Constitution of
Blue Knot Foundation
ACN 072 260 005

Corporations Act 2001

A public company limited by guarantee

Constitution of Blue Knot Foundation

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Corporations Act 2001

A public company limited by guarantee

Blue Knot Foundation Limited

ACN 072 260 005

(Company)

1 Definitions and interpretation

1.1 Definitions

(a) Unless the context otherwise requires and other than in the case of an expression defined in clause 1.1(b), an expression in a clause that is used in the Act has the same meaning as in the Act.

(b) In this Constitution:

Act means the *Corporations Act 2001* (Cth) and any regulations and instruments made under the Act together with any statutory modification, amendment or re-enactment in force and any reference to any section, part or division is to that section, part or division as so modified, amended or re-enacted.

ACNC means the Australian Charities and Not for Profits Commission.

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

Advisory Board means an advisory board established under clause 8.

ASIC means the Australian Securities and Investments Commission.

Auditor means a person appointed as an auditor of the Company under clause 12.1 who has not vacated their office.

Board means the Directors acting as a board of Directors.

Business Day means a day on which trading banks are open for business in Melbourne, Victoria, other than a Saturday or a Sunday.

Chair means the person elected under clause 7.5(a).

Commissioner means the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of the ITAA 1997.

Company means Blue Knot Foundation ACN 072 260 005.

Constitution means this constitution as amended from time to time and a reference to a clause is a reference to a clause of this constitution.

Director means a director of the Company from time to time.

Gift means a gift to the Company as described in item 1 of the table in section 30-15 of the ITAA 1997.

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

Managing Director means a person appointed as managing director of the Company under clause 5.7(a).

Member means a person entered in the Register of Members as a member of the Company under clause 4.7.

Registered Entity means a body corporate registered under the ACNC Act.

Registered Office means the registered office of the Company.

Register of Members means the register listing each person who is a Member which the Company maintains under the Act.

Representative means a person appointed to represent a corporate Member or a corporate proxy at a general meeting of the Company under clause 9.8 and the Act.

Secretary means a person appointed under clause 10 as a secretary of the Company.

Survivors means adult survivors of complex trauma (whether it occurred during childhood, adulthood, or both).

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

1.2 Interpretation

(a) In this Constitution unless the contrary intention appears:

(i) words importing any gender include all other genders;

(ii) person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;

(iii) the singular includes the plural and vice versa;

(iv) the meaning of general words is not limited by specific examples introduced by 'includes', 'including', 'for example', 'such as' or similar expressions;

(v) writing and written includes printing, typing and other modes of reproducing words in a visible form including, but not limited to, any representation of words in a physical document or in an electronic communication or form or otherwise;

(vi) a reference to a document or instrument, including this Constitution, includes all of its clauses, paragraphs, recitals, parts, schedules and annexures and includes the document or instrument as amended, novated, supplemented or replaced from time to time; and

(vii) a reference to an act includes every amendment, re-enactment or replacement of that act and any subordinate legislation made under that act, such as regulations, together with any statutory rectification , amendment or re-enactment in force, and a reference to any section, part or division is to that section, part or division as so defined, amended or re-enacted.

(b) Subject to clauses 1.2(c) and 1.2(d), this Constitution is subject to the Act and where there is any inconsistency between a clause of this Constitution and the Act, the Act prevails to the extent of the inconsistency.

(c) To the maximum extent permitted by the Act, the provisions of the Act that apply as replaceable rules do not apply to the Company.

(d) While the Company is a registered charity (as defined under and or for the purposes of the Tax Acts or the ACNC Act), if a clause of this constitution is inconsistent with the ACNC Act or would prevent the Company from complying with a provision of the ACNC Act, this Constitution will not apply to the extent of that inconsistency or to the extent it would prevent compliance with the ACNC Act.

2 Nature of the Company

2.1 Public company

The Company is a public company limited by guarantee.

2.2 Not for profit

The income and property of the Company must be used and applied solely in promotion of its objects and no portion will be distributed, paid or transferred directly or indirectly by way of dividend, bonus or by way of profit to Members.

The Company will comply with all laws relating to the regulation or operation of charities or not-for-profit entities including the ACNC Act and the Tax Act and any rulings or requirements of the Commissioner of

the ACNC or the Commissioner of Taxation, having application to the Company.

2.3 Limitation of the Company

The Company does not have the power to:

(a) issue shares of any kind; or

(b) apply, pay or transfer, whether directly or indirectly, any portion of the income and property of the Company for the benefit of, or to, a Member, other than payments in good faith as provided in clauses 5.8 and 15.

2.4 Guarantee of Members

The liability of members is limited. Each Member undertakes to contribute a maximum of $2.00 to the Company for payment of:

(a) the debts and liabilities of the Company;

(b) the costs, charges and expenses of any winding up; and

(c) the adjustment of the rights of Members among themselves,

in the event that the Company is wound up:

(d) while the Member is a Member; or

(e) within one year after the Member ceases to be a Member.

2.5 Objects of the Company

The objects of the Company are to:

(a) to empower recovery and build resilience for Australian adults who experience the impacts of complex trauma;

(b) to provide support, education and resources for the families and communities of adult Survivors of complex trauma;

(c) to develop and disseminate lived experience, best practice and research evidence around complex trauma;

(d) to build national workforce capacity around complex trauma treatment, trauma-informed practice and managing vicarious trauma;

(e) to drive innovation in complex trauma policy, practice and service delivery;

(f) to embed trauma-informed policy, practice and systems change within organisations and the community;

(g) to distribute regular communications to:

(i) disseminate current research and articles of interest to Survivors and those who support them personally and professionally;

(ii) inform Company members of forthcoming events, workshops, seminars and conferences; and

(iii) report previous Company meetings/events to members unable to attend;

(h) to deliver training programs, workshops, conferences and other services to a variety of personnel and practitioners for Survivors, supporters, professionals and other personnel;

(i) to provide a national network for Survivors of complex trauma throughout Australia;

(j) to run an interactive, comprehensive, state of the art website to help the Company achieve its objects; and

(k) to operate Telehealh service/s to help achieve the objects of the Company.

2.6 Guiding principles

In fulfilling its objects, the Company proposes:

(a) to be an effective national voice for Survivors of complex trauma;

(b) to seek the assistance of qualified and experienced trauma-

informed practitioners and services in support of Survivors;

(c) to promote and disseminate relevant research in relation to best practice in complex trauma and trauma-informed principles;

(d) to raise community awareness about the harmful long term effects of complex trauma;

(e) to educate the judiciary, media, diverse professionals, legislators, health and welfare personnel and the public about the complex needs of Survivors;

(f) to break the silence around issues of complex trauma, violence and abuse;

(g) to lobby governments to influence legislation and policy to prioritise adequate funding for services, programs and support for Survivors;

(h) to gather resources including international best practice, lived experience and research evidence, journals, articles and books to support recovery from complex trauma;

(i) to do all such things as the Company may decide to be in furtherance of the objects of supporting Survivors; and

(j) to do all such things as are necessary or conducive to the achievement of the above listed objects and purposes.

2.7 Company activities

For the purpose of carrying out the objects in clause 2.5 and to adhere to the guiding principles set out in clause 2.6, the Company proposes:

(a) to subscribe to, become a member of and co-operate with or amalgamate with any other association or organisation, whether incorporated or not, whose objects are similar to those of the Company except that the Company shall not subscribe to or support with its funds or amalgamate with any association or organisation 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 Company under clause 70 of this constitution;

(b) to buy, sell and deal in all kinds of apparatus, provisions, liquid and solid, required by the members of the Company or persons frequenting the Company's premises;

(c) to purchase, take on lease or in exchange, hire and otherwise acquire any lands, building, easement or property, real or personal, and any right or privileges required for the purposes of, or capable of being conveniently used in connection with, any of the objects of the Company except that if the Company shall take or hold any property which may be subject to any trusts the Company shall only deal with that property in such manner as is allowed by law having regard to such trusts;

(d) to enter into any arrangements with any government or authority, federal, State, regional, local or otherwise, that may seem conducive to the Company's objects or any of them, to obtain from any such government or authority any rights, privileges and concessions which the Company may think it desirable to obtain, and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;

(e) to appoint, employ, remove or suspend such personnel as staff members as may be necessary or convenient for the purposes of the Company;

(f) to establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences established to benefit employees or past employees of the Company or the dependants or connections of any such persons, and to grant pensions and allowances, and to make payments towards insurance, and to subscribe or guarantee money for charitable or benevolent objects, or for any public, general or useful object;

(g) to construct, impose, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or

conveniences for the purpose of directly or indirectly advancing the Company's interests, and to contribute, to subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control of them;

