



**The Fred Hollows
Foundation**

C O N S T I T U T I O N

**Adopted April 2004
[as amended May 2023]**

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Corporations Act 2001

Public company limited by guarantee

The Fred Hollows Foundation

ACN 070 556 642

1 Nature of Company and liability

Nature of Company

1.1 The Company is a public company limited by guarantee.

Liability of Members and guarantee on winding up

1.2 The liability of the Members is limited. Every Member undertakes to contribute an amount as may be required not exceeding \$50 to the assets of the Company if it is wound up while they are a Member, or within one year afterwards.

2 Objects

2.1 The Company has the following objects:

- 2.1.1 To develop, facilitate, provide, fund and advocate for appropriate, accessible and affordable eye health services in Australia and Developing Countries, and additional improved health outcomes for Australian Aboriginal and Torres Strait Islander individuals and communities.
- 2.1.2 To work both singly and with partners who share our vision to build comprehensive, high quality and sustainable eye health systems for Aboriginal and Torres Strait Islander Australians and individuals in Developing Countries, with a focus on ensuring that local socio-economic, cultural, political and other circumstances are addressed in project and system design, delivery and evaluation.
- 2.1.3 To build and support the operation and management of facilities for eye health care and for the production of equipment and/or consumables required for best practice eye health care.
- 2.1.4 To conduct, foster, promote, support, assist, participate and invest in research in relation to:
 - the prevalence, prevention, diagnosis, causes, manifestations, treatment, management and cure of avoidable blindness amongst Aboriginal and Torres Strait Islander Australians and individuals and communities in Developing Countries;
 - eye health care systems, equipment, practices and procedures; and

- other matters relating to the health and well-being of Aboriginal and Torres Strait Islander Australians.
- 2.1.5 To conduct, foster, promote, support, assist, participate and invest in research and development activities and projects for, or in respect of, any technologies relating to eye health and other health care that advance the objects of the Company and anything incidental to such technologies.
- 2.1.6 To conduct, foster, promote, support, assist, participate and invest in human resource development with a specific focus on building capabilities and skills in the areas of ophthalmology, ophthalmology paramedics and related skills and occupations, primary eye care, eye health administration, infrastructure support and Aboriginal and Torres Strait Islander health care.
- 2.1.7 To support the improvement of the health of Aboriginal and Torres Strait Islander Australians and individuals and communities in Developing Countries with a focus on eye health care through positive and strategic initiatives that build the capacity of people and their communities to participate in their own development and improve their health outcomes.
- 2.1.8 To collaborate, cooperate, maintain relations with and assist government agencies, not-for-profit and philanthropic organisations, professional and other bodies and companies both in Australia and overseas in ways that seem incidental or conducive to the attainment of the objects of the Company or as may seem calculated directly or indirectly to benefit the Company.
- 2.1.9 To identify agencies and entities with objects consistent with those of the Company and enter into arrangements, partnerships and joint ventures with them to achieve these objects.
- 2.1.10 To increase the awareness and interest of individuals, the community, business and government in issues relating to eye health care, avoidable blindness and Aboriginal and Torres Strait Islander health.
- 2.1.11 To take such steps by personal or written appeals, private meetings, public meetings or representations to Parliament, government entities and other bodies as may be deemed expedient to promote any of the objects of the Company.
- 2.1.12 To establish, maintain, operate and manage public funds.
- 2.1.13 To raise, secure and utilise funds for the attainment of any or all objects of the Company, and to do such other things as are incidental or conducive to the attainment of these objects.

3 Membership

Natural persons only

- 3.1 Unless the Board unanimously agrees, only a natural person may be a Member.

Application for Membership requires proposer and seconder

- 3.2 Every application for Membership of the Company shall be proposed by one and seconded by another Member of the Company, one of whom must personally know the applicant.

Limit on number of new Members that may be proposed

- 3.3 Each calendar year any Member is permitted to either propose or second a maximum of 10 persons, or such other number determined by the Board from time to time, for Membership of the Company.

Form of application

- 3.4 The form of application for Membership will be in the form approved by the Board from time to time.

Admission to Membership

- 3.5 The Board must consider an application for Membership at the next meeting of the Board after its receipt and determine, in its discretion, the admission or rejection of the applicant.
- 3.6 The Board does not have to give reasons for rejecting an application or granting a particular category of Membership.
- 3.7 If an applicant is accepted for Membership the Company Secretary must notify the applicant of admission in the form of a receipt for the membership fee, if any, or in such other form as the Board determines and the name and details of the applicant must be entered in the Register.

Annual Membership fee

- 3.8 The annual fee for Membership will be a minimum of \$25 or such other amount as the Board determines from time to time in its absolute discretion.
- 3.9 The Board can reduce or waive the annual Membership fee in its sole discretion and having regard to possible difficulties which that Member may suffer because of any relevant factor, including the following:
- 3.9.1 Age.
 - 3.9.2 Race.
 - 3.9.3 Economic Status.
- 3.10 All annual fees for Membership shall become due and payable in advance on the 30th day of June in every year or the other time or times specified by the Board.

Limits on number and nomination of Members

- 3.11 Notwithstanding anything to the contrary in this clause 3, the Directors must not accept any application for Membership of the Company where such Membership will increase the total number of Members to a number greater than 200 or such other

number as set by the Board as the maximum Membership of the Company from time to time.

