

CONSTITUTION

**(as consolidated with amendments to Constitution
as resolved by members on 25 September 2018)**

The Don Dunstan Foundation

A public company limited by guarantee



Level 15, 45 Pirie Street
Adelaide SA 5000
Telephone + 61 8 8210 1200
Fax + 61 8 8210 1234
www.normans.com.au

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CONSTITUTION

The Don Dunstan Foundation

PRELIMINARY

1. DEFINITIONS

In this constitution:

Ad Hoc Committee means a committee referred to in clause 38.2.2.

The University of Adelaide means The University of Adelaide as continued in existence by the *University of Adelaide Act 1971*.

Chairperson means in respect of the conduct of a meeting of Members or Directors, the person presiding at that meeting.

Chairperson of Directors means the Director elected Chairperson of Directors under clause 27.1.

Chief Executive Officer means the chief executive officer, executive officer or general manager appointed by the Company from time to time.

Committee means an Ad Hoc Committee or Standing Committee.

Company means The Don Dunstan Foundation.

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

Deductible Gift Recipient has the meaning given to that term in the Tax Act.

Deputy Chairperson of Directors means the Director elected Deputy Chairperson of Directors under clause 27.1.

Director includes a person holding the position of director of the Company.

Directors means all or some of the Directors acting as a board.

Don Dunstan means the late Honourable Donald Allan Dunstan AC.

Dunstan Family means the adult children and more remote issue of Don Dunstan acting collectively.

Founding Principles means the principles set out in Annexure B.

Gift Fund means a gift fund established under clause 50.

Management Committee means the Standing Committee referred to in clause 38.1.

Members means The University of Adelaide and Flinders University.

Office Bearer means a person elected as an office bearer under clause 27 from time to time.

Officer means a Director or Secretary.

Relevant Areas means the areas and issues referred to in clause 4.1.

Representative means a person appointed by a Member to act as its representative under the Corporations Act.

Secretary means any person performing the duties of a company secretary of the Company.

Special Resolution means a Special Resolution of Members within the meaning of the Corporations Act (i.e. Section 9).

Standing Committee means a committee referred to in clause 38.1 or clause 38.2.3.

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

Flinders University means The Flinders University of South Australia as established and incorporated by the *Flinders University Act of South Australia 1966*.

2. INTERPRETATION

In this constitution, unless the context otherwise requires:

- 2.1 headings do not affect interpretation;
- 2.2 singular includes plural and plural includes singular;
- 2.3 words of one gender include any gender;
- 2.4 a reference to a person includes a partnership, corporation, association, government body and any other entity;
- 2.5 a reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it;
- 2.6 another grammatical form of a defined word or expression has a corresponding meaning;
- 2.7 the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions;
- 2.8 an expression defined in the Corporations Act has the meaning given by that Act at the date of this constitution. Where the expression has more than one meaning in that Act and a provision of that Act deals with the same matter as a clause in this constitution, the expression has the same meaning as in that provision.

3. REPLACEABLE RULES

The replaceable rules in the Corporations Act do not apply to the Company, unless they are mandatory rules for public companies.

4. OBJECTS

- 4.1 The objects of the Company are to provide assistance to persons in necessitous circumstances by fostering research and education, developing policy and assisting persons to relieve a range of social, cultural and economic issues, including (but not limited to):
- 4.1.1 the identification of the root causes and the development and implementation of strategies for the relief of individuals in the community who are vulnerable and in need (for example, those suffering from homelessness and poverty, mental illness and drug and alcohol dependency), and assisting those and other vulnerable persons in the community to exercise choice and control over their lives;
 - 4.1.2 assisting Aboriginal and Torres Strait Islander persons by identifying the issues that continue to restrict their rights and opportunities and carrying out methods of protecting and increasing their life opportunities through a process of engagement, support and improved education;
 - 4.1.3 supporting and promoting cultural and ethnic diversity, tolerance and respect for fundamental human rights and the rights of minorities and migrants;
 - 4.1.4 the empowerment of persons in need to achieve social and economic equity and to provide these people with the ability to substantially control their own lives and to live a life of personal and economic independence; and
 - 4.1.5 the appropriate use of government intervention to secure socially just outcomes, democratic and inclusive forms of governance and to remediate the global mal-distribution of wealth and income.
- 4.2 In pursuing the above objects, the Company shall act in a manner so as to perpetuate the memory of Don Dunstan and reflect his life's work and achievements by having regard to the Founding Principles wherever possible. Where there is a conflict between the above objects and the Founding Principles, the objects shall prevail to the extent of any inconsistency.
- 4.3 Without limiting clause 4.1, the Company may pursue the above objects by:
- 4.3.1 undertaking research or providing financial assistance to persons or organisations, or commissioning, promoting or publishing academic research projects with the object of encouraging study and research into any of the Relevant Areas and identification of the root causes of the Relevant Areas, whether at The University of Adelaide, Flinders University or at any other post-secondary educational institution in Australia approved by the Directors;
 - 4.3.2 providing or promoting any support services or other direct relief identified as being required from the research conducting under clause 4.3.1 or any other research identified by the Directors as being relevant to the Relevant Areas;