(h) to invest and deal with the money of the Company not immediately required in such manner as the Board thinks fit;

(i) to borrow or raise or secure the payment of money in such manner as the Board thinks 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 Company in any way and in particular by the issue of debentures, perpetual or otherwise, charged upon all or any of the Company's property (both present and future), and to purchase, redeem or pay off such securities;

(j) to make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;

(k) 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 Company;

(l) 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 Company's property, whether real or personal, sold by the Company or any money due to the Company from purchasers and others;

(m) to take any gift of property whether subject to any special trust or not for any one or more of the objects of the Company but subject always to the proviso in paragraph (d);

(n) to take such steps by personal or written appeals, public meetings, telecast, video broadcast, competitions or otherwise, as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Company in the shape of

donations, annual subscriptions or otherwise. Such fundraising activities must comply with the various legislative requirements governing those activities in the States in which they are carried out;

(o) to print and publish any communications, electronic or otherwise, including any newspapers, periodicals, books or leaflets that the Company may think desirable for the promotion of its objects;

(p) 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 Company is authorised to amalgamate;

(q) to transfer all or any part of the property, assets, liabilities and engagements of the Company to any one or more of the companies, institutions, societies or associations with which the Company is authorised to amalgamate; and

(r) to make donations for patriotic or charitable purposes.

2.8 Scope of powers

Subject to any restrictions set out in this Constitution, and provided that its capacities and powers are exercised directly or indirectly in the furtherance of its objects, the Company will have the legal capacity and powers set out in the Act.

3 Internal management of the Company

The internal management of the Company will be governed by this Constitution.

4 Members

4.1 Membership

(a) **Number of Members**

The number of members which the Company proposes to be registered is unlimited but shall not be less than five members at any time.

(b) **Types of Members**

The Company may admit as members natural persons, bodies corporate, partnerships, associations, joint ventures, industry bodies or groups, industry members or any other body (whether or not incorporated).

(c) **Classes of Members**

The Directors may:

(i) establish different classes of Members;

(ii) prescribe the qualifications, rights (including voting rights), privileges and obligations of persons to become a Member of a class;

(iii) change the membership class of a Member; or

(iv) vary or cancel the rights attaching to any class of Members only if the variation or cancellation is permitted by the Act and approved by special resolution of each of:

(A) the Members of all classes voting as a single class; and

(B) the Members of the relevant class.

The Directors must give written notice of the variation or cancellation to the Members of the relevant class within seven days of the variation or cancellation.

4.2 Application for Membership

An application for membership must be made in the form approved by the Board from time to time, provided that each such application must contain:

(a) an undertaking on the part of the applicant to be bound by the Constitution;

(b) the residential address, facsimile number and electronic mail address (if any) of the applicant;

(c) adequate particulars of the applicant's qualifications for membership (if necessary); and

(d) the signature (or where applicable, the seal) of the applicant, or such other form of authentication (electronic or otherwise) approved by the Board from time to time.

4.3 Lodging of applications

An application for membership accompanied by the applicable membership fee or subscription (where applicable) must be lodged with the Company at the place approved by the Board from time to time.

4.4 Determination of application by the Board

(a) The Board must determine whether or not to approve each application for Membership at the next Board meeting after receipt of the application.

(b) The Board may require an applicant to give such further information as it desires before approving or refusing the admission of an applicant for Membership.

(c) An applicant for membership is taken to be admitted as a Member upon the Board approving the application and the name, address, facsimile number and electronic mail address (if any) of the applicant being entered in the Register of Members.

(d) The Board may determine the class of membership appropriate

for each membership application (if applicable).

4.5 Notification of change in qualifications

If the Board has determined that there are qualifications required or necessary for a person to be a Member, that Member must promptly notify the Company of any change in the qualification of the Member to be a Member of the Company.

4.6 Application fee and annual membership fees

(a) The application fee and annual membership fee payable by members of the Company will be as prescribed by the Directors from time to time, and may be prescribed to be nil.

(b) The annual membership fee period (if any) will be calculated with regard to four quarterly renewal periods, with annual membership fees due and payable 12 months in advance from the applicable renewal period.

(c) All annual membership fees (if any) paid to the Company will be, unless directed by the Board otherwise, remitted to and retained by the Registered Office to be used to further the objects of the Company.

(d) The Directors may, if hardship or other sufficient cause is shown, reduce or remit any application fee or annual membership fees payable by a member.

4.7 Register of Members

(a) The Directors must cause the Company to keep a register of members in accordance with the Act, in which are entered:

(i) the name of each Member;

(ii) the residential address, facsimile number and electronic mail address (if any) for notices last notified by the Member;

(iii) the class of membership (if applicable);

(iv) the date of becoming a Member; and

(v) in the case of former Members, the date of ceasing to be a Member.

(b) Each Member must notify the Company in writing of the change in any detail kept in the Register of Members within one month after the change.

4.8 Rights and obligations

(a) Members that have been suspended in accordance with clause 4.10 are not eligible to participate in the activities of the Company.

(b) The rights of Members are not transferable and end when the Member ceases to be a Member.

4.9 Resignation of Members

A member may at any time, by giving notice in writing to the Registered Office, resign as a member of the Company. The resignation will be effective from the date of receipt of the notice. That member's name shall be removed from the register of members and no refund of membership dues will be provided unless by specific resolution of the Board.

4.10 Suspension and termination of membership

(a) The Board may by resolution passed with a majority of votes in favour suspend or terminate the membership of a Member.

(b) If any member:

(i) is in breach of the provisions of this constitution; or

(ii) is guilty of any act or omission which, in the opinion of a meeting of the Directors, is unbecoming of a member or prejudicial to the interests of the Company,

the Board may expel the member from the Company and remove the member's name from the register of members.

(c) The Board will not expel a member under paragraphs (a) and (b)

unless at least 7 days' notice in writing 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 Directors, and the nature of the alleged misconduct.

(d) If a meeting of the Board resolves to expel a member, the secretary will immediately give notice in writing to the member. The member then has the right, exercisable by notifying the secretary within seven days after receipt of the notice (**Notice Period**), to have the issue reviewed by a meeting of the Directors on appeal. If a resolution to expel the member is again passed at a meeting of the Directors by a majority of two-thirds of those present and voting, the member will cease to be a member and that person's name will be removed from the register of members.

(e) If the member does not notify the secretary on or before the expiration of the Notice Period, the member will cease to be a member on the expiration of the Notice Period and that person's name shall be removed from the register of members.

(f) The requirements of natural justice do not apply, except to the extent that the Board otherwise resolves.

(g) There is no requirement for the Company to refund any unused portion of membership fees in the case of expulsion.

(h) If any part of the annual membership fee of a member remains unpaid for a period of 30 days after the final payment date for that fee, the Registered Office staff member responsible for memberships may, acting on behalf of the Company and without further reference to the member, expel the member from membership of the Company and remove the member's name from the register of members.

4.11 Cessation

(a) A Member ceases to be a Member if:

(i) the Member resigns under clause 4.9;

(ii) the Member, being a natural person, dies, becomes bankrupt, makes a composition with or assigns the member's estate for the benefit of the member's creditors;

(iii) the Member, being a corporation, becomes insolvent, has a receiver, receiver and manager, administrator or liquidator appointed, or is wound up (except for the purposes of reconstruction or amalgamation);

(iv) the Member ceases to satisfy, where applicable, the criteria for admission to membership of the Company;

(v) the Members membership was for a term or period of time and that term of period expires without being renewed or extended; or

(vi) their membership is terminated under clause 4.10.

(b) If a Member ceases to a Member, the Directors must cause the Company without delay to make the necessary entry in the Register.

(c) If a Member ceases to be a Member, that Member remains liable to pay to the Company any money which that Member owes to the Company and any amount which that Member has guaranteed under clause 2.4.

5 Directors

5.1 Preliminary

(a) **Number of Directors**

(i) The Company must have not less than three and not more than 11 Directors.

(ii) At least two Directors must reside in Australia.

(b) **Eligibility for appointment as Director**

(i) To be eligible to be elected or appointed as a Director a person must:

(A) be an individual;

(B) be at least 18 years old;

(C) be a current member of the Company;

(D) provide particular expertise and experience relevant to the operation of the Board and the Company which the Board determines (in its sole discretion) to be necessary or desirable at the time a vacancy arises;

(E) be a person of good fame and character, including no criminal convictions in any country;

(F) not be otherwise ineligible or disqualified from holding office under this Constitution, the Act, the ACNC Act or by any law.

