations to which income tax deductible gifts can be made pursuant to Division 30 of the Income Tax Assessment Act 1997 as amended and with which the Foundation is authorised to amalgamate;

- (v) to make donations for the purposes of the Foundation;
- (w) to transact any lawful business in aid of the Commonwealth of Australia in the prosecution of any war in which the Commonwealth of Australia is engaged; and
- (x) the Foundation has the legal capacity and powers conferred on a company pursuant to Chapter 2B, and in particular section 124, of the Corporations Act.

The Foundation will only pursue charitable purposes and apply the income and property of the Foundation in promoting the objects of the Foundation.

Income and property

2. Application of income and property

- (a) Subject to Articles 2(b) and 2(c), the Foundation must apply the profits (if any) or other income and property of the Foundation solely towards the promotion of the objects of the Foundation set out in Article 1 and no portion of it may be paid or transferred, directly or indirectly, to any Member whether by way of dividend, bonus or otherwise.
- (b) Nothing in Article 2(a) prevents the Foundation making any payment in good faith of:
 - (i) reasonable and proper remuneration to any Member for any services actually rendered or goods supplied to the Foundation in the ordinary and usual course of business of the Foundation;
 - (ii) interest at a rate not exceeding market rates prevailing from time to time in respect of monies owing by the Foundation from time to time;
 - (iii) the payment or reimbursement of out-of-pocket expenses incurred by a Member on behalf of the Foundation where:
 - A. if the Member is not an employee of the Foundation, the amount payable does not exceed an amount previously approved by the Board or management (within limits previously approved by the Board);
 - B. if the Member is an employee of the Foundation, the amount payable was reasonably incurred by the Member in the performance of any duty as an employee of the Foundation;
 - (iv) reasonable and proper rent or fees to a Member for premises leased or licensed by any Member to the Foundation;
 - (v) money to any Member, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Board and the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service; or
 - (vi) an amount pursuant to Article 61.
- (c) The Foundation must not pay fees to or on behalf of Directors, but the Foundation may make payments to a Director in good faith for:

- (i) the payment or reimbursement of out-of-pocket expenses reasonably incurred by a Director in the performance of any duty as a director or secretary of the Foundation where that payment or reimbursement has been approved by the Board. For the avoidance of doubt this includes all travelling, hotel, and other out of pocket expenses properly incurred by the Directors in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Foundation or in connection with the business of the Foundation;
- (ii) money to any Director, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Board and the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service;
- (iii) reasonable and proper remuneration to any Director in his or her role as a visiting medical officer or other contractor to the Foundation for any services actually rendered or goods supplied to the Foundation in the ordinary and usual course of business of the Foundation;
- (iv) any salary or wage due to the Director as an employee of the Foundation where the terms of employment have been approved by the Board.
- (v) an insurance premium in respect of a contract insuring a Director for a liability incurred as an officer of the Foundation where the Board has approved the payment of the premium; or
- (vi) any payment pursuant to Article 43(a), 43(c) or 43(d) or a payment pursuant to any agreement or deed referred to in Article 43(e).

Liability of Members

3. Extent of liability

Each Member undertakes to contribute an amount not exceeding \$50 to the property of the Foundation if the Foundation is wound up at a time when that person is a Member, or within one year of the time that person ceased to be a Member, for:

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

Membership

4. Applications

- (a) Only natural persons are eligible to apply to become a Member.
- (b) Each applicant to become a Member must be proposed and seconded by 2 Members, both of whom are known personally to the applicant.

- (c) Each applicant to become a Member, and his or her proposer and seconder, must sign and deliver to the Foundation an application in the form which the Board determines, and pay the Entrance Fee (if any).
- (d) The Board determines in their absolute discretion whether an applicant may become a Member. The Board is not required to give any reason for the rejection of any application to become a Member.
- (e) If an application to become a Member is accepted by the Board, the Foundation must give written notice of the acceptance to the applicant and, subject to Article 4(f), enter the applicant's name in the Register.
- (f) Upon payment of the Entrance Fee and the first Annual Subscription the applicant shall become a Member.
- (g) If an application to become a Member is rejected by the Board, the Foundation must give written notice of the rejection to the applicant and refund in full the Fee (if any) paid by the applicant.
- (h) Failure by the Foundation to comply with any notice requirement in this Article 4(e) or 4(g) does not invalidate the decision regarding an application.

5. Admission of Members

Except with the prior approval of Members at a meeting of Members, no person (other than a member of the College) shall be admitted as a Member if after his or her admission less than 75% of Members would be members of the College.

6. No transfers

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

7. Entrance Fee

In addition to any Fees determined pursuant to Article 13, the Entrance Fee payable by Members is such amount as the Foundation in a meeting of Members from time to time prescribes, provided that until the Foundation in a meeting of Members otherwise resolves:

- (a) the Entrance Fee is \$5; and
- (b) the Foundation shall not any time prescribe an Entrance Fee which exceeds \$50.

8. Annual Subscription

In addition to any Fees determined pursuant to Article 13, the Foundation in a meeting of Members may from time to time determine that an Annual Subscription be paid by the Members. The Members may also determine the amount of the Annual Subscription and the date in each year upon which it becomes due and payable.

Cessation of membership

9. Resignation of a Member

- (a) Subject to Article 9(b), a Member may at any time resign as a Member by giving the Foundation notice in writing. Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Foundation.

- (b) If there is only one Member and the Member gives proper notice of resignation or on the same day all of the Members give proper notice of resignation, the notice or notices will be ineffective and the Member or Members cannot resign until either another person is appointed as a Member or the Foundation is wound up.
- (c) If a Member resigns, the Foundation must remove the Member's name from the Register.

10. Expulsion of a Member

- (a) Subject to Article 10(b), if:
 - (i) a Member is in breach of a provision of this Constitution; or
 - (ii) any act or omission of a Member is, in the opinion of the Board, unbecoming of a Member, or prejudicial to the interests or reputation of the Foundation; or
 - (iii) a Member is, or any step is taken for that Member to become, an insolvent under administration,the Foundation may fine the Member an amount not exceeding the Annual Subscription, and additionally may censure, suspend, or expel the Member by a resolution of the Board and remove the Member's name from the Register.
- (b) The Foundation must not deal with a Member in accordance with Article 10(a) unless:
 - (i) at least 5 Business Days' notice has been given to the Member stating the date, time and place at which the question of expulsion of that Member is to be considered by the Board, and the nature of the alleged event giving rise to the censure, suspension or expulsion; and
 - (ii) the affected Member is given the opportunity of explaining to the Board, orally or in writing, why the Member should not be censured, suspended or expelled.
- (c) Any Member to whom Article 10(b) applies may, by notice in writing lodged with the Secretary at least 24 hours before the time for holding the meeting at which the resolution is to be considered by the Board, elect to have the issue dealt with by the Foundation in a meeting of Members and in that event a meeting of the Members of the Foundation must be called for that purpose. If at the meeting of Members such a resolution is passed by a majority of two-thirds of those Members present and voting (such vote to be taken by way of a poll) the Member concerned will be dealt with accordingly and in the case of a resolution for his or her expulsion the Member will be expelled and his or her name removed from the Register.