- 3.12 Current employees of the Company or any subsidiary of the Company will not be eligible for nomination as Members.
- 3.13 Persons who have been excluded from membership under the terms of clause 3.12 will not be eligible for nomination as members for a period of 2 years from the end of their employment with the Company or any subsidiary of the Company (as applicable).
- 3.14 The Membership of persons who subsequently become employees of the Company will lapse on the date that they become an employee of the Company or subsidiary.

Register of Members

- 3.15 A Register of the Members of the Company must be kept in accordance with the Corporations Act 2001.
- 3.16 The following details must be entered in the Register in respect of each Member:
 - 3.16.1 The full name of the Member, including the ACN of a corporate Member.
 - 3.16.2 The address of the Member.
 - 3.16.3 The date of admission to and cessation of Membership.
 - 3.16.4 In the case of a Member other than an individual the full name, address and facsimile number, if any, of its corporate representative.
 - 3.16.5 Such other information as the Directors require.

Change of details

- 3.17 Each Member must notify the Company Secretary in writing of any change in that person's name, address, telephone or facsimile number within 1 month after the change.

4 Removal and cessation of Membership

Resignation

- 4.1 A Member may resign from Membership of the Company by giving written notice to the Company Secretary.
- 4.2 The resignation of a Member is deemed to take effect from the date of receipt of the notice of resignation or such later date as is provided in the notice. The Member shall continue to be liable for any annual subscription and all arrears due and payable by that Member to the Company and unpaid at the date of their resignation and for all other moneys due by that Member to the Company for any sum not exceeding \$50.00.

Cessation of Membership upon occurrence of Termination Event

- 4.3 A Member ceases to be a Member on any Termination Event occurring in respect of the Member.

Cessation of Membership for non-payment of subscription amount

- 4.4 If the annual subscription for any previous year or for the current year of a Member remains unpaid for a period of 2 calendar months after the due date for the payment of the same then the Member may, after notice of the default being sent to that Member by the Company Secretary, be debarred by resolution of the Board from all privileges of Membership. However, the Board may reinstate the Member on payment of all arrears if the Board thinks fit to do so.

Removal from Membership for wilful disregard of this document

- 4.5 The Board may, in its absolute discretion, order the removal of a person from the Register if the Member wilfully refuses or neglects to comply with the provisions of this document or any regulations of the Board made under this document or is otherwise guilty of conduct which in the opinion of the Board is unbecoming of a Member or prejudicial to the interests of the Company. However, for this clause to apply the Member must, before the meeting at which the resolution for expulsion is proposed, be given at least 1 weeks written notice of that meeting and of the intended resolution and must be given the right to attend and be heard on the matter at the meeting.

5 Rights of Members non-transferable

- 5.1 The rights and privileges of a Member are not transferable during the life of the Member and cease upon the person ceasing to be a Member.

6 No profits for Members

Transfer of income or property

- 6.1 The assets and income of the Company are to be applied solely in furtherance of the objects of the Company as stated in this document and no income or property of the Company may be paid or transferred, directly or indirectly to any Member.

Payments, services and information

- 6.2 Nothing in this clause 6 prevents the payment in good faith of any of the following:
- 6.2.1 Remuneration to any Member for services actually rendered to the Company.
 - 6.2.2 An amount to any Member in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual course of business.
 - 6.2.3 Reasonable interest on money borrowed from any Member.

6.2.4 Reasonable rent for premises let by any Member to the Company.

Government grant monies

6.3 Nothing in this clause 6 prevents the distribution of government grant monies to Members where the grant is expressly on the basis that the monies be used for the benefit of persons including Members.

Provision of services or information

6.4 Nothing in this clause 6 prevents the Company from providing services or information to the Members on terms which are different from the terms on which services or information are provided to persons who are not Members.

Remuneration

6.5 Subject to clause 13.3, no remuneration or other benefit in money or money's worth will be paid or given by the Company to any Director except reimbursement of out-of-pocket expenses.

7 General meetings of Members

Convening of meetings by Directors

7.1 The Board or any 5 Directors may convene a general meeting.

Convening of meetings by Members

7.2 The Board must call and arrange to hold a general meeting if required to do so under the Corporations Act 2001.

Notice of general meeting

7.3 Twenty one days' notice at least of every general meeting will be given in the manner provided by this document to the Members and such persons as are otherwise entitled under this document to receive notice provided that, in the circumstances and subject to the conditions specified in the Corporations Act 2001, a meeting may be called by notice shorter than specified in this clause.

7.4 The notice of a general meeting must specify the place, the day and the hour of meeting and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate the meeting, the general nature of the business to be transacted and any other matters as are required by the Corporations Act 2001.

7.5 A notice of a general meeting may be given by any form of communication permitted by the Corporations Act 2001.

Accidental omission to give notice

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

Eligible Members

- 7.7 Without limiting clauses 4.4 and 4.5, only persons or other entities who or which have been admitted to Membership no later than 1 month in advance of any general meeting of the Company will be eligible to receive notice of that meeting, to receive copies of the Directors' and auditors' reports concerning the preceding financial year and to vote at that meeting.
- 7.8 Only persons or other entities who or which have been admitted to Membership no later than 1 month in advance of any given extraordinary general meeting of the Company will be eligible to receive notice of that meeting and to vote at that meeting.