(c) **Non-eligibility of Auditor**

Any current or former Auditor of the Company, or partner or employee or employer of that Auditor, is ineligible to be elected or appointed as a Director.

(d) **Other offices held by Directors**

A Director may hold any other office or position of profit in the Company (other than as Auditor) together with the directorship on the conditions, including additional remuneration, as the Board determine by resolution.

(e) **Period of appointment of Directors**

(i) The standard term of a Director is three years (**Standard Term**).

(ii) Subject to clause **Error! Reference source not found.**, a person may be appointed as a Director for more than one Standard Term but no more than a maximum of nine years in total.

(iii) The maximum continuous term of a Director is two Standard Terms, beginning on the date of appointment and terminating immediately on the start of the first annual general meeting that occurs six years after the date of appointment.

(iv) If a person has held office as Director for the maximum continuous term, then that person may only be reappointed as a Director for a third consecutive Standard Term with the unanimous consent of the Board.

5.2 Company may appoint a Director

Subject to section 201E of the Act, the Company may elect a person as a Director by resolution passed in general meeting.

5.3 Directors may appoint a Director

Provided the total number of Directors does not exceed the maximum number for the time being fixed by or under this Constitution, a person can be appointed as a Director (including appointment as a Director to fill a casual vacancy) by resolution of the Board, provided that the Company confirms such appointment by resolution passed at the Company's next annual general meeting. If the appointment is not confirmed, the person ceases to be a Director at the end of the annual general meeting.

5.4 Election of Directors

Except where a Director has been appointed by the Board under clause 5.3 and stands for election, and subject to the Act, a person is only eligible for election as a Director by resolution of the Members in general meeting if, at least five Business Days before the notice of meeting calling that general meeting is sent to Members, the Company receives both:

(a) a nomination of the person by a Member or a Director; and

(b) a consent to that nomination signed by the person nominated for election as a Director.

5.5 Rotation of Directors

(a) A meeting of the Directors may from time to time determine a policy for the rotation of Directors, including, where appropriate, when Directors in general or particular Directors will stand down.

(b) A policy for the rotation of Directors is binding on all Directors, except to the extent varied by a meeting of the Directors or to the extent unenforceable with regard to a provision of the Corporations Act or the ACNC Act (as applicable).

5.6 Resignation, cessation and termination of a Director

(a) **Vacation of office**

(i) A Director vacates office if the Director:

(A) resigns their office by written notice to the Company under clause 5.6(b);

(B) is removed from the office of Director by a resolution of the Members under clause 5.6(c);

(C) ceases to be a Member;

(D) was elected or appointed for a term and that term expires without the Director having been re-elected or re-appointed;

(E) fails to attend Board meetings for a continuous period of six months without leave of absence from the Board;

(F) is an executive Director under an employment or services agreement with the Company and that agreement terminates, unless the Board determines otherwise;

(G) ceases to be a Director or becomes prohibited from being a Director under the Act;

(H) become ineligible to be a Director under the ACNC Act while the Company is a Registered Entity; or

(I) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health.

(ii) A Director whose office is vacated under clause 5.6(a)(i)(G) is not eligible for re-election until the relevant prohibition no longer applies.

(iii) If a casual vacancy occurs on the Board, the Board may appoint another member to fill the vacancy until a Director is appointed by the Board at the next annual general meeting.

(b) **Director may resign**

(i) A Director may resign as a Director of the Company by written notice to the Company.

(ii) If the resignation of a Director under clause 5.6(b)(i) will cause the number of Directors to fall below the minimum number required by this Constitution or by the Act, the Director must not resign or otherwise vacate their office voluntarily until another Director has been appointed.

(c) **Removal of a Director by Members**

(i) The Company may, by resolution of the Members entitled to vote thereon in general meeting:

(A) remove a Director from office; and

(B) appoint another person as a Director in that Director's place.

(ii) If a Director was appointed to represent the interests of particular Members, their removal under clause 5.6(c)(i) has no effect until a replacement to represent the interests of those Members has been appointed.

(iii) If the removal of a Director under clause 5.6(c)(i) will cause the number of Directors to fall below the minimum required by this Constitution or the Act, the removal has no effect until a replacement has been appointed.

(iv) Notice of intention to move the resolution referred to in clause 5.6(c)(i) must be given to the Company at least two months before the meeting is to be held except if a general meeting is called after the notice of intention is given under this clause.

(v) The Company must give the Director a copy of the notice as soon as practicable after it is received.

(vi) The Director is entitled to put their case to Members by:

(A) giving the Company a written statement for circulation to Members; and

(B) speaking to the motion at the general meeting (whether or not the Director is a Member of the Company).

(vii) The written statement in clause 5.6(c)(vi) is to be circulated by the Company to Members by:

(A) sending a copy to everyone to whom notice of the general meeting is sent if there is time to do so; or

(B) if there is not time to comply with clause 5.6(c)(vii)(A), having the statement distributed to Members attending the general meeting and read out at the meeting before the resolution is voted on.

(viii) The Director's statement does not have to be circulated to Members if it is more than 1,000 words long or defamatory.

(ix) If a person is appointed to replace a Director removed under this clause 5.6(c) and the Director who was removed was appointed or elected for a particular term, the time at which the replacement Director or any other Director is to retire is to be worked out as if the replacement Director had become Director on the day on which the replaced Director was last appointed a Director.

5.7 Executive Directors

(a) **Appointment of Managing Director and other executive Directors**

The Directors:

(i) may appoint one or more of themselves to the office of Managing Director or to any other executive office for a period and on the terms (including as to remuneration in respect of that executive office) as the Board see fit;

(ii) may confer on a Managing Director or other executive Director any of the powers that the Board may exercise; and

(iii) subject to the terms of appointment, may revoke or vary:

(A) the appointment of the Managing Director or other executive Director; or

(B) any of the powers conferred on the Managing Director or other executive Director.

(b) **Consequence of cessation as Director or executive Director**

(i) A person ceases to be Managing Director or other executive Director if they cease to be a Director.

(ii) A person ceases to be a Director if they cease to be the Managing Director or other executive Director unless the Board determines otherwise.

5.8 Remuneration of Directors

(a) **Directors fees**

Subject to chapter 2E of the Act and any applicable Law, the Directors may be paid such remuneration for serving as Directors as is determined by the resolution of the Members in general meeting.

(b) **Reimbursement of expenses incurred by Director**

Subject to clause 5.8(a), a Director is entitled to reimbursement of the travelling and other expenses that the Director properly incurs:

(i) in attending Board meetings or any meetings of a committee of Directors;

(ii) in attending any general meetings of the Company; or

(iii) in connection with the Company's business.

5.9 Conflicts of interest

(a) **Prohibition on being present or voting**

(i) Except where permitted by the Act (or where it would be permitted by the Act if the Company were not a Registered Entity), a Director who has a material personal interest in a matter that is being considered at a Board meeting:

(A) must not vote on the matter; and

(B) must not be present while the matter is being considered at the meeting.

except in the following circumstances:

(ii) the Directors who do not have a material personal interest in the matter have passed a resolution that:

(A) identifies the Director, the nature and extent of the Director's interest in the matter and in relation to the affairs of the Company; and

(B) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present; or

(iv) the material personal interest is a matter that is not required to be disclosed under the Act.

(b) **Directors' interests**

Subject to this Constitution and the Act and the ACNC Act (as applicable):

(i) a Director or a body or entity in which a Director has a direct or indirect interest may:

(A) enter into any agreement or arrangement with the Company;

(B) hold any office or place of profit (other than Auditor) in the Company; and

(C) act in a professional capacity (other than as Auditor) for the Company,

and the Director or the body or entity may receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company;

(ii) the fact that a Director holds office as a director and has fiduciary obligations arising out of that office:

(A) does not void or render voidable a contract made by the Director with the Company;

(B) does not void or render voidable a contract or arrangement entered into by or on behalf of the

Company and in which the Director may have an interest; and

(C) does not require the Director to account to the Company for any profit realised by or under any contract or arrangement entered into by or on behalf of the Company and in which the Director may have an interest;

(iii) a Director may be or become a director or other officer of, or otherwise be interested in:

(A) any related body corporate of the Company; or

(B) any other body corporate promoted by the Company or in which the Company may be interested as a shareholder or otherwise,

and is not accountable to the Company for any remuneration or other benefits received by the Director from having an interest in that body corporate; and

(iv) any Director:

(A) may exercise the voting power conferred by the interest held by the Company in another company in favour of a resolution appointing themselves or any Director as a director or other officer of the other company;

(B) may vote at a Board meeting in favour of a resolution that the Company exercises its voting power conferred by the interest held by the Company in the other company to appoint that Director as a director or other officer of the other company;

(C) may be appointed as Representative of the Company and may vote at a general meeting of the other company in favour of a resolution appointing that Director as a director or other officer of the other

company; and

(D) if also a director of the other company, may vote as a director of the other company in whatever manner he or she sees fit, including voting in favour of a resolution appointing the Director to any other office in the other company and a resolution appointing any other Directors as directors or other officers of the other company.