11. Other cessation events

If a Member:

- (a) either:
 - (i) does not have a registered address; or
 - (ii) the Board believes that a Member is not known at the Member's address in the Register, including if:

- A. on 2 or more consecutive occasions a Notice sent to a Member is returned unclaimed or with an indication that the Member is not known at the address to which it is sent; or
 - B. the Board believes on other reasonable grounds that a Member is not known at the address in the Register;
- (b) fails to pay an Annual Subscription within 2 calendar months after it becomes due, having been sent notice of the default by the Foundation; or
- (c) being an individual, dies or becomes bankrupt, becomes of unsound mind or a person whose property is liable to be dealt with pursuant to a law about mental health,

the Foundation may remove that Member's name from the Register. However, in the case of a Member whose name is removed from the Register pursuant to Article 11(a), the Board may reinstate such a Member and restore his or her name to the Register on payment of all arrears if the Board thinks fit to do so.

12. Effect of cessation

- (a) A person who ceases to be a Member:
 - (i) remains liable to pay, and must immediately pay, to the Foundation all amounts that at the date of cessation were payable by the person to the Foundation as a Member, including, for the avoidance of doubt, any outstanding Fees; and
 - (ii) must pay to the Foundation interest at the rate the Board resolves on those amounts from the date of cessation until and including the date of payment of those amounts.
- (b) The Foundation may by resolution of the Board waive any or all of its rights pursuant to this Article 12.

Fees and other payments

13. Setting of Fees

- (a) Subject to the Corporations Act and the terms of membership of a class of Members, the Foundation may by resolution of the Board require the payment of Fees (including, and in addition to, the Entrance Fee and Annual Subscription) by Members of any amount, on any terms and at any times as the Board resolves, including payment by instalments.
- (b) The Foundation may when admitting Members make Fees payable for one or more Members for different amounts and at different times as the Board resolves.
- (c) The Foundation may by resolution of the Board revoke or postpone a Fee or extend the time for payment of a Fee, at any time prior to the date on which payment of that Fee is due.

14. Notice of Fees

- (a) The Foundation must give notice of Fees to the Members who are required to pay the Fees at least 10 Business Days before the due date for payment. The notice must

specify the amount of the Fee, the time or times and place of payment and any other information as the Board resolves.

- (b) The non-receipt of a notice of a Fee by, or the accidental omission to give notice of a Fee to, any Member does not invalidate the Fee.

15. Payment of Fees

- (a) Each Member must pay to the Foundation the amount of each Fee payable by the Member in the manner, at the time and at the place specified in the notice of the Fee.
- (b) If the terms of membership of a class of Members require an amount to be paid as a fee or levy on a fixed date, each Member in that class of Members must pay that amount to the Foundation at that time and that amount is treated for the purposes of this Constitution as if a Fee for that amount had been properly determined by the Board of which appropriate notice has been given.
- (c) In a proceeding to recover a Fee, or an amount payable due to the failure to pay or late payment of a Fee, proof that:
 - (i) the name of the person is entered in the Register as a Member;
 - (ii) the person is in the class of Members liable to pay the Fee;
 - (iii) there is a record in the minute books of the Foundation of the resolution determining the Fee or the terms of membership of a class of Members requiring the payment of the Fee; and
 - (iv) notice of the Fee was given or taken to be given to the person in accordance with this Constitution,

is conclusive evidence of the obligation of that person to pay the Fee.

16. Interest payable

- (a) If an amount payable to the Foundation as a Fee is not paid before or on the time for payment, the person who owes the amount must pay to the Foundation:
 - (i) interest on the unpaid part of the amount from the date payment is due to the date of payment at the rate that the Board resolves; and
 - (ii) all costs and expenses that the Foundation incurs due to the failure to pay or the late payment.
- (b) Interest pursuant to Article 16(a) accrues daily and may be capitalised at any interval that the Board resolves.
- (c) The Foundation may by resolution of the Board waive payment of some or all of the interest, costs or expenses payable pursuant to Article 16(a).

Proceedings of Members

17. Written resolutions of Members

While the Foundation has only one Member, the Foundation may pass a resolution by that Member signing a record in writing of that resolution.

18. Calling meetings of Members

- (a) The Foundation may by resolution of the Board call a meeting of Members to be held at the time and place (including 2 or more venues using technology which gives Attending Members as a whole a reasonable opportunity to participate) and in the manner that the Board resolves.
- (b) No Member may call or arrange to hold a meeting of Members except where permitted by section 249F of the Corporations Act.

19. Notice of meetings of Members

- (a) Subject to Article 19(c), Notice of every meeting of Members shall be given, in accordance with Articles 55 to 59, to:
 - (i) every Member; and
 - (ii) the auditor or auditors of the Foundation for the time being.

Subject to any requirements of the Corporations Act, no other person shall be entitled to receive Notice of meetings of Members.
- (b) Where the Foundation has called a meeting of Members, notice of the meeting and any proxy form for the meeting may be given in the form and in the manner in which the Board resolves, subject to any requirements of section 249L of the Corporations Act.
- (c) A person may waive notice of any meeting of Members by written notice to the Foundation.
- (d) A person who has not duly received notice of a meeting of Members may, before or after the meeting, notify the Foundation of the person's agreement to anything done or resolution passed at the meeting.
- (e) A person's attendance at a meeting of Members waives any objection which that person may have had 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.
- (f) Subject to section 1322 of the Corporations Act, anything done (including the passing of a resolution) at a meeting of Members is not invalid because either or both a person does not receive notice of the meeting or a proxy form, or the Foundation accidentally does not give notice of the meeting or a proxy form to a person.

20. Business of meetings

- (a) The business of an annual general meeting of the Foundation is to:
 - (i) consider the accounts and reports required by the Corporations Act to be laid before the meeting;
 - (ii) elect Directors;
 - (iii) when relevant, appoint an auditor of the Foundation and fix the auditor's remuneration; and

- (iv) transact any other business which, under this Constitution, is required to be transacted at any annual general meeting.
- (b) Except with the approval of the Board, with the permission of the chairperson of the meeting or pursuant to the Corporations Act, no person may move at any meeting of Members:
 - (i) any resolution (except in the form set out in the notice of meeting given pursuant to Article 19(a)); or
 - (ii) any amendment of any resolution or a document which relates to any resolution and a copy of which has been made available to Members to inspect or obtain.

21. Quorum

- (a) No business may be transacted at a meeting of Members except, subject to Article 22, the election of the chairperson of the meeting unless a quorum for a meeting of Members is present at the time when the meeting commences.
- (b) A quorum for a meeting of Members is 8 Members entitled to vote on a resolution at that meeting in person or by proxy. Each individual present may only be counted once towards a quorum. If a Member has appointed more than one proxy or attorney, only one of them may be counted towards a quorum.
- (c) If a quorum is not present within 30 minutes after the time appointed for the commencement of a meeting, which is convened other than by Members, the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the Members present (being not less than three) shall be a quorum.