Cancellation of general meetings

- 7.9 The Directors may cancel a general meeting, other than a general meeting which they are required to convene and hold under the Corporations Act 2001.
- 7.10 A meeting may only be cancelled in accordance with clause 7.9 if notice of the cancellation is given to all persons entitled to receive notice of the meeting at least 5 business days prior to the time of the meeting as specified in notice of meeting.

Quorum at general meetings

- 7.11 Business may not be transacted at a general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- 7.12 Except as otherwise set out in this document, 15 Members present in person or by proxy or representative is a quorum.

If a quorum is not present

- 7.13 If a quorum is not present within half an hour from the time appointed for the meeting or a longer period allowed by the chairperson:
- 7.13.1 If the meeting was convened by or on the requisition of Members, it must be dissolved.
- 7.13.2 Otherwise, it must stand adjourned to the same day in the next week at the same time and place or to another day and at another time and place determined by the Board.
- 7.14 If a meeting has been adjourned to another time and place determined by the Board, not less than 7 days' notice of the adjourned meeting must be given in the same manner as in the case of the original meeting.

Quorum at adjourned general meetings

- 7.15 At the adjourned meeting, 10 Members present is a quorum.

Appointment of chairperson

- 7.16 The Chair shall preside as chairperson at every general meeting of the Company. If there is no Chair, or if he or she is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act, a Deputy Chair shall

preside as chairperson at every general meeting of the Company. If a Deputy Chair is not present or is unwilling to act, then the Members present shall elect one of their number to be chairperson of the meeting.

Chairperson's powers

- 7.17 Subject to the terms of this document dealing with adjournment of meetings, the ruling of the chairperson on all matters relating to the order of business, procedure and conduct of the general meeting is final.
- 7.18 The chairperson, in their discretion, may expel any Member or Director from a general meeting if the chairperson reasonably considers that the Member or Director's conduct is inappropriate behaviour. Any of the following conduct may be considered inappropriate in a general meeting:
- 7.18.1 The use of offensive or abusive language which is directed to any person, object or thing.
 - 7.18.2 Attendance at the meeting while under the influence of any kind of drug including but not limited to any alcoholic substance.
 - 7.18.3 The use or consumption of any drug by a person at the meeting.

Adjournment of meetings

- 7.19 The chairperson may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting to another time and to another place.
- 7.20 The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- 7.21 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- 7.22 Except when a meeting is adjourned for 30 days or more, it is not necessary to give a notice of an adjournment or of the business to be transacted at an adjourned meeting.

Voting on show of hands

- 7.23 Except as specified to the contrary in this document, at a general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is demanded before that vote is taken or before the result is declared or immediately after the result is declared. If a poll is not duly demanded, a declaration by the chairperson that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

Demand for a poll

- 7.24 A poll may be demanded by either of the following:

- 7.24.1 The chairperson.
- 7.24.2 At least 10 Members present in person or by proxy or representative and entitled to vote on the resolution.
- 7.25 The demand for a poll may be withdrawn.
- 7.26 The demand for a poll does not prevent the continuance of a meeting for the transaction of business other than the question on which a poll is demanded.
- 7.27 If a poll is duly demanded, it must be taken in the manner and, except as to the election of a chairperson or on a question of adjournment, either at once or after an interval or adjournment or otherwise as the chairperson directs. The result of the poll is the resolution of the meeting at which the poll is demanded.
- 7.28 However, a poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately.
- 7.29 In case of any dispute as to the admission or rejection of a vote on a show of hands or on a poll the chairperson will determine the same and such determination made in good faith is final and conclusive.

Voting rights of Members

- 7.30 On a show of hands and on a poll every Member present in person or by proxy or representative has one vote.

Vote of the chairperson at general meetings

- 7.31 In the case of an equality of votes the chairperson of a general meeting is entitled to a second or casting vote.

Objections to voter qualification

- 7.32 No objection may be raised to the qualification of a voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- 7.33 An objection to the qualification of a voter must be referred to the chairperson, whose decision is final.
- 7.34 A vote not disallowed according to an objection as provided in this document is valid for all purposes.

Mode of meeting for Members

- 7.35 A general meeting may be called or held using any technology agreed to by the Board. The agreement may be a standing one. The Members may otherwise regulate their meetings as they think fit.

Resolution in writing

- 7.36 A resolution in writing signed by all Members, excluding Members who have been given leave of absence, is to be treated as a determination of the Members passed at a meeting of the Members duly convened and held.

Form of resolution in writing

- 7.37 A resolution in writing may consist of several documents in like form, each signed by one or more Members and if so signed it takes effect on the latest date on which a Member signs one of the documents.
- 7.38 If a resolution in writing is signed by a proxy of a Member, it must not also be signed by the appointing Member and vice versa.
- 7.39 In relation to a resolution in writing a document generated by electronic means which purports to be a facsimile of a resolution of Members is to be treated as a resolution in writing and a document bearing a facsimile of a signature is to be treated as signed.

8 Proxies and representatives

Proxies and representatives of Members

- 8.1 At meetings of Members a Member may vote in person or by proxy. A Member which is a corporation may appoint an individual as a representative.
- 8.2 Subject to the terms of their appointment, a person attending as a proxy of a Member, or as representing a corporation which is a Member has all the powers of a Member, except where expressly stated to the contrary.