(c) **Material personal interest - Director's duty to disclose**

(i) If a Director has a material personal interest in a matter that relates to the affairs of the Company, the Director must give the other Directors notice of the interest unless an exception in the Act applies.

(ii) A notice required by clause 5.9(c)(i) must:

(A) include details of:

(I) the nature and extent of the interest; and

(II) the relation of the interest to the affairs of the Company; and

(B) be given at a Board meeting as soon as practicable after the Director becomes aware of their interest in the matter.

(d) **Director may give standing notice about a material personal interest**

(i) A Director required to give notice under clause 5.9(c) may give standing notice of the nature and extent of the interest in the matter in accordance with the Act and this Constitution.

(ii) The notice may be given at any time and whether or not the matter relates to the affairs of the Company at the time the notice is given.

(iii) A notice under clause 5.9(d)(i) must be given:

(A) at a Board meeting either orally or in writing; or

(B) to the other Directors individually in writing.

(iv) If the standing notice is given to the other Directors individually in writing:

(A) the notice is effective when it has been given to every Director; and

(B) the notice must be tabled at the next Board meeting after it is given.

(v) The Director must ensure that the nature and extent of the interest is recorded in the minutes of the meeting at which the standing notice is given or tabled.

5.10 Validity of acts

(a) All actions at any meeting of the Board or by any person acting as a Director are, despite the fact that it is afterwards discovered that there was some defect in the appointment of any of the Directors or the person acting as a Director or that any of them were disqualified, as valid as if every person had been duly appointed and was qualified and continued to be a Director.

(b) If the number of Directors is reduced below the minimum number fixed under this Constitution, the continuing Directors may act for the purpose of appointing additional Directors or calling a general meeting of the Company but for no other purpose.

6 Management of business by the Board

6.1 Powers of Directors

(a) The business of the Company is to be managed by or under the direction of the Board.

(b) The Directors may exercise all of the powers of the Company

except any powers that any provision of the Act or this Constitution require the Company to exercise in general meeting.

(c) Without limiting the generality of clause 6.1(b), the Directors may exercise all the powers of the Company to borrow money, to charge any property or business of the Company and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

6.2 Directors must keep transactions confidential

Every Director and other agent or officer of the Company must:

(a) keep confidential all aspects of all transactions of the Company, except:

(i) to the extent necessary to enable the person to perform his or her duties to the Company;

(ii) as required by law; or

(iii) when requested by the Directors to disclose information to the Auditor or a general meeting; and

(b) if requested by the Directors, sign and make a declaration that he or she will not disclose or publish any aspect of any transaction of the Company.

6.3 Appointment of attorney for Company

(a) The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.

(b) Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions

vested in them.

6.4 Delegation by the Board

(a) Subject to the Act, the Board may delegate any of its powers to:

(i) a committee established by Directors;

(ii) a Director;

(iii) an employee of the Company; or

(iv) any other person.

(b) The delegate must exercise the powers delegated to it under any directions of the Board.

(c) The effect of the delegate exercising a power is the same as if the Board exercised it.

(d) The Board may at any time revoke or vary any delegation to a person or committee.

6.5 Seals and execution of documents

(a) The Directors must provide for the safe custody of any seal of the Company.

(b) If the Company has a common seal or duplicate common seal:

(i) it must be used only by the authority of the Board, or of a committee of the Directors authorised by the Board to authorise its use; and

(ii) every document to which it is affixed must be signed by a Director and countersigned by another Director, a Secretary or another person appointed by the Board to countersign that document or a class of documents in which that document is included.

(c) The Company may execute a document without using a common seal and the document will be taken to be duly executed by the

Company if it is signed by a Director and countersigned by another Director, a Secretary or another person appointed by the Board to countersign that document or a class of documents in which that document is included.

6.6 Negotiable instruments

(a) Any two Directors may sign, draw, accept, endorse or otherwise execute a negotiable instrument.

(b) The Directors may determine that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

7 Board meetings

7.1 Directors' resolution without a meeting

(a) Subject to the requirements for a quorum being met in accordance with clause 7.7, the Directors may pass a resolution without a Board meeting being held if a majority of the Directors entitled to vote on the resolution have provided their consent in writing to the resolution in accordance with this clause 7.1. The resolution is not invalidated if, in addition to the majority of Directors entitled to vote on the resolution, it is also consented to by a Director who is not entitled to vote.

(b) A Director may consent to a resolution by providing the Company with a document (including by fax or electronic means):

(i) setting out the terms of the resolution;

(ii) containing a statement to the effect that the Director is in favour of the resolution; and

(iii) signed by the Director.

(c) Alternatively, the Director may consent to a resolution by giving the Company a written notice (including by fax or electronic means):

(i) that includes the Director's assent to the particular resolution;

(ii) that sets out the terms, or identifies, the particular resolution; and

(iii) where the Director has notified the Company in writing of a specified means by which their consent must be authenticated, that enables the Director's consent to be authenticated by those specified means.

(d) Separate copies of a document referred to under clause 7.1(b) may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.

(e) The resolution is passed when the last Director forming part of the majority required to pass the resolution consents to the resolution in accordance with this clause 7.1.

7.2 Calling Board meetings

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

7.3 Notice of meeting

Notice of every Board meeting must be given to each Director, but failure to give or receive that notice will not invalidate anything done or any resolution passed at the meeting provided the failure occurred by accident or inadvertent error, or the Director who failed to receive notice attended the meeting or waived notice of the meeting either before or after the meeting.

7.4 Conduct of Board meetings

(a) A Board meeting may be called and held:

(i) in person;

(ii) by telephone;

(iii) by audio visual linkup; or

(iv) using video, telephone or any other technology which permits each Director to communicate with every other Director.

(b) Any consent under clause 7.4(a)(iv) may be a standing consent.

(c) If a Director gives their consent under clause 7.4(a)(iv) they may only withdraw their consent within a reasonable period before the meeting commences.

(d) A Director is regarded as present at a meeting where the meeting is conducted by telephone, audio visual linkup or other technology if the Director is able to hear, and to be heard by, all others attending the meeting.

(e) A meeting conducted by telephone, audio visual linkup or other technology will be deemed to be held at the place agreed on by the Directors attending that meeting provided at least one of the Directors present at the meeting was at that place for the duration of the meeting.

(f) Subject to the Act, and provided a majority of the Directors agree, a Board meeting may be held outside Australia.

(g) An original document, or a photocopy, facsimile or electronic copy of that document, which is in the possession of, or has been seen by, all Directors attending the Directors' meeting before, or at the time of, that meeting, is deemed to be a document tabled at that meeting.

(h) Subject to this clause 7, the Directors may adjourn and otherwise regulate Board meetings as they think fit.

7.5 Chairing Board meetings

(a) The Directors may elect a Director to the office of Chair of the Board.

(b) Subject to the restrictions in clause 5.1(e), the Directors may determine the period for which the Chair is to hold office. The maximum continuous term for chair is six years.

(c) The Directors present at a Board meeting may elect one of the Directors present to chair that meeting, or part of it, if:

(i) no Chair has been elected; or

(ii) the chair is not present within ten minutes after the time appointed for the holding of the meeting or declines to act.

7.6 Voting by Chair at Board meetings

In case of an equality of votes on a resolution at a Board meeting, the Chair will have a second or casting vote on that resolution in addition to any vote the Chair has in his or her capacity as a Director in respect of that resolution.

7.7 Quorum at Board meetings

(a) Unless the Directors determine otherwise, the number of Directors whose presence is necessary to constitute a quorum of a meeting of the Directors is four and the quorum must exist at all times during the meeting.

(b) A validly constituted meeting of the Directors may, from time to time, change the number of Directors necessary to constitute a quorum of a meeting of the Directors.

(c) If a Director is in any way, directly or indirectly, interested in any matter arising for decision at a meeting of Directors, then that Director must not be present when the matter is being considered at a meeting, or vote on the matter. In those circumstances, the Director must not be counted as part of determining a quorum.

(d) If, and so long as, a quorum does not exist for the consideration of a particular matter at a Board meeting because one or more of the Directors is prohibited from voting under clause 5.9(a), the Directors, including the Director or Directors prohibited, are entitled to vote on a resolution to call, and put the matter before, a general meeting.