22. Chairperson of meetings of Members

- (a) Subject to Articles 22(b) and 22(c), the chairperson of the Board must chair each meeting of Members.
- (b) If at a meeting of Members:
 - (i) there is no chairperson of the Board; or
 - (ii) the chairperson of the Board is not present within 15 minutes after the time appointed for the commencement of a meeting of Members or is not willing to chair all or part of the meeting,

the Directors who are or will be present at the meeting may (by majority vote) elect one of their number or, in the absence of all the Directors or if none of the Directors present is willing to act, the Attending Members may elect one of their number, to chair that meeting.
- (c) A chairperson of a meeting of Members may, for any item of business at that meeting or for any part of that meeting, vacate the chair in favour of another person nominated by him or her (**Acting Chair**). Where an instrument of proxy appoints the chairperson as proxy for part of proceedings for which an Acting Chair has been nominated, the instrument of proxy is taken to be in favour of the Acting Chair for the relevant part of the proceedings.

23. Conduct of meetings of Members

- (a) Subject to the Corporations Act, the chairperson of a meeting of Members is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting.
- (b) The chairperson of a meeting of Members may make rulings without putting the question (or any question) to the vote if that action is required to ensure the orderly conduct of the meeting.
- (c) The chairperson of a meeting of Members may determine the procedures to be adopted for proper and orderly discussion or debate at the meeting, and the casting or recording of votes at the meeting.
- (d) The chairperson of a meeting of Members may determine any dispute concerning the admission, validity or rejection of a vote at the meeting.
- (e) The chairperson of a meeting of Members may, subject to section 250S of the Corporations Act, at any time terminate discussion or debate on any matter being considered at the meeting and require that matter be put to a vote.
- (f) The chairperson of a meeting of Members may refuse to allow debate or discussion on any matter which is not business referred to in the notice of that meeting or is not business of the meeting permitted pursuant to the Corporations Act without being referred to in the notice of meeting.
- (g) The chairperson of a meeting of Members may refuse any person admission to, or require a person to leave and remain out of, the meeting if that person:
 - (i) in the opinion of the chairperson, is not complying with the reasonable directions of the chairperson;
 - (ii) has any audio or visual recording or broadcasting device;
 - (iii) has a placard or banner;
 - (iv) has an article the chairperson considers to be dangerous, offensive or liable to cause disruption;
 - (v) behaves or threatens to behave in a dangerous, offensive or disruptive manner;
 - (vi) refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession; or
 - (vii) is not entitled pursuant to the Corporations Act or this Constitution to attend the meeting.
- (h) If the chairperson of a meeting of Members considers that there are too many persons present at the meeting to fit into the venue where the meeting is to be held, the chairperson may nominate a separate meeting place using any technology that gives Attending Members as a whole a reasonable opportunity to participate.
- (i) The chairperson of a meeting of Members may delegate any power conferred by this Article 23 to any person.
- (j) Nothing contained in this Article 23 limits the powers conferred by law on the chairperson of a meeting of Members.

24. Attendance at meeting of Members

- (a) Subject to this Constitution and any rights and restrictions of a class of Members, a Member who is entitled to attend and cast a vote at a meeting of Members, may attend and vote in person or by proxy, by attorney.
- (b) The chairperson of a meeting of Members may require a person acting as a proxy or attorney at that meeting to establish to the chairperson's satisfaction that the person is the person who is duly appointed to act. If the person fails to satisfy this requirement, the chairperson may exclude the person from attending or voting at the meeting.
- (c) A Director is entitled to receive notice of and to attend all meetings of Members and all meetings of a class of Members and is entitled to speak at those meetings.
- (d) A person requested by the Board to attend a meeting of Members or a meeting of a class of Members is, regardless of whether that person is a Member or not, entitled to attend that meeting and, at the request of the chairperson of the meeting, is entitled to speak at that meeting.

25. Authority of Attending Members

- (a) Unless otherwise provided in the document or resolution appointing a person as proxy or attorney of a Member, the person so appointed has the same rights to speak, demand a poll, join in demanding a poll or act generally at a meeting of Member to which the appointment relates, as the appointing Member would have had if that Member was present at the meeting.
- (b) Unless otherwise provided in the document or resolution appointing a person as proxy or attorney of a Member, the appointment is taken to confer authority to:
 - (i) vote on any amendment moved to a proposed resolution and on any motion that a proposed resolution not be put or any similar motion; and
 - (ii) vote on any procedural motion, including any motion to elect the chairperson of the meeting of Members to which the appointment relates, to vacate the chair or to adjourn the meeting,even though the appointment may refer to specific resolutions and may direct the proxy or attorney how to vote on particular resolutions.
- (c) Unless otherwise provided in the document or resolution appointing a person as proxy or attorney of a Member, the appointment is taken to confer authority to attend and vote at a meeting which is rescheduled, postponed or adjourned to another time or changed to another place, even though the appointment may refer to a specific meeting to be held at a specified time or place.

26. Multiple appointments

- (a) If more than one attorney appointed by a Member is present at a meeting of Members and the Foundation has not received notice of any revocation of any of the appointments:
 - (i) an attorney appointed to act at that particular meeting may act to the exclusion of an attorney appointed pursuant to a standing appointment; and

- (ii) subject to Article 26(a)(i), an attorney appointed pursuant to the most recent appointment may act to the exclusion of an attorney appointed earlier in time.
- (b) An appointment of a proxy of a Member is revoked (or, in the case of a standing appointment, suspended for that particular meeting of Members) if the Foundation receives a further appointment of a proxy from that Member which would result in there being more than one proxy of that Member entitled to act at the meeting. The appointment of proxy made first in time is the first to be treated as revoked or suspended by this Article 26(b).
- (c) The appointment of a proxy for a Member is not revoked by an attorney for that Member attending and taking part in a meeting of Members to which the appointment relates, but if that attorney votes on a resolution at that meeting, the proxy is not entitled to vote, and must not vote, as the Member's proxy on that resolution.