Appointment of proxies

- 8.3 A Member may appoint another person as their proxy to attend and vote instead of the Member. A proxy may but does not need to be a Member.
- 8.4 A document appointing a proxy must be in writing, in any form permitted by the Corporations Act 2001 and signed by the Member making the appointment.

Authority of proxies

- 8.5 A document appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the document so provides, the proxy is not entitled to vote on the resolution except as specified in the document.
- 8.6 Except as expressly provided by the document appointing a proxy, an appointment of a proxy confers authority to do all things that the Member can do in respect of a general meeting.

Verification of proxies

- 8.7 Before the time for holding the meeting or adjourned meeting at which a proxy proposes to vote, the document appointing the proxy must be deposited with the Company.
- 8.8 This document must be received at the Office, at a fax number or the specified electronic address at the Office or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting not less than 48 hours before the time for holding the meeting.

- 8.9 If a general meeting has been adjourned, an appointment and any authority received by the Company at least 24 hours before the resumption of the meeting are effective for the resumed part of the meeting.

Validity of proxies

- 8.10 A proxy document is invalid if it is not deposited or produced prior to a meeting or a vote being taken as required by this document.

Revocation of appointment of proxy

- 8.11 A vote given in accordance with the terms of a proxy document is valid despite the occurrence of any one or more of the following events if no intimation in writing of any of those events has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the document is used:

8.11.1 The previous death or unsoundness of mind of the principal.

8.11.2 The revocation of the instrument or of the authority under which the instrument was executed.

9 Composition, number, resignation, retirement and removal of Directors

Number of Directors

- 9.1 The minimum number of Directors is five. The maximum number of Directors is 13 or such other number as the Directors determine provided that the Directors have, if required to do so by the Corporations Act, been authorised by the Members to make such a determination. The Directors must not determine a maximum which is less than the number of Directors in office at the time the determination takes effect.

Becoming a Director

- 9.2 A person may become a Director in three ways:
- 9.2.1 Election by Members at the annual general meeting of the Company, such election to be for a term of three years (Elected Directors);
 - 9.2.2 Appointment by the Board, such appointment to be for a term of up to three years with the precise period determined by the Board at the time of appointment (Appointed Directors); and
 - 9.2.3 Appointment by the Board to fill any vacancy in the number of Elected Directors however arising, such appointment, if made, to be for the period up to the next annual general meeting at which point that director must retire.

Ratio of Elected Directors and Appointed Directors

- 9.3 Subject to clause 9.4, the following rules apply when determining the ratio of Elected Directors to Appointed Directors:

- 9.3.1 To determine the number of Director positions that are reserved for, and can only be filled by, Elected Directors, divide the maximum number of Directors (as determined under clause 9.1) by two, and add one.
- 9.3.2 If the maximum number of Director positions divided by two plus one is not a whole number then the number is to be rounded up to the nearest whole number.

Special provisions applying to Ms Gabi Hollows

- 9.4 For such time as she is a Director, Ms Gabi Hollows will at all times fill one of the Elected Director positions and is not subject to clauses 9.2, 9.3,, 9.8, 9.9, 9.11 and 10.7 relating to election and retirement of directors or tenure of position. However, for the avoidance of doubt:
 - 9.4.1 Members may still remove Ms Gabi Hollows from her position as a Director in accordance with the Corporations Act;
 - 9.4.2 Ms Gabi Hollows may resign as a Director at any time; and
 - 9.4.3 Nothing in this constitution prevents Ms Gabi Hollows' position as a Director ceasing in accordance with clause 9.18

Special provisions for participation by Aboriginal and Torres Strait Islander Directors

- 9.5 At all times, at least one of the Directors must be an Aboriginal or Torres Strait Islander person.
- 9.6 If, at any point in time, clause 9.5 is not satisfied, the Board will endeavour to rectify its composition to satisfy clause 9.5 as soon as practicable.
- 9.7 Subject to the other provisions of this constitution, a failure to satisfy clause 9.5 alone will not impact the decision-making capacity of the Board.

Time in office

- 9.8 Each Director is to remain as a Director until the term of her or his office expires or until he or she resigns, retires or is otherwise removed as a director of the Company in accordance with the Corporations Act and this constitution. Subject to the Corporations Act and clauses 9.9 and 9.11 a person is eligible for reappointment or re-election.
- 9.9 No person is permitted to hold the position of Appointed Director for any more than six continuous years. However, subject to clause 9.11, a person who has been an Appointed Director may fill an Elected Director position.
- 9.10 No person may fill an Office Bearer position for any more than six years unless:
 - 9.10.1 The person in question has served out the period of absence as a Director described at clause 9.11; or
 - 9.10.2 Otherwise resolved by a special resolution of Members.

- 9.11 Subject to clause 9.4, no person is permitted to hold the office of a Director for any more than nine continuous years unless otherwise resolved by a special resolution of Members. A person having held office as a Director for nine continuous years is eligible for re-election or re-appointment once a period of 12 months has expired since he or she last held office as a Director.

Office Bearers

- 9.12 The office bearers of the Company are:
- 9.12.1 the Chair; and
 - 9.12.2 up to two Deputy-Chairs.
- 9.13 The Board must appoint a Director to fill the position of Chair and, subject to the restraints on terms of office under clauses 9.9 to 9.11, determine the period for which they are to hold the position.
- 9.14 The Board must appoint at least one Director to fill the position of Deputy Chair and, subject to the restraints on terms of office under clauses 9.9 to 9.11, determine the period for which they are to hold the position.
- 9.15 A person may only fill an Office Bearer position for so long as that person is a Director.