- 4.3.3 empowering Aboriginal & Torres Strait Islander persons and migrants with greater opportunities by conducting research into the root issues facing these members of the community, providing educational scholarships, financial assistance or any other assistance approved by the Directors;
- 4.3.4 working in collaboration with individuals, corporations, governments, charities or other organisations in order to assist in the achievement of any of the objects; and
- 4.4 doing all other things as may be incidental or necessary to the attainment of the objects. The Company may only exercise the powers in section 124(1) of the Corporations Act to carry out the above objects and do all things incidental to them.

5. NO DISTRIBUTION TO MEMBERS

- 5.1 The income and property of the Company must be applied only to promote the above objects of the Company.
- 5.2 The Company must not pay or distribute any income or property directly or indirectly to a Member, except for:
 - 5.2.1 payments for services rendered or goods supplied in the ordinary course of business of the Company; and
 - 5.2.2 interest on money lent by a Member to the Company, at a rate not exceeding current bank overdraft rates.

6. MEMBERSHIP

The University of Adelaide and Flinders University are both Members and shall be the only Members.

MEETINGS OF MEMBERS

7. AGM

- 7.1 The Company must hold an annual general meeting of Members within 18 months after its registration.
- 7.2 The Company must hold an annual general meeting of Members at least once in each calendar year and within five months after the end of its financial year.

8. CALLING MEETINGS OF MEMBERS

- 8.1 A Director may call a meeting of Members at any time.
- 8.2 The Directors must call a meeting of Members when requested by Members in accordance with the Corporations Act.
- 8.3 Members may call a meeting of Members in accordance with the Corporations Act.

9. AMOUNT OF NOTICE FOR MEETINGS OF MEMBERS

Subject to the Corporations Act, at least 21 days' notice of a meeting of Members must be given.

10. CONTENTS OF NOTICE FOR MEETINGS OF MEMBERS

A notice of meeting of Members must:

- 10.1 set out the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
- 10.2 state the general nature of the meeting's business;
- 10.3 if a Special Resolution is to be proposed at the meeting, set out an intention to propose the Special Resolution and state the resolution; and
- 10.4 contain a statement that:
 - 10.4.1 the Member has the right to appoint a proxy; and
 - 10.4.2 the proxy need not be a Member.

11. WHO GETS NOTICE OF MEETINGS OF MEMBERS

Notice of a meeting of Members must be given to:

- 11.1 each Member entitled to vote at the meeting;
- 11.2 each Director; and
- 11.3 any auditor of the Company.

12. FAILURE TO GIVE NOTICE OF MEETINGS OF MEMBERS

The accidental omission to give notice of a meeting of Members (including a proxy appointment form) to a Member, or the non-receipt of notice, does not invalidate the proceedings of the meeting.

13. MEETINGS OF MEMBERS USING TECHNOLOGY

The Company may hold a meeting of its Members at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate.

14. CHAIRPERSON OF MEETINGS OF MEMBERS

- 14.1 The Chairperson of Directors may preside at every meeting of Members.
- 14.2 If there is no Chairperson of Directors, or if the Chairperson of Directors is not present within 10 minutes after the time appointed for the meeting or is unwilling to act, the Deputy Chairperson of Directors may preside at the meeting.
- 14.3 If there is no Deputy Chairperson of Directors, or if the Deputy Chairperson of Directors is not present within 10 minutes after the time appointed for the

meeting or is unwilling to act, the Directors present must elect one of their number to preside at the meeting.

14.4 If there is no Director present within 10 minutes after the time appointed for the meeting and willing to act, the Members present by proxy or Representative must elect one of their number to preside at the meeting.

14.5 The Chairperson has charge of the general conduct of the meeting of Members and of the procedures to be adopted at the meeting, and a decision by the Chairperson under this clause is final.

15. **QUORUM FOR MEETINGS OF MEMBERS**

No business may be transacted at a meeting of Members unless both Members are present by proxy or Representative at all times during the meeting.

16. **RESOLUTIONS OF MEMBERS**

16.1 Unless the law or this constitution requires a Special Resolution, a resolution is passed if both Members vote in favour of the resolution.

16.2 The Members may pass a resolution without a meeting being held if both the Members sign a document containing a statement that they are in favour of the resolution set out in the document.

16.3 Separate copies of a document may be used for signing by each Member if the wording of the resolution and statement is identical in each copy.

16.4 The resolution is passed when the last Member signs.

17. **ENTITLEMENT TO VOTE AT MEETINGS OF MEMBERS**

At a meeting of Members, each Member present by proxy or Representative has one vote.