27. Voting at meeting of Members

- (a) A resolution put to the vote at a meeting of Members must be decided on a show of hands, unless a poll is demanded in accordance with Article 30 and that demand is not withdrawn.
- (b) The Board may determine that Members entitled to attend and vote at a meeting of Members or at a meeting of a class of Members may vote at that meeting without an Attending Member in respect of that person being present at that meeting (and voting in this manner is referred to in this Article 27(b) as direct voting). The Board may determine rules and procedures in relation to direct voting, including the class of Members entitled to cast a direct vote, the manner in which a direct vote may be cast, the circumstances in which a direct vote will be valid and the effect of a Member casting both a direct vote and a vote in any other manner. Where a notice of meeting specifies that direct voting may occur by eligible Members, a direct vote cast by an eligible Member is taken to have been cast by that person at the meeting if the rules and procedures for direct voting determined by the Board (whether set out in the notice of meeting or otherwise) are complied with.
- (c) Subject to this Constitution and any rights or restrictions of a class of Members, on a show of hands at a meeting of Members, each Attending Member having the right to vote on the resolution has one vote, provided that where a person is entitled to vote in more than one capacity, that person is entitled only to one vote.
- (d) Subject to this Constitution and any rights or restrictions of a class of Members, on a poll at a meeting of Members, each Attending Member having the right to vote on the resolution has one vote for each Member that the Attending Member represents.
- (e) Subject to this Constitution and any rights or restrictions of a class of Members, where the Board has determined other means (including electronic) permitted by law for the casting and recording of votes by Members on any resolution to be put at a meeting of Members, each Member having a right to vote on the resolution has one vote.
- (f) An objection to a right to vote at a meeting of Members or to a determination to allow or disregard a vote at the meeting may only be made at that meeting (or any resumed meeting if that meeting is adjourned). Any objection pursuant to this Article 27(f) must be decided by the chairperson of the meeting of Members, whose decision, made in good faith, is final and conclusive.

- (g) Except where a resolution at a meeting of Members requires a special majority pursuant to the law, the resolution is passed if more votes are cast by Members entitled to vote in favour on the resolution than against it.
- (h) In the case of an equality of votes on a resolution at a meeting of Members, the chairperson of that meeting has a casting vote.
- (i) Unless a poll is demanded and the demand is not withdrawn, a determination by the chairperson of a meeting of Members following a vote on a show of hands that a resolution has been passed or not passed is conclusive, without proof of the number or proportion of the votes recorded in favour or against the resolution.

28. Voting by representatives

- (a) The validity of any resolution passed at a meeting of Members is not affected by the failure of any proxy or attorney to vote in accordance with directions (if any) of the appointing Member.
- (b) If a proxy of a Member purports to vote in a way or circumstances that contravene the Corporations Act, on a show of hands the vote of that proxy is invalid and the Foundation must not count it. If a poll is demanded, votes which the Corporations Act require a proxy of a Member to cast in a given way must be treated as cast in that way.
- (c) Subject to this Constitution and the Corporations Act, a vote cast at a meeting of Members by a person appointed by a Member as a proxy or attorney is valid despite the revocation of the appointment (or the authority pursuant to which the appointment was executed), if no notice in writing of that matter has been received by the Foundation before the time appointed for the commencement of that meeting.

29. Restrictions on voting rights

- (a) The authority of a proxy or attorney for a Member to speak or vote at a meeting of Members to which the authority relates is suspended while the Member is present in person at that meeting.
- (b) An Attending Member is not entitled to vote on any resolution on which any Fee or other amount due and payable to the Foundation in respect of that Member's membership of the Foundation is more than one month in arrears at the date of the meeting.
- (c) An Attending Member is not entitled to vote on a resolution at a meeting of Members where that vote is prohibited by the Corporations Act or an order of a court of competent jurisdiction.
- (d) The Foundation must disregard any vote on a resolution at a meeting of Members purported to be cast by an Attending Member where that person is not entitled to vote on that resolution. A failure by the Foundation to disregard a vote on a resolution as required by this Article 29(d) does not invalidate that resolution or any act, matter or thing done at the meeting, unless that failure occurred by wilful default of the Foundation or of the chairperson of that meeting.
- (e) A Member who is of unsound mind or whose person or estate is liable to be dealt with in any way under a law relating to mental health may vote, whether on a show of hands or on a poll, by his or her board or by his or her trustee or by such other

person as properly has the management of his or her estate, and any such board, trustee or other person may vote by proxy or attorney.

30. Polls

- (a) A poll on a resolution at a meeting of Members may be demanded by a Member only in accordance with section 250L of the Corporations Act or by the chairperson of that meeting.
- (b) No poll may be demanded at a meeting of Members on the election of a chairperson or unless the chairperson of the meeting otherwise determines, the adjournment of that meeting.
- (c) A demand for a poll may be withdrawn.
- (d) A poll demanded on a resolution at a meeting of Members for the adjournment of that meeting or for the election of a chairperson must be taken immediately. A poll demanded on any other resolution at a meeting of Members must be taken in the manner and at the time and place the chairperson of the meeting directs.
- (e) The result of a poll demanded on a resolution of a meeting of Members is a resolution of that meeting.
- (f) A demand for a poll on a resolution of a meeting of Members does not prevent the continuance of that meeting or that meeting dealing with any other business.

31. Proxies

- (a) Subject to Article 31(e), a Member who is entitled to attend and vote at a meeting of Members may appoint a person as proxy to attend and vote for the Member in accordance with section 249X of the Corporations Act but not otherwise.
- (b) A proxy appointed in accordance with section 249X of the Corporations Act to attend and vote may only exercise the rights of the Member on the basis and subject to the restrictions provided in section 250A of the Corporations Act.
- (c) A form of appointment of proxy is valid if it is in accordance with section 250A of the Corporations Act or in any other form (including electronic) which the Board may determine or accept.
- (d) If the name of the proxy or the name of the office of the proxy in a proxy appointment of a Member is not filled in, the proxy of that Member is:
 - (i) the person specified by the Foundation in the form of proxy in the case that Member does not choose; or
 - (ii) if no person is so specified, the chairperson of that meeting.
- (e) A proxy must be a Member.

32. Receipt of appointments

- (a) An appointment of proxy or attorney for a meeting of Members is effective only if the Foundation receives the appointment (and any authority pursuant to which the appointment was signed or a certified copy of the authority) not less than 48 hours before the time appointed for the commencement of the meeting.

- (b) Where a notice of meeting specifies an email address or other electronic means by which a Member may give the Foundation a proxy appointment, a proxy given at that email address or by that other electronic means is taken to have been given by the Member and received by the Foundation if the requirements set out in the notice of meeting are complied with.

33. Adjournments

- (a) The chairperson of a meeting of Members may at any time during the meeting adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered at the meeting or any discussion or debate, either to a later time at the same meeting or to an adjourned meeting to be held at the time and place determined by the chairperson.
- (b) If the chairperson of a meeting of Members exercises the right to adjourn that meeting pursuant to Article 33(a), the chairperson may (but is not obliged to) obtain the approval of Attending Members to the adjournment.
- (c) No person other than the chairperson of a meeting of Members may adjourn that meeting.
- (d) The Foundation may give such notice of a meeting of Members resumed from an adjourned meeting as the Board resolves, however if a meeting is adjourned for a period of 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Failure to give notice of an adjournment of a meeting of Members or the failure to receive any notice of the meeting does not invalidate the adjournment or anything done (including the passing of a resolution) at a resumed meeting.
- (e) Only business left unfinished is to be transacted at a meeting of Members which is resumed after an adjournment.