Ceasing to be a Director

- 9.16 A person will cease to be a Director if:
- 9.16.1 His or her term of office expires;
 - 9.16.2 His or her office becomes vacant under clause 9.18;
 - 9.16.3 He or she resigns under clause 9.17;
 - 9.16.4 He or she is an Elected Director and ceases to be a Member; or
 - 9.16.5 He or she is removed as a Director by the Members under clause 9.19.
- 9.17 A person may resign as a Director at any time by providing at least seven days written notice to the Company.
- 9.18 In addition to the circumstances prescribed by the Corporations Act, unless the Board otherwise resolves to confirm the Director's appointment or election, the office of a Director becomes vacant if the Director:
- 9.18.1 Dies;
 - 9.18.2 Is, due to physical or psychological impairment, unable to perform his or her duties as a director;
 - 9.18.3 Becomes bankrupt; or

9.18.4 Is absent without leave of absence approved by the Board from the meetings of Directors held in any nine month period.

9.19 The Company may, by ordinary resolution of which notice has been given in accordance with the Corporations Act, remove any Director before the expiration of his or her period of office, and may, by an ordinary resolution, appoint another person in his or her stead. The person so appointed shall hold office only until the next following annual general meeting.

10 Nomination and Election of Elected Directors

Eligibility for election and manner of nomination

10.1 To be eligible to fill an Elected Director position, the person must be a Member and:

10.1.1 Complete and sign a nomination form as provided by the Directors from time to time;

10.1.2 Be nominated by one member and seconded by another, both of whom must sign the nomination form; and

10.1.3 Ensure that a properly completed and signed nomination form is lodged with the Company Secretary at least 15 days before the annual general meeting at which the election is to take place.

Notification of candidates

10.2 A list of the candidates' names, in alphabetical order, with the nominators' names shall be posted in a conspicuous place in the Office for at least 7 days immediately preceding the annual general meeting.

10.3 Balloting lists shall be prepared (if necessary) containing the names of the candidates for position as Elected Director, in alphabetical order.

Manner of election

10.4 Subject to any voting and election policies and protocols that the Board may approve from time to time, the following clauses will apply:

10.4.1 If the number of nominations received is equal to or less than the number of Elected Director vacancies, the candidates nominated are taken to be elected unopposed – meaning that an election is not required.

10.4.2 If the number of nominations received exceeds the number of Elected Director vacancies, a ballot is to be held.

10.4.3 The ballot for the election of Elected Directors is to be conducted at the annual general meeting in such usual and proper manner as the Board may direct.

10.4.4 The results of the election may be announced at or after the relevant annual general meeting at which the election is conducted.

10.5 The retirement of a Director from office and the re-election of the Director or the election of another person to that office takes effect at the conclusion of the meeting at which the retirement and re election or election occurs.

Transition

10.6 Subject to clause 10.7, clauses 9 and 10 of this constitution (as amended) are effective as and from the time they were adopted by the Members and are not to be applied retrospectively.

10.7 Any Director who, at the time of the adoption of amended clauses 9 and 10 of this constitution by the Members has held office for six years or more, may only hold office for one further term of up to three years - after which time such directors must retire. Any director retiring in accordance with this clause 10.7 may be re-elected or re-appointed after the period of absence as a Director described at clause 9.11.

11 Powers of Directors

Powers

11.1 The Directors may exercise all those powers of the Company as are not, by the Corporations Act 2001 or by this document, required to be exercised by the Members in general meeting or otherwise.

Directors to act in accordance with Corporate Governance Charter

11.2 The Directors will at all times seek to exercise their powers and act in accordance with the provisions of the Corporate Governance Charter, which will be agreed and amended from time to time by the Board.

11.3 In the event that the provisions of the Corporate Governance Charter conflict or otherwise do not correspond with the terms of this document, the terms of this document prevail.

Power to make By laws etc

11.4 The Directors may make by-laws, rules and regulations and may amend or rescind from time to time any such by-laws, rules or regulations provided they are not inconsistent with this document.

11.5 Any by-laws, rules and regulations made are to be in the opinion of the Directors necessary or desirable for the proper control, administration and management of the Company's operations, finances, affairs, interests, effects and property and the duties, obligations and responsibilities of the Members.

12 Proceedings of Directors

Minimum number of Board Meetings

- 12.1 The Directors must convene and conduct a minimum of 4 meetings of the Board each year in accordance with the requirements in this clause 12.

Convening of Directors' meetings

- 12.2 Any of the following persons may convene a meeting of the Directors at any time:

12.2.1 The Chair (or in his or her absence the Company Secretary).

12.2.2 Any 3 Directors.

Notice of Directors' meetings

- 12.3 Notice of each meeting of the Directors must be given to each Director at least 5 business days before the meeting or at another time determined by resolution of the Directors.

- 12.4 Despite that requirement, all Directors may waive in writing the required period of notice for a particular meeting and it is not necessary to give a notice of a meeting of Directors to a Director who is out of Australia or who has been given leave of absence.

Mode of meeting for Directors

- 12.5 A Directors' meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent within a reasonable period before the meeting. The Directors may otherwise regulate their meetings as they think fit.