7.8 Meeting competent to exercise all powers

A Directors' meeting at which a quorum is present will be competent to exercise all or any of the powers and discretions vested in or exercisable by the Directors generally.

7.9 Passing of Directors' resolutions

A resolution of the Directors will be passed if a majority of votes cast by Directors entitled to vote on the resolution are in favour of the resolution.

7.10 Resolution passed deemed to be a determination of the Board

Any resolution properly passed at a duly called Directors' meeting at which a quorum is present will be deemed to be a determination by all the Directors or the Board for the purposes of this Constitution.

7.11 Committee powers and meetings

(a) Any committee of Directors may exercise the powers delegated to it under any directions that may from time to time be imposed on it by the Board.

(b) The meetings and proceedings of any committee consisting of two or more Directors will be governed by this Constitution regulating the meetings and proceedings of the Directors so far as they are applicable except to the extent they are superseded by any direction made by the Board under this clause.

7.12 Validity of acts of Directors

If it is discovered that:

(a) there was a defect in the appointment of a person as a Director or member of the Board or committee of Directors; or

(b) a person appointed to one of those positions or acting as a Director was disqualified or had vacated office or was otherwise not entitled to vote or act,

all acts of the Director, the Board or the committee of Directors (as the case may be) before the discovery was made are as valid as if the

person had been duly appointed and was not disqualified and was entitled to vote or act.

8 Advisory Board

8.1 Establishment of an Advisory Board

The Board may, if it decides it is desirable to do so, establish an Advisory Board and establish rules for the operation of such Advisory Board.

8.2 Role of the Advisory Board

(a) The Advisory Board will consist of a group of independent, experienced and qualified individuals who will advise the Board on and assist the Board with such matters relevant to the Company and its objects as are referred by the Board from time to time.

(b) Members of the Advisory Board will not have a right to vote at Board meetings.

8.3 Appointment, removal and resignation of Advisory Board members

(a) The members of the Advisory Board will be appointed and removed by the Board by resolution in its absolute discretion.

(b) The Board may appoint a member of the Advisory Board to act as the Chairperson of the Advisory Board.

(c) Members of the Advisory Board can resign their position by written notice to the Company.

9 General meetings

9.1 Annual general meeting

(a) **Company must hold annual general meeting**

The Company must hold a general meeting, to be called the annual general meeting, once a year and under the Act, subject to any extension of time granted under the Act.

(b) **Business of the annual general meeting**

(i) Whether or not stated in the notice of the annual general meeting, the business of the annual general meeting may include:

(A) receiving and considering the income statement balance sheet, reports of the Directors, reports of the Auditors and the statement of the Directors; and

(B) electing Directors.

(ii) The business of the annual general meeting may also include any other business which under this Constitution or the Act ought to be transacted at an annual general meeting.

(c) **Members' opportunity to ask questions**

(i) The Chair of the annual general meeting must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on:

(A) the management of the Company; or

(B) the remuneration report (if any).

(ii) If the Auditor is at the meeting, the Chair of the annual general meeting must allow a reasonable opportunity for the Members as a whole at the Meeting to ask the Auditor questions relevant to the conduct of the audit and the preparation and content of the Auditor's report.

9.2 Right to call and attend general meetings

(a) **Calling a general meeting**

(i) A Director or the Directors may, by written notice, call a general meeting at a time and place as the Director or the Directors resolve.

(ii) Members may requisition the holding of a general meeting only under the Act and the Directors must call a general meeting as soon as practicable after receiving that requisition.

(iii) Members may call and arrange to hold a general meeting only under the Act.

(iv) Any Director may cancel by notice in writing to all members any meeting convened by the Director, except that a meeting convened on the requisition of a member or members shall not be cancelled without their consent.

(b) **Right to attend general meetings**

(i) Each Member (other than a Member of a class that does not have voting rights) and any Auditor is entitled to attend a general meeting.

(ii) Each Director is entitled to attend and speak at a general meeting.

(iii) The Auditor is entitled to speak on any part of the business of the general meeting that concerns the Auditor in their capacity as Auditor.

(iv) A Member's proxy or a Representative may attend a general meeting only as provided by this Constitution and the Act.

9.3 Notice of general meetings

(a) **Amount of notice of general meetings**

(i) Subject to the Act, at least 21 days' notice must be given of a general meeting.

(ii) A notice of meeting sent by post is taken to be given 3 days after it is posted. A notice of meeting sent by fax, or other electronic means, is taken to be given on the business day after it is sent.

(b) **Calculation of period of notice**

In computing the period of notice under clause 9.3(a), the day on which the notice is given or taken to be given is to be disregarded but the day of the general meeting called by it is to be counted.

(c) **Right to notice of general meeting**

Written notice of the general meeting must be given under clause 14 and must be given to any person entitled to receive notice under the Act including:

(i) each Member entitled to vote at the meeting;

(ii) each Director; and

(iii) the Auditor (if any) of the Company.

(d) **Content of notice**

A notice calling a general meeting must comply with the Act and must:

(i) set out the place, date and time for the general meeting (and if the general meeting is to be held in two or more places, the technology that will be used to facilitate the general meeting);

(ii) state the general nature of the business to be considered at the general meeting;

(iii) if a special resolution is to be proposed at the general meeting, set out an intention to propose a special resolution and state the resolution;

(iv) if a Member is entitled to appoint a proxy, contain a statement setting out the following information:

(A) that the Member has a right to appoint a proxy and that the proxy does not need to be a Member of the Company; and

(B) that a Member who is entitled to cast two or more votes may appoint two proxies and may specify the proportional number of votes each proxy is appointed to exercise;

(v) be accompanied by an instrument of proxy in any form as the Directors may from time to time prescribe or accept; and

(vi) contain information that is worded and presented in a clear, concise and effective manner.

9.4 Cancellation or postponement of a general meeting

(a) **Directors may cancel or postpone a general meeting**

(i) The Board may cancel or postpone a general meeting by giving notice not less than three Business Days before the time at which the meeting was to be held to each person entitled to be given notice of a general meeting.

(ii) Clause 9.4(a)(i) does not apply to general meetings called by court order or under the Act:

(A) by the Directors on the request of Members, unless the Members who requested the meeting consent to the postponement or cancellation; or

(B) by Members, unless the Members who called the meeting consent to the postponement or cancellation.

(b) **Contents of notice postponing or cancelling a general meeting**

A notice of postponement or cancellation of a general meeting must specify:

(i) the reasons for the postponement or cancellation; and

(ii) if the general meeting is postponed:

(A) the postponed date and time for the holding of the

general meeting;

(B) a place for the holding of the general meeting which may be either the same as or different from the place specified in the notice calling the general meeting; and

(C) if the general meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the general meeting in that manner.

(c) **Number of clear days for postponement of general meeting**

The number of clear days from the giving of a notice postponing the holding of a general meeting to the date specified in that notice for the holding of the postponed general meeting must not be less than the number of clear days' notice of the general meeting required to be given by this Constitution or the Act.

(d) **Business at postponed general meeting**

Subject to clause 9.1(b), the only business that may be transacted at a general meeting the holding of which is postponed is the business specified in the original notice calling the general meeting.

(e) **Proxy or Representative at postponed general meeting**

Where:

(i) an instrument of proxy or power of appointment authorises a proxy or Representative to attend and vote at a general meeting to be held on a specified date or at a general meeting or general meetings to be held on or before a specified date; and

(ii) the date for holding the general meeting is postponed to a date later than the date specified in the instrument of proxy or appointment of Representative,

then that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy or appointment of Representative unless the Member appointing the proxy or Representative gives notice to the Company to the contrary not less than 48 hours before the time to which the holding of the general meeting has been postponed.

(f) **Validity of resolutions**

The non-receipt of notice of a general meeting or cancellation or postponement of a general meeting by, or the accidental omission to give notice of a general meeting or cancellation or postponement of a general meeting to, a person entitled to receive notice does not invalidate any resolution passed at the general meeting or at a postponed meeting or the cancellation or postponement of a meeting.

9.5 Conducting general meetings

(a) **Time and place for general meetings**

A general meeting must be held at a reasonable time and place.

(b) **Technology**

A general meeting may be held at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

(c) **Quorum for a general meeting**

The quorum for a general meeting or an adjourned general meeting is five Members and the quorum must be present at all times during the meeting, unless the Company only has one Member in which case that Member constitutes a quorum.