34. Cancellations and postponements

- (a) Subject to section 249D of the Corporations Act, the Foundation may by resolution of the Board cancel or postpone a meeting of Members or change the place for the meeting, prior to the date on which the meeting is to be held.
- (b) Article 34(a) does not apply to a meeting called in accordance with section 249D of the Corporations Act by Members or by the Board on the request of Members, unless those Members consent to the cancellation or postponement of the meeting.
- (c) The Foundation may give notice of a cancellation or postponement or change of place of a meeting of Members as the Board resolves. Failure to give notice of a cancellation or postponement or change of place of a meeting of Members or the failure to receive any notice of the meeting does not invalidate the cancellation, postponement or change of place of a meeting or anything done (including the passing of a resolution) at a postponed meeting or the meeting at the new place.
- (d) The only business that may be transacted at a meeting of Members the holding of which is postponed is the business specified in the original notice calling the meeting.

35. Minutes of meetings of Members

- (a) In addition to any requirements of the Corporations Act, the Foundation shall cause minutes to be made in respect of all proceedings at all meetings of Members.

- (b) Such minutes shall be signed by the chairperson of the meeting at which the proceedings were held.

Directors

36. Appointment of Directors

- (a) The number of Directors (not counting alternate directors of the Foundation) must be the number, not being less than 3 nor more than 15, determined by the Directors, but the number so determined at a particular time must not be less than the number of Directors when the determination takes effect.
- (b) A Director must be a Member.
- (c) The College has the right to appoint, remove and replace one Director to the Board. The College Director holds office for 3 years from the date of his or her appointment, unless removed by the College prior to the expiry of that period, and may be reappointed at the end of that period.
- (d) Subject to Articles 36(a) and 36(b), the Company may by ordinary resolution appoint any person as a Director.
- (e) Subject to Article 36(a) and 36(b), the Board may appoint any person as a Director.

37. Retirement of Directors

- (a) At every annual general meeting of the Foundation one-third of the Directors for the time being (including, for the avoidance of doubt, any Director appointed during the preceding year pursuant to Article 36(e)) or if their number is not three or a multiple of three then the number nearest one-third, shall retire from office. A retiring Director shall be eligible for re-election.
- (b) The Directors to retire each year shall be those who have been longest in office since their last election, but as between persons who became Directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.
- (c) A Director who retires pursuant to Article 37(a) holds office as a Director until the end of the meeting at which the Director retires.
- (d) A Director appointed pursuant to Article 36(e) must retire at the next annual general meeting occurring after that appointment and is eligible for re-election.
- (e) The following persons are not subject to Article 37(a) and are not taken into account in determining the Directors required to retire at an annual general meeting:
 - (i) the managing director of the Foundation, or if there is more than one managing director, the managing director of the Foundation nominated by the Board for the purpose of this Article;
 - (ii) an alternate director of the Foundation; and
 - (iii) a College Director.
- (f) The Foundation at any meeting at which a Director retires may fill the vacated office, and in default, the retiring Director shall, if offering him or herself for re-election and not being disqualified under the Corporations Act from holding office as a Director, be deemed to have been re-elected, unless at that meeting it is

expressly resolved not to fill the vacated office or unless a resolution for the re-election of that Director is put to the meeting and lost.

- (g) No person, other than a Director retiring pursuant to this Article 37 or a Director appointed pursuant to Article 36(e) or a person nominated by the Board, is eligible to be appointed as a Director at any meeting of Members unless a nomination signed by a Member accompanied by the consent of the nominee to act is given to the Foundation at least [20] Business Days before the meeting.

38. Termination of office

- (a) A person ceases to be a Director if the person:
 - (i) fails to attend Board meetings (either personally or by an alternate director) for a continuous period of [6] months without the consent of the Board
 - (ii) resigns by notice in writing to the Foundation;
 - (iii) retires pursuant to Article 37 and is not re-elected;
 - (iv) is removed from office pursuant to the Corporations Act;
 - (v) becomes an insolvent under administration;
 - (vi) becomes of unsound mind or a person whose property is liable to be dealt with pursuant to a law about mental health;
 - (vii) is not permitted to be a director, or to manage a corporation, pursuant to Part 2D.6 of the Corporations Act;
 - (viii) is not at any given time, in the opinion of a majority of the Board (acting reasonably), a fit and proper person;
 - (ix) ceases to be a Member; or
 - (x) subject to article 40, is directly or indirectly interested in any contract or proposed contract with the Foundation provided however that a Director shall not vacate his or her office if he or she has declared the nature of his or her interest in a manner required by section 191 of the Corporations Act.
- (b) The Foundation may by ordinary resolution remove any Director (other than the College Director) before the expiration of his or her term of office, and may by an ordinary resolution appoint another Member in his or her stead. The Member so appointed shall be subject to retirement at the same time as if he or she had become a Director on the day on which the Director in whose place he or she is appointed was last elected a Director.

39. Alternate directors

- (a) A Director may:
 - (i) without the need for approval of other Directors, appoint another Director; and

- (ii) with the approval of a majority of the other Directors, appoint a person who is not a Director,

as an alternate director of that Director for any period. An alternate director need not be a Member.

- (b) The appointing Director may terminate the appointment of his or her alternate director at any time.
- (c) A notice of appointment, or termination of appointment, of an alternate director by the appointing Director is effective only if the notice is in writing and signed by that Director and is effective when given to the Foundation.
- (d) An alternate director is entitled to receive notice of Board meetings and, subject to this Constitution and the Corporations Act, to attend, count in the quorum of, speak at, and vote at a Board meeting at which his or her appointing Director is not present.
- (e) Subject to this Constitution, the Corporations Act, and the instrument of appointment of an alternate director, an alternate director may exercise all the powers (except the power pursuant to Article 39(a)) of a Director, to the extent that that his or her appointing Director has not exercised them.
- (f) The office of an alternate director is terminated if the appointing Director ceases to be a Director.
- (g) Subject to Article 2, the Foundation is not required to pay any remuneration or benefit to an alternate director.
- (h) An alternate director is an officer of the Foundation and not an agent of his or her appointing Director.

40. Interests of Directors

- (a) A Director is not disqualified by reason only of being a Director (or the fiduciary obligations arising from that office) from:
 - (i) holding an office (except auditor) or place of profit or employment in the Foundation or a related body corporate of the Foundation;
 - (ii) holding an office or place of profit or employment in any other company, body corporate, trust or entity promoted by the Foundation or in which it has an interest;
 - (iii) being a member, creditor or otherwise be interested in any body corporate (including the Foundation), partnership or entity, except auditor of the Foundation;
 - (iv) entering into any agreement or arrangement with the Foundation; or
 - (v) acting in a professional capacity (or being a member of a firm which acts in a professional capacity) for the Foundation, except as auditor of the Foundation.
- (b) Each Director must comply with section 191 of the Corporations Act in relation to the disclosure of the Director's interests.
- (c) A Director who has a material personal interest in a matter that is being considered at a Board meeting must not be present while the matter is being considered at the

meeting nor vote on the matter, except where permitted by section 195 of the Corporations Act.