Quorum at Directors' meetings

- 12.6 At a meeting of Directors, the number of Directors whose presence is necessary to constitute a quorum is 5 or another number determined by the Directors.

- 12.7 If the number of Directors is reduced below the number necessary for a quorum of Directors, the continuing Director or Directors may act only in any of the following circumstances:

12.7.1 In the case of emergency.

12.7.2 For the purpose of filling up vacancies.

12.7.3 For the purpose of convening a general meeting.

Voting at Directors' meetings

- 12.8 Questions arising at a meeting of Directors must be decided by a majority of votes of Directors present and voting. A decision of the majority is for all purposes a decision of the Directors.

Chairperson at meetings

- 12.9 The Chair shall preside as chairperson at every meeting of the Board.
- 12.10 If there is no Chair, or if at any meeting, the Chair is not present within 10 minutes after the time appointed for holding the meeting, or if being present, the Chair is unwilling to preside, a Deputy Chair shall be chairperson.
- 12.11 If neither Chair nor any Deputy Chair are present at any meeting, or if present, neither are willing to preside, then the Directors may choose one of their number to chair the meeting.

Chairperson's vote at Directors meetings

- 12.12 The chairperson has a second or casting vote at meetings of Directors.

Participation where Directors interested

- 12.13 A Director who has a material personal interest in a matter that is being considered at a meeting of Directors must not do either of the following:
- 12.13.1 Be present while the matter is being considered at the meeting.
- 12.13.2 Vote in respect of that matter or that proposed resolution.
- 12.14 Despite clause 12.13, a Director may be part of a quorum, be present and may vote on a matter if they are permitted to do so under the Corporations Act 2001.
- 12.15 A Director may still execute on behalf of the Company any document in respect of any contract or arrangement in which he or she is interested.

Delegation of powers to committee

- 12.16 The Board may delegate any of its powers to committees consisting of Directors and Members in accordance with this document.

Specific committees

- 12.17 The Board may establish Board Committees to which it may delegate some of its powers. These Board Committees may include but will not be limited to the following:
- 12.17.1 Finance and Audit Committee.
- 12.17.2 Governance, People and Culture Committee.
- 12.17.3 Programs and Partnerships Committee.
- 12.18 The Board may also establish Member Committees to assist in fundraising or other work of the Company.
- 12.19 The Board must not delegate any of its powers to Member Committees except by way of a Board resolution that specifies the terms of reference for the operation of the Committee and the powers, if any, to be delegated to it. Member Committees to which the Board delegates its powers must contain at least one Director.

Exercise of powers by a committee

- 12.20 The exercise of a power by a committee comprised of Directors, or of a committee comprised of Members to which the Board has expressly delegated powers, is to be treated as the exercise of that power by the Directors.
- 12.20 In the exercise of any powers delegated to it, a committee formed by the Board must conform to the directions of the Board.

Proceedings of committees

- 12.21 Except as provided in a direction of the Board, the meetings and proceedings of a committee formed by the Board must be governed by the provisions of this document, in so far as they are applicable, as if meetings and proceedings of the committee are meetings and proceedings of the Board.

Validity of acts

- 12.22 All acts done by a meeting of the Directors or of a committee constituted by the Board or by a person acting as a Director or a member of such a committee are valid even if it is later discovered that there is a defect in the appointment of a person to be a member of a committee or that they or any of them were disqualified or were not entitled to vote.

Minutes

- 12.23 The Directors must cause minutes of all proceedings of general meetings, of meetings of the Directors and of committees formed by the Directors to be entered, within one month after the relevant meeting is held, in books kept for the purpose.
- 12.24 The Directors must cause all minutes, except resolutions in writing treated as determinations of the Directors, to be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

Resolution in writing

- 12.25 A resolution in writing signed by all Directors, excluding Directors who have been given leave of absence, is to be treated as a determination of the Directors passed at a meeting of the Directors duly convened and held.

Form of resolution in writing

- 12.26 A resolution in writing may consist of several documents in like form, each signed by one or more Directors and if so signed it takes effect on the latest date on which a Director signs one of the documents.
- 12.27 In relation to a resolution in writing a document generated by electronic means which purports to be a facsimile of a resolution of Directors is to be treated as a resolution in writing, and a document bearing a facsimile of a signature is to be treated as signed.

13 Directors' remuneration

Payment for expenses

- 13.1 The Directors may be paid all travelling, accommodation, and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings or otherwise in the execution of their duties as Directors.

Directors fees

- 13.2 Subject to clauses 13.3 and 13.4, the Directors are not entitled to any remuneration by virtue only of their position as Directors.

Payment for services

- 13.3 A Director who, with the unanimous approval of the Board, other than the Director or Directors affected, is called upon to perform extra services or to make a special exertion or to undertake executive or other work for the Company beyond or outside of the Director's ordinary duties or is engaged to provide any other service, may be paid a fee for those services, exertions or work. Such transactions must be reported in the Annual Report as related party transactions.
- 13.4 The amount may be paid either by fixed sum or in such other manner as is determined by the Board.

14 No alternate Directors

- 14.1 No Director is entitled to appoint a person to act as an alternate Director for them.