(d) **Determination of quorum at general meeting**

In determining whether a quorum is present at a general meeting:

(i) Representatives and persons attending as proxies (in the case of an individual attending as proxy, that individual and in the case of a body corporate attending as proxy, that body corporate's Representative) are to be counted;

(ii) if a Member has appointed more than one proxy or Representative, only one of them is to be counted;

(iii) if an individual is attending both as a Member and as a proxy or Representative, they are to be counted only once; and

(iv) if an individual is attending as a proxy or Representative for more than one Member, they are to be counted only once.

(e) **Absence of quorum at a general meeting**

(i) If within 30 minutes after the time for the general meeting set out in the notice of general meeting a quorum is not present, the general meeting:

(A) if called under the Act by a Director at the request of Members or by Members, is dissolved; and

(B) in any other case, is to be adjourned to a date, time and place as specified by the Directors.

(ii) If the Directors do not specify one or more of the requirements in clause 9.5(e)(i)(B), the general meeting is adjourned to:

(A) if the date is not specified, the same day of the following week;

(B) if the time is not specified, the same time; and

(C) if the place is not specified, the same place.

(f) **Adjourned meeting (quorum)**

If no quorum is present at the general meeting adjourned under clause 9.5(e) within 30 minutes after the time for the general

meeting, the Directors may, in their absolute discretion, declare the meeting dissolved or deem that those Members present in person form a quorum and may transact the business for which the meeting was called.

(g) **Appointment and powers of Chair of general meeting**

(i) If the Directors have elected one of their number as chair of their meetings, that Director shall preside as chair at every general meeting.

(ii) Where a general meeting is held and:

(A) a chair has not been elected as provided by paragraph (a); or

(B) the chair is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act,

the members present shall elect one of their number to be chair of the meeting.

(h) **Absence of Chair at general meeting**

(i) If there is no Chair, or if the Chair is unable or unwilling to chair a general meeting, the Directors may at any time prior to the commencement of that general meeting elect a Director to take the chair at that general meeting.

(ii) If a general meeting is held and the Chair, or the person elected under clause 9.5(h)(i), is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act, the following may take the chair of the meeting (in order of precedence):

(A) the deputy chair (if any);

(B) a Director chosen by a majority of the Directors present;

(C) the only Director present;

(D) a person (whether a Member or not) chosen by a majority of the Directors present; or

(E) a Member chosen by a majority of the Members present in person or by proxy or Representative who are entitled to vote at the meeting.

(iii) If an acting chair becomes unwilling or unable to act during the general meeting, the abovementioned persons may take the chair, in the same order of precedence, until the time (if any) as the previous acting chair becomes willing and able to take the chair at that meeting.

(iv) Any person taking the chair of the general meeting under this clause will have all the powers and responsibilities of the Chair in respect of the general meeting as are set out in this Constitution.

(i) **Powers of the Chair and conduct of general meetings**

(i) The Chair is granted the power and is responsible for the general conduct of general meetings and for the procedures to be adopted at general meetings.

(ii) Any decision of the Chair is final.

(iii) The Chair may delegate any power conferred by this clause to any person.

9.6 Adjournment of general meetings

(a) **Adjournment of general meeting by Chair**

(i) The Chair may, during the general meeting, adjourn the meeting or any business, motion, resolution or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and any place.

(ii) The Chair must adjourn a general meeting if the Members present in person or by proxy or Representative with a majority of votes at the meeting agree or direct that the Chair must do so.

(iii) If any general meeting is adjourned for 30 days or more, a notice of the adjournment must be given to the Members in the same manner as notice was or ought to have been given of the original meeting.

(b) **Resumption of adjourned general meeting**

(i) Only unfinished business is to be transacted at a meeting resumed after an adjournment under clause 9.6(a).

(ii) A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.

(iii) The resumed meeting may only be adjourned by the Chair.

9.7 Resolutions, voting and polls at general meetings

(a) **Members' resolutions**

The Members may propose a resolution to be moved at a general meeting only in accordance with Division 4 of Part 2G.2 of the Act.

(b) **Resolution determined by majority**

At a general meeting, all resolutions submitted to the meeting will be decided by a simple majority of votes except where a greater majority is required by this Constitution or the Act.

(c) **Voting by Chair at general meetings**

In case of an equality of votes on a resolution at a general meeting the Chair of that meeting has a second or casting vote on that resolution in addition to any vote the Chair has in his or her other capacity.

(d) **How voting is carried out**

(i) A resolution put to the vote at a general meeting must be decided on a show of hands unless a poll is demanded under clause 9.7(f) or the Act either before, on or immediately after the declaration of the result of the vote on a show of hands.

(ii) On a show of hands, a declaration by the Chair that a resolution has been carried or carried by a particular majority or not carried and an entry to that effect in the minutes is conclusive evidence of the result.

(iii) Neither the Chair nor the minutes need to state the number or proportion of the votes recorded in favour or against a resolution.

(e) **Matters on which a poll may be demanded at a general meeting**

A poll may be demanded on any resolution other than resolutions concerning:

(i) the election of the Chair; or

(ii) the adjournment of the general meeting.

(f) **Demand for poll**

Subject to clause 9.7(e), a poll may be demanded on any resolution by:

(i) the Chair;

(ii) at least five Members present in person or by proxy or by Representative; or

(iii) Members holding not less than five percent of the total voting rights of all Members having the right to vote on the resolution.

(g) **Conduct of poll**

(i) A poll demanded on a matter other than the election of a chair or the question of an adjournment shall be taken in the manner and at the time the chair directs.

(ii) A poll demanded on the election of a chair or on a question of adjournment shall be taken immediately.

(iii) The result of the poll shall be a resolution of the meeting at which the poll was demanded.

(h) **Right to vote at general meetings**

Subject to this Constitution, the Act, and any rights or restrictions attached to any class of Members, at a general meeting:

(i) on a show of hands, each Member present in person or by proxy or Representative has one vote, provided that if an individual (whether or not also a Member) is attending as a proxy or Representative for one or more Members, that individual will only have one vote; and

(ii) on a poll:

(A) each Member present in person or by proxy or Representative has one vote,

(B) a person that holds multiple proxies has one vote for each proxy; and

(C) a person that is a Representative for multiple corporate Members or corporate proxies, has one vote for each corporate Member or corporate proxy (as applicable).

(i) **Restriction on voting rights**

A member is not entitled to vote at a general meeting unless all sums presently payable by them in respect of their membership in the Company have been paid.

(j) **Objections to right to vote**

A challenge to a right to vote at a general meeting:

(i) may only be made at the meeting or adjourned meeting; and

(ii) must be determined by the Chair whose decision if made in good faith is final.

9.8 Proxies and Representatives

(a) **Appointment of proxies and Representatives**

(i) A Member who is entitled to attend and cast a vote at a general meeting may appoint a proxy or, if the Member is a body corporate, a Representative to attend and cast a vote at that meeting.

(ii) If a proxy appointed to attend and cast a vote at a general meeting under clause 9.8(a)(i) is a body corporate, the proxy may appoint a Representative to attend and cast a vote at that meeting.

(iii) Neither the proxy nor the Representative need be a Member.

(iv) Any proxy or Representative appointed under this clause must be appointed under Division 6 of Part 2G.2 of the Act, and will have the rights set out in that Division.

(b) **Appointment received at electronic address**

For the purposes of clause 9.8(a), an appointment received at an electronic address will be taken to be signed by the Member or proxy as applicable if the appointment has been authenticated under the Act.

9.9 Members' circulating resolution without a general meeting

(a) This clause 9.9 applies to all resolutions of Members that are required or permitted to be passed by a general meeting, other than a resolution to remove an Auditor.

(b) At a time when the Company has ten Members or fewer (but more than one Member), the Members may pass a resolution without a general meeting being held if all of the Members (or Representatives) entitled to vote on the resolution (not being less than the number required for a quorum at a general meeting) sign a document containing a statement that they are in favour of the resolution set out in the document.

(c) At a time when the Company has only one Member, that Member may pass a resolution by recording it in writing and signing the record of that resolution.

(d) Separate copies of documents may be used for signing by Members if the wording of the resolution and statement is identical in each copy.

(e) The resolution made under clause 9.9(b) is passed when the resolution is signed by the last Member entitled to vote.

(f) When the Members are asked to consider a resolution under this clause, the Company satisfies any requirement of the Act:

(i) to give Members information or a document relating to the resolution, by giving Members that information or document with the document to be signed;

(ii) to lodge with ASIC a copy of the notice of meeting to consider the resolution, by lodging a copy of the document to be signed by Members; and

(iii) to lodge a copy of a document that accompanies a notice of meeting to consider the resolution, by lodging a copy of the information or documents referred to in clause 9.9(f)(i).