- (d) If a Director has an interest in a matter, then subject to Article 40(c), Article 40(e) and this Constitution:
 - (i) that Director may be counted in a quorum at the Board meeting that considers matters that relate to the interest provided that Director is entitled to vote on at least one of the resolutions to be proposed at that Board meeting;
 - (ii) that Director may not participate in and vote on matters that relate to the interest;
 - (iii) the Foundation may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the Foundation;
 - (iv) the Director may retain the benefits pursuant to any transaction that relates to the interest even though the Director has the interest; and
 - (v) the Foundation cannot avoid any transaction that relates to the interest merely because of the existence of the interest.
- (e) If an interest of a Director is required to be disclosed pursuant to Article 40(b), Article 40(d)(iv) applies only if the interest is disclosed before the transaction is entered into.

Officers

41. Managing Director and Chief Executive Officer

- (a) The Board may appoint a person as chief executive officer of the Foundation, and may delegate to that person the overall responsibility for the day to day management of the Foundation.
- (b) If the chief executive officer appointed under Article 41(a) is also a Director, such person shall be titled the "managing director" of the Foundation, and may be appointed by the Board for any period and on any terms (including, subject to Article 2, as to remuneration) as the Board resolves. Subject to any agreement between the Foundation and the chief executive officer and managing director, the Board may vary or terminate the appointment of a chief executive officer and managing director of the Foundation at any time, with or without cause.
- (c) The Board may delegate any of its powers to a chief executive officer and managing director of the Foundation for any period and on any terms (including the power to further delegate) as the Board resolves. The Board may revoke or vary any power delegated to a chief executive officer and managing director of the Foundation.
- (d) A chief executive officer and managing director of the Foundation must exercise the powers delegated to him or her in accordance with any directions of the Board.
- (e) A person who is the chief executive officer and is titled the "managing director" pursuant to Article 41(b) above ceases to be titled "managing director" if the person ceases to be a Director.

42. Secretary

The Board may appoint one or more Secretaries, for any period and on any terms (including, subject to Article 2, as to remuneration) as the Board resolves. Subject to any agreement between the Foundation and the Secretary, the Board may vary or terminate the appointment of a Secretary at any time, with or without cause.

43. Indemnity and insurance

- (a) To the extent permitted by law, the Foundation may indemnify each Relevant Officer against a Liability of that person and the Legal Costs of that person.
- (b) The indemnity pursuant to Article 43(a):
 - (i) is enforceable without the Relevant Officer having first to incur any expense or make any payment;
 - (ii) is a continuing obligation and is enforceable by the Relevant Officer even though the Relevant Officer may have ceased to be an officer of the Foundation; and
 - (iii) applies to Liabilities and Legal Costs incurred both before and after this Article became effective.
- (c) To the extent permitted by law, the Foundation may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.
- (d) To the extent permitted by law, the Foundation may:
 - (i) enter into, or agree to enter into; or
 - (ii) pay, or agree to pay, a premium for,a contract insuring a Relevant Officer against a Liability of that person and the Legal Costs of that person.
- (e) To the extent permitted by law, the Foundation may enter into an agreement or deed with a Relevant Officer pursuant to which the Foundation must do all or any of the following:
 - (i) keep books of the Foundation and allow either or both that person and that person's advisers access to those books on the terms agreed;
 - (ii) indemnify that person against any Liability and Legal Costs of that person;
 - (iii) make a payment (whether by way of advance, loan or otherwise) to that person in respect of Legal Costs of that person; and
 - (iv) keep that person insured in respect of any act or omission by that person while a Relevant Officer or an officer of the Foundation or a subsidiary of the Foundation, on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).

Powers of the Board

44. General powers

- (a) The Board has the power to manage the business of the Foundation and may exercise to the exclusion of the Foundation in general meeting all powers of the Foundation which are not, by the law or this Constitution, required to be exercised by the Foundation in general meeting.
- (b) A power of the Board can only be exercised by a resolution passed at a meeting of the Board in accordance with Article 50, a resolution passed by signing a document in accordance with Article 49, or in accordance with a delegation of the power pursuant to Article 41, 46 or 48. A reference in this Constitution to the Foundation exercising a power by a resolution of the Board includes an exercise of that power in accordance with a delegation of the power pursuant to Article 41, 46 or 48.

45. Execution of documents

- (a) If the Foundation has a common seal, the Foundation may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by one Director and either another Director, a Secretary, or another person appointed by the Board for that purpose.
- (b) The Foundation may execute a document without a common seal if the document is signed by one Director and either another Director, a Secretary, or another person appointed by the Board for that purpose.
- (c) The Board may determine the manner in which and the persons by whom cheques, promissory notes, bankers'

(d)

- (e) drafts, bills of exchange and other negotiable or transferable instruments in the name of or on behalf of the Foundation, and receipts for money paid to the Foundation, must be signed, drawn, accepted, endorsed or otherwise executed.

46. Committees and delegates

- (a) The Board may delegate any of its powers to a committee of the Board, a Director, an employee of the Foundation or any other person. A delegation of those powers may be made for any period and on any terms (including the power to further delegate) as the Board resolves. The Board may revoke or vary any power so delegated. Subject to the foregoing, any committee formed under this Article 46(a) shall have power to co-opt any Member or Members and all members of such committees shall have one vote.
- (b) A committee or delegate must exercise the powers delegated in accordance with any directions of the Board.
- (c) Subject to the terms of appointment or reference of a committee, Article 50 applies with the necessary changes to meetings and resolutions of a committee of the Board.

47. Advisory boards

- (a) The Board may appoint one or more advisory boards consisting of such member or members of the Board or any Member as the Board thinks fit. Such advisory boards shall act in an advisory capacity only.
- (b) An advisory board must conform to any regulations that may be imposed by the Board and, subject thereto, shall have power to co-opt any Member.
- (c) Subject to the terms of appointment or reference of an advisory board, Article 50 applies with the necessary changes to meetings and resolutions of an advisory board.

48. Attorney or agent

- (a) The Board may appoint any person to be attorney or agent of the Foundation for any purpose, for any period and on any terms (including as to remuneration) as the Board resolves. Subject to the terms of appointment of an attorney or agent of the Foundation, the Board may revoke or vary that appointment at any time, with or without cause.
- (b) The Board may delegate any of their powers (including the power to delegate) to an attorney or agent. The Board may revoke or vary any power delegated to an attorney or agent.

Proceedings of Directors

49. Written resolutions of Directors

- (a) The Board may pass a resolution without a Board meeting being held if notice in writing of the resolution is given to all Directors and a majority of the Directors entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of Directors) sign a document containing a statement that they are in favour of the resolution set out in the document.