15 Company Secretary

- 15.1 The Directors may appoint one or more Secretaries and may at any time terminate the appointment or appointments. The Directors may determine the terms and conditions of appointment of a Secretary, including remuneration. Any one of the Secretaries may carry out any act or deed required by this document, the Corporations Act 2001 or by any other statute to be carried out by the secretary of the Company.

16 Public Funds

Establishment of Public Funds

- 16.1 The Company may establish, maintain, operate and manage such public funds as determined by the Board from time to time including, but not limited to, a Developing Country Relief Fund.
- 16.2 All public funds are to be operated in accordance with a set of governing rules that comply with the relevant Australian Taxation Office guidelines for public funds but that are otherwise to be determined by the Board from time to time.

17 Indemnity and insurance

Indemnity

- 17.1 Every Office Bearer, Director and other officer and every past Office Bearer, Director and other officer of the Company is indemnified by the Company, to the fullest extent permitted by law, against a liability incurred by that person as an officer of the Company or a subsidiary of the Company, including legal costs and expenses incurred in defending an action.

Insurance premiums

- 17.2 The Company may pay the premium on a contract insuring a person who is or has been an Office Bearer, Director or other officer of the Company to the fullest extent permitted by law.

18 Seals and execution of documents

Custody of Seal

- 18.1 If the Company has one, the Directors must provide for the safe custody of the Seal.

Execution of documents

- 18.2 The Company may execute a document by affixing the Seal to the document where the fixing of the Seal is witnessed by any of the following:

18.2.1 By 2 Directors.

18.2.2 By a Director and the Company Secretary.

18.2.3 By a Director and some other person appointed by the Directors for the purpose.

- 18.3 The Company may execute a document without the use of a seal if the document is signed by either of the following:

18.3.1 By 2 Directors.

18.3.2 By a Director and a Company Secretary.

Delegation of signing authority

- 18.4 The Board may delegate its powers to execute a document or a class of documents to any Director or other officer or person it sees fit.

Official seals

- 18.5 The Company may have for use in place of the Seal outside the jurisdiction where the Seal is kept one or more official seals, to be used in accordance with procedures approved by the Directors.

19 Surplus assets on winding up or dissolution of the Company or revocation of endorsement for tax concessions

Remaining property after winding up or dissolution to be distributed to like organisation

- 19.1 Upon the winding up or dissolution of the Company, any remaining property after satisfaction of all debts and liabilities (**Surplus Assets**) must not be paid to or distributed among the Members, but must be given or transferred to one or more other funds, institutions or authorities in Australia (**Recipient Entity**) that then satisfies all of the following requirements:
- 19.1.1 It has objects similar to the objects of the Company.
 - 19.1.2 Its constituent documents prohibit the distribution of its income and property among its members on terms substantially to the effect of clause 6.
 - 19.1.3 If the Company is endorsed as a deductible gift recipient for the purpose of any Commonwealth taxation act, the Recipient Entity must also be endorsed as a deductible gift recipient for the purpose of any Commonwealth taxation act.

Determination by the Board or Court

- 19.2 The question of which entity is or which entities are to be a Recipient Entity is to be determined by the Board at or before the winding up or dissolution, or in default of such determination, by a member of a Court of competent jurisdiction.

Property supplied by government or public authority

- 19.3 Any part of the Surplus Assets consisting of property supplied by a government department or public authority, including any unexpended portion of a grant, must be returned to the department or authority that supplied it or to a body nominated by the department or authority.

Revocation of endorsement

- 19.4 If the endorsement of the Company as a deductible gift recipient is revoked, the following assets remaining after the payment of the company's liabilities shall be transferred to a fund, authority or institution to which deductible gifts can be made:
- 19.4.1 deductible gifts of money or property received for the objects of the company;
 - 19.4.2 deductible contributions made in relation to an eligible fundraising event held to raise funds for the objects of the company; and
 - 19.4.3 money received by the company because of such deductible gifts and contributions.

20 Accounts, audit and records

Accounts

- 20.1 The Directors must cause proper accounting and other records to be kept in accordance with the Corporations Act 2001. The Directors must distribute copies of every profit and loss account and balance sheet (including every document required by law to be attached thereto) as required by the Corporations Act 2001.

Audit

- 20.2 A registered company auditor must be appointed by a resolution put to the annual general meeting. The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Corporations Act 2001.

Rights of Inspection

- 20.3 Subject to the Corporations Act 2001, the Directors determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them are open to the inspection of Members other than Directors. A Member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors of the Company in general meeting.

21 Notices

Persons authorised to give notices

- 21.1 A notice by either the Company or a Member in connection with this document may be given on behalf of the Company or Member by a solicitor, director or company secretary of the Company or Member.
- 21.2 The signature of a person on a notice given by the Company may be written, printed or stamped.

Method of giving notices

- 21.3 In addition to the method for giving notices permitted by statute, a notice by the Company or a Member in connection with this document may be given to the addressee by any of the following means:
- 21.3.1 By delivering it to a street address of the addressee.
 - 21.3.2 By sending it by prepaid ordinary post (airmail if outside Australia) to a street or postal address of the addressee.
 - 21.3.3 By sending it by facsimile or e-mail to the facsimile number or e-mail address of the addressee.

Addresses for giving notices to Members

- 21.4 The street address or postal address of a Member is the street or postal address of the Member shown in the Register.