9.10 Meetings of a class of Members

(a) **General meeting provisions apply**

The provisions of this Constitution relating to general meetings apply so far as they are capable of application and with any

necessary changes to every separate meeting of a class of Members (if applicable) except that:

(i) a quorum is constituted by at least two persons who, between them, hold or represent one-quarter of the Members of the class (unless only one person is a Member of the class, in which case that person constitutes a quorum);

(ii) any Member of the class, present in person or by proxy or by Representative, may demand a poll; and

(iii) the Auditor is not entitled to notice of the meeting or to attend or speak at the meeting.

(b) **Director entitled to notice of class meetings**

A Director is entitled to receive notice of and to attend all separate meetings of the holders of any class of Members and is entitled to speak at those meetings.

10 Directors' and Members' minutes

10.1 Minutes

The Directors must cause to be entered in the minute books of the Company within one month of the relevant meeting, minutes containing details of:

(a) the names of the Directors present at each meeting of the Directors and of any committee of Directors;

(b) all declarations made or notices given by any Director (either generally or specifically) of its interest in any contract or proposed contract or of its holding of any office or property where any conflict of duty or interest may arise; and

(c) all resolutions and proceedings of general meetings of the Company, meetings of the Directors and meetings of any committee of the Directors.

10.2 Minutes to be signed by chair

Any minutes of any general meetings of the Company, meetings of the Directors or meetings of any committee of the Directors must be signed by the chair of the meeting or by the chair of the next succeeding meeting and once signed will constitute prima facie evidence of the matters stated in the minutes.

10.3 Members' access to minutes

(a) The Directors must ensure that the minute books for general meetings are open for inspection by Members free of charge.

(b) If requested by a Member in writing, the Directors must ensure the Company sends a copy of any minutes or extract of minutes requested within 14 days after the request or, if the Directors determine that payment should be made for the copies, within 14 days after the Company receives the payment.

11 Secretary

11.1 Appointment of Secretary

(a) The Directors must appoint one or more persons to the office of secretary to the Company. At least one of them must ordinarily reside in Australia.

(b) A secretary shall be entitled to reasonable travel and other out of pocket expenses they have properly incurred in connection with the business of the Company and, unless approved by the Board, shall not otherwise be remunerated for their duties as secretary.

11.2 Notification to ASIC and the ACNC

(a) If a Secretary is appointed, the Secretary must notify ASIC and the ACNC (as applicable) of the appointment.

(b) The Directors may suspend, remove or dismiss a Secretary from that office, subject to any agreement between the Company and the Secretary.

11.3 Terms and conditions of appointment

(a) A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authority as the Directors determine.

(b) The exercise of those powers and authorities and the performance of those duties by a Secretary is subject at all times to the control of the Directors.

12 Auditor

12.1 Appointment of Auditor

If required under the Act or the ACNC Act (as applicable), the Directors must appoint one or more persons to the office of Auditor to the Company unless the Members at general meeting have appointed an Auditor.

12.2 Auditor and meetings of Members

(a) The Auditor is ineligible to be elected or appointed as a Director.

(b) The Auditor is entitled to receive notice of, attend, and be heard at general meetings.

13 Company books

13.1 Registers

(a) **Registers**

In accordance with the Act or the ACNC Act (as applicable), the Directors must cause the Company to keep:

(i) a register of the holders of any debentures issued by the Company; and

(ii) a register of charges.

(b) **Branch registers**

(i) The Company may cause a branch register of Members to be kept at any place outside Australia.

(ii) Subject to the Act, the Directors may make any provisions or arrangements they think fit for the keeping of any branch register and to ensure compliance with the requirements of any local law.

13.2 Financial records and statements

(a) **Financial records**

(i) The Directors must cause financial and other records to be kept to correctly record and explain the transactions and financial position of the Company, to enable true and fair statements of financial performance and financial position to be prepared to permit preparation of any other documents required by the Act, the ACNC Act or this Constitution.

(ii) The records must be kept:

(A) in a manner which will enable them to be conveniently and properly audited;

(B) for seven years after the completion of the transactions or operations to which they relate; and

(C) at the Registered Office or at any other place as the Directors think fit and at all times be open to inspection by the Directors.

(b) **Financial, Directors' and Auditor's reports**

If required under the Act or the ACNC Act (as applicable), at each annual general meeting, the Directors must lay before the Company a financial report, a Directors' report and an Auditor's report for the last Financial Year of the Company that ended

before that annual general meeting which comply with all applicable provisions of the Act.

(c) **Financial statements and reports**

If required under the Act or the ACNC Act (as applicable), the Company must cause copies of the Company's financial statements and other reports to be lodged with ASIC and sent to its members as, and to the extent, required by the Act or the ACNC Act (as applicable).

13.3 Inspection

(a) **Inspection of financial records**

(i) A request by a Member to inspect the financial records of the Company must be in writing and must be delivered to the Company at its Registered Office.

(ii) Subject to the Act, a majority of the Directors or the Members by special resolution may decide whether and to what extent and at what times and places and under what conditions a Member may inspect the financial records and other books of the Company.

(iii) This clause does not limit the rights of a Director or former Director to inspect the books of the Company under the law.

(b) **Copying financial records**

(i) After inspecting the financial records a Member may request permission to copy them.

(ii) The request under clause 13.3(b)(i) must be in writing, must specify the records the Member wishes to copy and must be delivered to the Company at its Registered Office.

(iii) Subject to the Act, the Directors must consider the request at their next meeting and may (but need not) consent to the request or any part of the request on any terms as they think fit.

13.4 Audit

(a) **Financial statements to be audited**

If required under the Act or the ACNC Act (as applicable), the financial statements of the Company for each Financial Year must be audited by the Auditors under the Act or the ACNC Act (as applicable).

(b) **Approval of financial statements**

(i) The financial statements of the Company once put before an annual general meeting (if the Company is required to do so) will be conclusive except as regards any error identified within three months after the date of that meeting.

(ii) If any error is identified within the period referred to in clause 13.4(b)(i), the financial statements must then be corrected and are then conclusive.

14 Service

14.1 Document includes notice

In clause 14.2 to 14.7, a reference to a document includes a notice.

14.2 Giving a document to Members

(a) The Company may give a document to a Member:

(i) in person;

(ii) by sending it by post to the address of the Member in the Register of Members or the alternative address (if any) nominated by that Member;

(iii) by sending it to the fax number or electronic address (if any) nominated by that Member;

(iv) by sending it to the Member by other electronic means (if any) nominated by the Member; or

(v) by notifying the Member under section 249J(3A) of the Act.

(b) If the address of a Member in the Register of Members is not within Australia, the Company must send all documents to that Member by airmail, by air courier, by fax or by such electronic means.

14.3 Evidence of service of a document on a Member

A certificate in writing signed by a Director or Secretary stating that a document was sent is prima facie evidence of service.

14.4 Giving a document to a Director

The Company may give a document to a Director:

(a) in person;

(b) by sending it by post to the usual residential address of that person or the alternative address (if any) nominated by that person;

(c) by sending it to the fax number or electronic address (if any) nominated by that person; or

(d) by any other means agreed between the Company and that person.

14.5 Giving a document to the Company

A person may give a document to the Company:

(a) by leaving it at the Registered Office;

(b) by sending it by post to the Registered Office;

(c) by sending it to the fax number at the Registered Office;

(d) by sending it to the electronic address (if any) nominated by the Company for that purpose; or

(e) by any other means prescribed by the Act.

14.6 Time of service of a document

(a) A document sent by post to an address within Australia is taken to be given:

(i) in the case of a notice of meeting, one Business Day after it is posted; or

(ii) in any other case, at the time at which the document would be delivered in the ordinary course of post.

(b) A document sent by post or airmail to an address outside Australia is taken to be given:

(i) in the case of a notice of meeting, five Business Days after it is posted; or

(ii) in any other case, at the time at which the document would be delivered in the ordinary course of post.

(c) A document sent by air courier to a place outside Australia is taken to be given three Business Days after delivery to the air courier.

(d) A document sent by fax or to an electronic address, or by other electronic means, is taken to be given on the Business Day it is sent, provided that the sender's transmission report shows that the whole document was sent to the correct fax number or electronic address.

(e) A document given to a Member under clause 14.2(a)(v) is taken to be given on the day on which the Member is notified that the document is available.

14.7 Signatures

Where, by a provision of this Constitution, a document is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by the Act relating to electronic transmissions or in any other manner approved by the Directors.