- (b) A resolution pursuant to Article 49(a) may consist of several documents in the same form each signed by one or more Directors and is effective when signed by the last of the Directors constituting the majority of the Directors. A facsimile transmission or other document produced by electronic means under the name of a Director with the Director's authority is taken to be a document signed by the Director for the purposes of Article 49(a) and is taken to be signed when received by the Foundation in legible form.
- (c) For the purposes of Article 49(a), the reference to Directors includes any alternate director who is appointed by a Director who is at the relevant time on leave of absence approved by the Board but does not include any other alternate directors.

50. Board Meetings

- (a) Subject to this Constitution, the Board may meet, adjourn and otherwise regulate its meetings as it thinks fit.
- (b) A Director may call a Board meeting at any time. On request of any Director, a Secretary of the Foundation must call a meeting of the Directors.
- (c) Notice of a Board meeting must be given to each Director (except a Director on leave of absence approved by the Board) and an alternate director appointed by a Director on leave of absence approved by the Board. Notice of a Board meeting may be given in person, or by post or by telephone, email or other electronic means.
- (d) A Director or alternate director may waive notice of a Board meeting by giving notice to that effect to the Foundation in person or by post or by telephone, email or other electronic means.
- (e) A person who attends a Board meeting waives any objection that person and:
 - (i) if the person is a Director, any alternate director appointed by that person; or
 - (ii) if the person is an alternate director, the Director who appointed that person as alternate director,
 may have to a failure to give notice of the meeting.
- (f) Anything done (including the passing of a resolution) at a Board meeting is not invalid because either or both a person does not receive notice of the meeting or the Foundation accidentally does not give notice of the meeting to a person.
- (g) For the purposes of section 248D of the Corporations Act, each Director, by consenting to be a Director or by reason of the adoption of this Constitution, consents to the use of each of the following technologies for the holding of a Board meeting:
 - (i) telephone;
 - (ii) video;
 - (iii) any other technology which permits each Director to communicate with every other participating Director; or
 - (iv) any combination of these technologies.

A Director may withdraw the consent given pursuant to this Article 50(g) in accordance with section 248D of the Corporations Act.

- (h) If a Board meeting is held in 2 or more places linked together by any technology:
 - (i) a Director present at one of the places is taken to be present at the meeting unless and until the Director states to the chairperson of the meeting that the Director is discontinuing his or her participation in the meeting; and
 - (ii) the chairperson of that meeting may determine at which of those places the meeting will be taken to have been held.
- (i) Until otherwise determined by the Board, a quorum for a Board meeting is 3 Directors entitled to vote on a resolution that may be proposed at that meeting. A quorum for a Board meeting must be present at all times during the meeting. Each individual present is counted towards a quorum in respect of each appointment as an alternate director of another Director in addition (if applicable) to being counted as a Director.

51. Chairperson of the Board

- (a) Subject to Article 51(e), the Board may elect a Director as chairperson of the Board for any period that it resolves, or if no period is specified, until that person ceases to be a Director. The Board may remove the chairperson of the Board at any time.
- (b) Subject to Article 51(c), the chairperson of the Board must chair each Board meeting.
- (c) If at a Board meeting:
 - (i) a chairperson has not been elected pursuant to Article 51(a); or
 - (ii) the chairperson of the Board is not present within 10 minutes after the time appointed for the holding of a Board meeting or is not willing to chair all or part of that meeting,the Directors present must elect one of their number to, chair that meeting or part of the meeting.
- (d) A person does not cease to be a chairperson of the Board if that person retires as a Director at a meeting of Members and is re-elected as a Director at that meeting (or any adjournment of that meeting).
- (e) A managing director appointed in accordance with Article 41 is ineligible to be elected as chairperson of the Board.

52. Board resolutions

- (a) A resolution of the Board is passed if more votes are cast by Directors entitled to vote in favour of the resolution than against it.
- (b) Subject to Articles 39 and 40 and this Article 52, each Director present in person or by his or her alternate director has one vote on a matter arising at a Board meeting.
- (c) Subject to the Corporations Act, in case of an equality of votes on a resolution at a Board meeting, the chairperson of that meeting has a casting vote on that resolution in addition to any vote the chairperson has in his or her capacity as a Director in respect of that resolution, provided that the chairperson is entitled to vote on the resolution and more than two Directors are present and entitled to vote on the resolution.

53. Valid proceedings

- (a) An act at any Board meeting or a committee of the Board or an act of any person acting as a Director is not invalidated by:
 - (i) a defect in the appointment or continuance in office of a person as a Director, a member of the committee or of the person so acting; or
 - (ii) a person so appointed being disqualified or not being entitled to vote, if that circumstance was not known by the Board, committee or person (as the case may be) when the act was done.
- (b) If the number of Directors is below the minimum required by this Constitution, the Board must not act except in emergencies, to appoint Directors up to that minimum number or to call and arrange to hold a meeting of Members.

54. Minutes

- (a) In addition to any requirements of the Corporations Act, the Board shall cause minutes to be made in respect of:
 - (i) all appointments of officers and employees;
 - (ii) names of members of the Board present at all meetings of the Foundation and of the Board; and
 - (iii) all proceedings at all meetings of the Board.
- (b) Such minutes shall be signed by the chairperson of the meeting at which the proceedings were held or by the chairperson of the next succeeding meeting.

Notices

55. Notices to Members

- (a) The Foundation may give Notice to a Member by any of the following means in the Board's discretion:
 - (i) delivering it to that Member or person;
 - (ii) delivering it or sending it by post to the address of the Member in the Register or the alternative address (if any) nominated by that Member for that purpose;
 - (iii) sending it to the email address or other form of electronic transmission (if any) nominated by that Member or person for that purpose;
 - (iv) if permitted by section 249J(3A) of the Corporations Act, notifying that Member of the notice's availability by an electronic means nominated by the Member for that purpose; or
 - (v) any other means permitted by the Corporations Act.
- (b) The Foundation must send all documents to a Member whose address for Notices is not within Australia by air-mail, air courier, email or other form of electronic transmission.

- (c) Any Notice required or allowed to be given by the Foundation to one or more Members by advertisement is, unless otherwise stipulated, sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia.

56. Notice to Directors and auditors

The Foundation may give Notice to a Director, alternate director, or an auditor or auditors of the Foundation for the time being by:

- (a) delivering it to that person;
- (b) sending it by post to the usual residential address of that person or the alternative address (if any) nominated by that person for that purpose;
- (c) sending it to the email address or other form of electronic transmission (if any) nominated by that person for that purpose; or
- (d) any other means agreed between the Foundation and that person.

57. Notice to the Foundation

A person may give Notice to the Foundation by:

- (a) delivering it or sending it by post to the registered office of the Foundation;
- (b) delivering it or sending it by post to a place nominated by the Foundation for that purpose;
- (c) sending it to the email address or other form of electronic transmission (if any) nominated by the Foundation for that purpose; or
- (d) any other means permitted by the Corporations Act.