- 21.5 The facsimile number or e-mail address of a Member is the number which the Member may specify by written notice to the Company as the facsimile number or e-mail address to which notices may be sent to the Member.
- 21.6 If a person is entitled to a to a Membership in consequence of the death or bankruptcy of a Member, until that person gives notice to the Company of an address for the giving of notices, the address of that person is the address of the deceased or bankrupt Member.

Address for giving notices to the Company

- 21.7 The street and postal address of the Company is the Office.
- 21.8 The facsimile number or e-mail address of the Company is the number which the Company may specify by written notice to the Members as the facsimile number or e-mail address to which notices may be sent to the Company.

Time notice of meeting is given

- 21.9 A notice of meeting given in accordance with this document is to be taken as given, served and received at the following times:
- 21.9.1 If delivered in writing to the street address of the addressee, at the time of delivery.
- 21.9.2 If it is sent by post to the street or postal address of the addressee, on the business day after posting.
- 21.9.3 If sent by facsimile or e-mail to the facsimile number or e-mail address of the addressee, at the time transmission is completed.

Time other notices are given

- 21.10 A notice given in accordance with this document is to be taken as given, served and received at the following times:
- 21.10.1 If delivered in writing to the street address of the addressee, at the time of delivery.
- 21.10.2 If it is sent by post to the street or postal address of the addressee, on the 2nd (5th if outside Australia) business day after posting.
- 21.10.3 If sent by facsimile or e-mail to the facsimile number or e-mail address of the addressee, at the time transmission is completed.

Proof of giving notices

- 21.11 The sending of a notice by facsimile or e-mail and the time of completion of transmission may be proved conclusively by production of the relevant one of the following:

21.11.1 A transmission report by the facsimile machine from which the notice was transmitted which indicates that a facsimile of the notice was sent in its entirety to the facsimile number of the addressee.

21.11.2 A print out of an acknowledgment of receipt of the e-mail.

Persons entitled to notice of meeting

21.12 Notice of every general meeting must be given by a method authorised by this document to all of the following persons:

21.12.1 Every Member.

21.12.2 Every Director.

21.12.3 Every person (if any) entitled to a Membership in consequence of the death or bankruptcy of a Member who, but for the Member's death or bankruptcy, would be entitled to receive notice of the meeting.

21.12.4 The auditor for the time being of the Company, if any.

21.13 No other person is entitled to receive notices of general meetings.

22 Definitions and Interpretation

Definitions

22.1 In this document the following definitions apply:

Appointed Director has the meaning given at clause 9.2.2.

Board means the board of Directors of the Company.

Company means The Fred Hollows Foundation ACN 070 556 642.

Corporate Governance Charter means the document so entitled adopted by the Board and as amended by authority of the Board from time to time.

Developing Countries means those countries certified as developing countries by the Minister for Foreign Affairs.

Developing Country Relief Fund means a public fund declared by the Treasurer to be a developing country relief fund in accordance with Sections 30-80 and 30-85 of the *Income Tax Assessment Act 1997* (Cth).

Director means a director of the Company.

Elected Director has the meaning given at clause 9.2.2.

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

Office means the registered office of the Company.

Office Bearer has the meaning given at clause 9.12.

Public Funds means the funds established under clause 16 to which donations will be made by the public to further the objects of the Company.

Recipient Entity has the meaning given at clause 19.1.

Register means the register of Members kept by the Company under the Corporations Act 2001.

Seal means, if the Company has one, the common seal of the Company.

Secretary means a person appointed to perform the duties of a secretary of the Company.

Surplus Assets has the meaning given at clause 19.1. **Termination Event** means:

- (a) If a Member is an individual, the death or bankruptcy of that Member or that Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health.
- (b) If a Member is a body corporate, the deregistration or other dissolution of that Member.

Interpretation

22.2 In this document, unless the context otherwise requires:

22.2.1 A reference to any law or legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision, in either case whether before, on or after the date of this document.

22.2.2 A reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time.

22.2.3 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this document.

22.2.4 Where a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

22.2.5 A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.

- 22.2.6 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or public authority.
- 22.2.7 A reference to dollars or \$ means Australian dollars.
- 22.2.8 References to the word 'include' or 'including' are to be construed without limitation.
- 22.2.9 A reference to a time of day means that time of day in the place where the Office is located.
- 22.2.10 A reference to a business day means a day other than a Saturday or Sunday on which all banks are open for business generally in the place where the Office is located.
- 22.2.11 Where a period of time is specified and dates from a given day or the day of an act or event it must be calculated exclusive of that day.
- 22.2.12 A term of this document which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.

References to the document

- 22.3 A reference to this document, where amended, means this document as so amended.

Replaceable rules

- 22.4 Each of the provisions of the Corporations Act 2001 which would but for this clause apply to the Company as a replaceable rule within the meaning of the Corporations Act 2001 are displaced and do not apply to the Company.

Application of Corporations Act 2001

- 22.5 Division 10 of Part 1.2 of the Corporations Act 2001 applies in relation to this document as if it was an instrument made under the Corporations Act 2001 as in force on the day when this document became the constitution of the Company.

Exercise of powers

- 22.6 Except as specifically contemplated to the contrary in this document, the Company may, in any manner permitted by the Corporations Act 2001, exercise any power, take any action or engage in any conduct or procedure which under the Corporations Act 2001 a company limited by guarantee may exercise, take or engage in if authorised by its document, in furtherance of the Company's objects only.