15 Proceedings involving officers

15.1 Indemnity

(a) **Company to indemnify officers and other persons**

(i) Subject to clause 15.1(a)(ii), the Company must indemnify any current or former Director, principal, Secretary, executive officer or Auditor of the Company or of a related body corporate of the Company, member of the Advisory Board or any person who takes part in, or is concerned with, management of the Company or a related body corporate of the Company, out of the property of the Company against:

(A) every liability incurred by the person in that capacity (except a liability for legal costs) at any time whether before or after the time this clause comes into effect to any person (other than the Company or a related body corporate), which does not arise out of conduct involving a lack of good faith or conduct known to the person to be wrongful; and

(B) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity and judgment is given in favour of the person or in which the person is acquitted, or in connection with any application in relation to such proceedings in which the court grants relief to the person under the Corporations Act.

(ii) Clause 15.1(a)(i) does not apply to the extent that:

(A) the Company is forbidden by the Act, the ACNC Act or other statute to indemnify the person against the liability or legal costs; or

(B) an indemnity by the Company of the person against

the liability or legal costs would, if given, be made void by the Act, the ACNC Act or other statute.

15.2 No indemnity

(a) In accordance with section 199A of the Act, the Company will not provide the indemnity referred to in clause 15.1(a)(i) in respect of:

(i) a liability owed to the Company or a related body corporate;

(ii) a liability for a pecuniary penalty order under section 1317G of the Act or a compensation order under section 1317H of the Act; or

(iii) a liability that is owed to someone (other than the Company or a related body corporate) and did not arise out of conduct in good faith,

This paragraph (a) does not apply to a liability for legal costs.

(b) The Company shall not provide the indemnity referred to in paragraph (a) in respect to legal costs incurred in defending an action for liability if the costs are incurred:

(i) in defending or resisting civil proceedings in which the person is found to have a liability for which they could not be indemnified under paragraph (b); or

(ii) in defending or resisting criminal proceedings in which the person is found guilty; or

(iii) in defending or resisting proceedings brought by the Australian Securities and Investments Commission (ASIC) or a liquidator for a court order if the grounds for making the order are found by the Court to be established; or

(iv) in connection with proceedings for relief to the person under the Corporations Act in which the Court denies the relief.

(c) Sub-paragraph 14.2(b)(iii) does not apply to costs incurred in responding to actions brought by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order.

(d) The Company need not indemnify a person as provided for in this clause in respect **of** a liability to the extent that the person is entitled to an indemnity in respect of that liability under a contract of insurance.

(e) The benefit of each indemnity given in this clause continues, even after its terms are modified or deleted, in respect of a liability arising out of acts or omissions occurring prior to the modification or deletion.

15.3 Insurance

(a) **Company may pay premium**

Subject to clauses 15.3(b), the Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director or Secretary or executive officer or Auditor of the Company or of a related body corporate of the Company, **or** any person who takes or has taken part in, or is or has been concerned with, management of the Company or a related body corporate of the Company, against liability incurred by the person in that capacity:

(i) at any time whether before or after the time this clause comes into effect to any person (other than the Company or a related body corporate), which does not arise out of conduct involving a lack of good faith or conduct known to the person to be wrongful; and

(ii) including a liability for legal costs and expenses incurred by the person in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted, or in connection with any application in relation to such proceedings in which the court grants relief to the person under the Corporations Act.

(b) Payment of premium prohibited in certain circumstances

Clause 15.3(a) does not apply to the extent that:

(i) the Company is forbidden by the Act or other statute to pay or agree to pay the premium; or

(ii) the contract would, if the Company paid the premium, be made void by the Act or other statute;

(iii) the contract would, if the Company paid the premium, insure a person who is or has been an officer or auditor of the Company against a liability arising out of:

conduct involving a wilful breach of duty in relation to the Company; or

a contravention of section 182 or section 183 of the Corporations Act.

16 Winding up

16.1 Wind-up and distribution of surplus assets or property

(a) Despite the remainder of this clause 16, if:

(i) the Members determine that the Company is to be wound up or dissolved; or

(ii) the Company is wound up or dissolved,

then:

(iii) the Members have no right to participate in any distribution or payment of the assets or property of the Company;

(iv) any surplus of assets or property of the Company remaining after the satisfaction of all debts and liabilities must, at the direction of the Members, be given or transferred to one or more organisations or institutions which have similar objects to those of the Company, which is charitable at law

and which has rules prohibiting the distribution of its assets and income to its members (Recipient Organisation);

(v) if effect cannot be given to paragraph (d), to some other body, the objects of which are the promotion of charity (whether or not the body is a member of the Company).

(vi) for the purposes of this clause 16.1, the Members will identify the Recipient Organisation or Recipient Organisations at the time of dissolution; and

(vii) if the Members fail to identity the institution or institutions under clause 1.1(a)(vi) the Supreme Court of New South Wales will make that determination.

16.2 Wind-up and distribution of surplus assets or property (in special circumstances)

(a) If when the Company is wound up or dissolved (Wind-up Time) it is:

(i) registered (or otherwise recognised) under the ACNC Act as a registered charity, the Recipient Organisation must also be registered under the ACNC Act as a registered charity; and/or

(ii) endorsed or otherwise eligible under the Tax Acts to be exempt from taxation (as an income tax exempt charity or otherwise) the Recipient Organisation must also be endorsed or otherwise eligible (as the case may be) under the Tax Acts to be exempt from taxation (as an income tax exempt charity or otherwise); and/or

(iii) endorsed or otherwise eligible under the Tax Acts to receive tax deductible gifts (as a deductible gift recipient or otherwise) the Recipient Organisation must also be endorsed under the Tax Acts to receive tax deductible gifts (as a deductible gift recipient or otherwise).

16.3 Wind-up event

(a) If at any time the Company is:

(i) registered (or otherwise recognised) under the ACNC Act as a registered charity; and/or

(ii) endorsed or otherwise eligible under the Tax Acts to be exempt from taxation (as an income tax exempt charity or otherwise); and/or

(iii) endorsed or otherwise eligible under the Tax Acts to receive tax deductible gifts (as a deductible gift recipient or otherwise),

and the Company's status under any of these categories ceases or is revoked, the directors and/or the members must cause the Company to be wound-up or dissolved and its assets are to be dealt with in the manner prescribed at clauses 16.1 and 16.2 as if the above endorsements or registrations were still in effect.

17 Revocation of deductible gift recipient status

(a) On the revocation of the endorsement of the Company as a deductible gift recipient, any surplus comprising of deductible gift recipient contributions will be **transferred** to a Recipient Organisation endorsed or otherwise eligible under the Tax Acts to receive tax deductible gifts (as a deductible gift recipient or otherwise); and

(b) such charitable institution, body, entity, or organisation is to be determined by the Board at or before the revocation of the endorsement of the Company as a deductible gift recipient and in default, by application to the Supreme Court of New South Wales for determination.

18 Variations to Constitution

All amendments to the Constitution that are material must, as to the extent required by law, be notified in writing to the Australian Charities and Not for Profits Commission and the Commissioner of Taxation.

19 Public fund requirements

19.1 Application

This clause 18 only applies in the event that the Company is required to meet the public fund rules requirements as provided in Taxation Ruling TR 95/27 (or equivalent rulings and guidance materials).

19.2 Receipts

Any receipts generated and issued by the Company in respect of a gift or contribution to the Company must be issued in the name of the Company.

19.3 Contributions

The Company must invite the public to make gifts or contributions to the Company.

19.4 Notice to the Commissioner

The Company must provide written notice to the Commissioner of any alteration, variation or amendment to this Constitution within 30 days of it being made.

19.5 Establishment of a Gifts Committee

The Company must establish a committee (Gifts Committee) to manage all money and property received by the Company in the form of a gift for the objects of the organisation and contributions of money or property made to the Company in relation to an eligible fundraising event held for the objects of the Company.

At all times the Gifts Committee must be comprised of a majority of Directors.

Schedule A Proxy Form

Blue Knot Foundation
(ABN 49 072 260 005)
PROXY FORM

I/We _____

of _____

appoint _____

of _____

or in his/her absence _____

of _____

as my/our proxy to vote for me/us on my/our behalf at the [Annual] General Meeting of the Blue Knot Foundation to be held on _____ and at any adjournment of that meeting.

I/we direct my/our proxy to vote in respect of each resolution to be considered as indicated with a 'W' below, and to vote or abstain in respect of any procedural resolution as my/our proxy thinks fit.

	FOR	*AGAINST*
Resolution No. 1		
Resolution No. 2		

If no direction is given above, I/we authorise my/our proxy to vote or abstain as my/our proxy thinks fit in respect of each resolution (including any procedural resolution), or ballot or vote regarding the election of a director, to be considered by the meeting and any adjournment of the meeting.

Dated _____

Signature_____

Corporations should execute under seal or by attorney.