58. Time of service

- (a) A Notice sent by post or air-mail is taken to be given on the day after the date it is posted.
- (b) A Notice sent by email or other electronic transmission is taken to be given when the transmission is sent provided that in the case of notice to the Foundation or a Director or an alternate director, the sender meets any action required by the recipient to verify the receipt of the document by the recipient.
- (c) A Notice given in accordance with Article 55(a)(iv) is taken to be given on the day after the date on which the Member is notified that the Notice is available.
- (d) A certificate by a Director or Secretary to the effect that a Notice by the Foundation has been given in accordance with this Constitution is conclusive evidence of that fact.

59. Notice requirements

The Board may specify, generally or in a particular case, requirements in relation to Notices given by any electronic means, including requirements as to:

- (a) the classes of, and circumstances in which, Notices may be sent;

- (b) verification (whether by encryption code or otherwise); and
- (c) the circumstances in which, and the time when, the Notice is taken to be given.

Revocation of deductible gift recipient endorsement

60. Revocation of deductible gift recipient endorsement

- (a) If the endorsement of the Foundation as a deductible gift recipient under Division 30 of the Income Tax Assessment Act 1997 (Cth) is revoked by the Commissioner of Taxation, any DGR Assets available for distribution after satisfaction of all debts and liabilities shall be given or transferred to some other institution or institutions to which income tax deductible gifts can be made:
 - (i) which has objects similar to the objects of the Foundation; and
 - (ii) whose constitution prohibits the distribution of its income and property to no lesser extent than that imposed on the Foundation pursuant to Article 2.
- (b) For the purposes of Article 60(a), the Directors shall identify the institution or institutions at the time the endorsement of the Foundation as a deductible gift recipient is revoked.
- (c) If the Directors fail to identify the institution or institutions under clause 60(b), the Supreme Court of New South Wales shall make that determination.

Winding up

61. Winding up

On a winding up of the Foundation, any surplus assets of the Foundation remaining after the payment of its debts must not be paid to or distributed among the Members, but must be given or transferred to:

- (a) one or more bodies corporate, associations or institutions (whether or not a Member or Members) selected by the Members by resolution at or before the dissolution of the Foundation:
 - (i) having objects similar to the objects of the Foundation; and
 - (ii) whose constitution prohibits the distribution of its or their income or property to no lesser extent than that imposed on the Foundation pursuant to Article 2; or
- (b) if there are no bodies corporate, associations or institutions which meet the requirements of Article 61(a), to one or more bodies corporate, associations or institutions (whether or not a Member or Members) selected by the Members by resolution at or before dissolution of the Foundation, the objects of which are the promotion of charity and gifts which are allowable deductions pursuant to the Income Tax Assessment Act 1997 (Cth); or
- (c) if the Members do not make a selection pursuant to Article 61(a) or 61(b) for any reason, to one or more bodies corporate, associations or institutions meeting the requirements of either Article 61(a) or 61(b) selected by the Board, subject to Board obtaining court approval pursuant to the Corporations Act to exercise this power.

General

62. Definitions

In this Constitution:

Annual Subscription means the amount (if any) determined in accordance with Article 8.

Attending Member means, in relation to a meeting of Members, the Member present at the place of the meeting, in person or by proxy, or by attorney.

Board means the Directors of the Foundation from time to time.

Business Day means a day except a Saturday, Sunday or public holiday in the state or territory in which the Foundation is taken to be registered for the purposes of the Corporations Act.

College means the Australasian College of Dermatologists.

College Director means a Director appointed pursuant to Article 36(c).

Corporations Act means the Corporations Act 2001 (Commonwealth).

DGR Assets means income tax deductible gifts and contributions, being:

- (a) gifts of money or property for the principal purpose of the Foundation;
- (b) contributions described in item 7 or 8 of the table in section 30-15 of the Income Tax Assessment Act 1997 (Cth) made in relation to an eligible fundraising event held for the principal purpose of the Foundation; and
- (c) money received by the Foundation because of such gifts and contributions.

Director means a person who is, for the time being, a director of the Foundation including, where appropriate, an alternate director of the Foundation.

Entrance Fee means the amount determined in accordance with Article 7.

Fee means a fee or levy referred to in Article 13(a) or 15(b), and for the avoidance of doubt, the Entrance Fee and the Annual Subscription.

Foundation means Skin & Cancer Foundation Australia ABN 23 001 578 105.

Legal Costs of a person means legal costs calculated on a solicitor-and-client basis incurred by that person in defending or resisting any proceedings (whether criminal, civil, administrative or judicial), appearing before or responding to actions taken by any court, tribunal, government authority or agency, other body or commission, a liquidator, an administrator, a trustee in bankruptcy or other authorised official, where that proceeding, appearance or response relates to a Liability of that person.

Liability of a person means any liability including negligence (except a liability for legal costs) incurred by that person in or arising out of the discharge of duties as an officer of the Foundation or in or arising out of the conduct of the business of the Foundation, including as result of appointment or nomination by the Foundation or a subsidiary as a trustee or as a director, officer or employee of another body corporate.

Member means a person whose name is entered in the Register as a member of the Foundation.

Notice means a notice given pursuant to, or for the purposes of, this Constitution or the Corporations Act.

Personal Representative means the legal personal representative, executor or administrator of the estate of a deceased person.

Register means the register of Members kept pursuant to the Corporations Act and, where appropriate, includes any branch register.

Relevant Officer means a person who is, or has been, a Director or Secretary.

Secretary means a person appointed as, or to perform the duties of, secretary of the Foundation for the time being.

63. Interpretation

Headings are for convenience only and do not affect interpretation. Unless the context indicates a contrary intention, in this Constitution:

- (a) a word importing the singular includes the plural (and vice versa);
- (b) a word indicating a gender includes every other gender;
- (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) the word "includes" in any form is not a word of limitation;
- (e) a reference to something being "written" or "in writing" includes that thing being represented or reproduced in any mode in a visible form;
- (f) a notice or document required by this Constitution to be signed may be authenticated by any other manner permitted by the Corporations Act or any other law; and
- (g) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements.

64. Application of Corporations Act

- (a) Unless the context indicates a contrary intention, in this Constitution:
 - (i) a reference to the Corporations Act is to the Corporations Act in force in relation to the Foundation after taking into account any waiver, modification or exemption which is in force either generally or in relation to the Foundation; and
 - (ii) a word or phrase given a meaning in the Corporations Act has the same meaning in this Constitution where it relates to the same matters as the matters for which it is defined in the Corporations Act, unless that word or phrase is otherwise defined in this Constitution.
- (b) The replaceable rules in the Corporations Act do not apply to the Foundation.

65. Enforcement

- (a) Each Member submits to the non-exclusive jurisdiction of the courts of New South Wales, the Federal Court of Australia and the courts competent to determine appeals from those courts with respect to any proceedings that may be brought at any time relating to this Constitution.
- (b) If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect pursuant to the law of any jurisdiction, then that does not affect or impair:
 - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
 - (ii) the legality, validity or enforceability pursuant to the law of any other jurisdiction of that or any other provision of this Constitution.