18. **APPOINTING A PROXY**

18.1 A Member may appoint an individual or body corporate a proxy to act for the Member for all or specified purposes.

18.2 An appointment of a proxy is valid if it is signed or authenticated in accordance with regulation 2G.2.01 of the *Corporations Regulations 2001* (Cth) by the Member making the appointment and contains the information required by section 250A of the Corporations Act. The Directors may determine that the proxy is valid even if it contains only some of that information.

18.3 A later appointment of a proxy revokes an earlier one if both appointments could not be validly exercised at the meeting.

18.4 An appointment may specify the way a proxy is to vote on a particular resolution.

18.5 If an appointment of a proxy does not name the proxy, the Chairperson may act as proxy or complete the appointment by inserting the name of a Director as proxy.

- 18.6 The appointment of a proxy must be given to the Company at least 48 hours before the meeting of Members or resumed meeting, or any shorter period allowed by the Directors.
- 18.7 An undated appointment of a proxy is taken to have been dated on the day it is given to the Company.

19. RIGHTS OF PROXIES

- 19.1 If an appointment specifies the way a proxy is to vote on a particular resolution, section 250A(4) of the Corporations Act applies.
- 19.2 Unless otherwise specified in the appointment, the proxy may:
- 19.2.1 agree to a meeting being convened by shorter notice than is required by the Corporations Act or this constitution;
 - 19.2.2 agree to a resolution being proposed and passed as a special resolution at a meeting of which less than 21 days' notice has been given;
 - 19.2.3 even if the appointment specifies how the proxy must vote on a particular resolution:
 - 19.2.3.1 vote on an amendment to the resolution, a motion not to put the resolution or similar motion;
 - 19.2.3.2 vote on a procedural motion, including a motion to elect the chairperson, vacate the chairperson or adjourn the meeting;
 - 19.2.4 speak at the meeting; and
 - 19.2.5 vote (but only to the extent allowed by the appointment or the Corporations Act or this constitution).
- 19.3 A proxy's authority to speak and vote for a Member at a meeting is suspended while the Representative of the Member who appointed the proxy is present at the meeting.

20. REPRESENTATIVES

- 20.1 A Member may appoint an individual as its Representative.
- 20.2 Unless otherwise specified in the appointment, the Representative may exercise all the powers that the Member could exercise at a meeting of Members or in voting on a resolution (including a resolution to be passed without a meeting).

21. VALIDITY OF ACTS OF MEMBERS

- 21.1 At a meeting of Members, the Chairperson's decision, as to the validity of an appointment of a proxy or Representative, or the identity of a proxy or Representative, is final.

- 21.2 Unless the Company has received written notice of the matter before the start or resumption of a meeting, a vote cast by a proxy or Representative is valid even if, before the vote, the Member revokes the appointment.

DIRECTORS

22. QUALIFICATION OF DIRECTORS

A person may be appointed a Director only if the person:

- 22.1 is an individual over 18 years of age;
- 22.2 is qualified to hold office in accordance with the Corporations Act; and
- 22.3 has consented in writing to being a Director.

23. NUMBER OF DIRECTORS

- 23.1 There is a minimum of four Directors and a maximum of six Directors.
- 23.2 Notwithstanding clause 23.1, while the number of Directors is below the minimum, the Directors may convene a Directors' meeting and pass resolutions to appoint additional Directors under clause 24.3.

24. APPOINTMENT OF DIRECTORS

- 24.1 Subject to clauses 22, each Member appoints its Vice Chancellor for the time being (and on an ex officio basis) as a Director.
- 24.2 Subject to clauses 22, the Dunstan Family may, if they wish, by notice in writing to the Company from time to time, appoint one person as Director and remove such Director from office. Such appointments may be made for the term specified in such notice or may be for an indefinite period.
- 24.3 Subject to clauses 22 and 23, the Directors may appoint up to three persons as a Director and remove such Directors from office. Such appointments may be made on the retirement of Directors under clause 25, or may be made at any other time to fill any other vacancy in the positions available for the appointment of such Directors
- 24.4 The first Directors are those persons whose names appear in Annexure A, all of whom have consented to be Directors on the Company's registration. For the avoidance of doubt, each of those Directors will be taken to have been appointed under the clause set out beside his or her name in Annexure A.

25. RETIREMENT OF DIRECTORS

- 25.1 Subject to clause 25.3, at the conclusion of the second and each subsequent annual general meeting, half of the Directors appointed under clause 24.3 must retire from office.
- 25.2 The Directors to retire under clause 25.1 are those who have been longest in office since their last election, and as between persons who became Directors on the same day, are determined by lot (unless otherwise agreed amongst themselves).

25.3 If at the time of the retirement of any Directors under clause 25.1 the number of Directors is not a multiple of two, then the number of Directors to retire is rounded down to the nearest whole number.

25.4 A Director retiring under this clause is eligible for reappointment.

26. VACATION OF OFFICE OF DIRECTORS

The office of any Director becomes vacant if the Director:

- 26.1 reaches the end of their term of office (if any);
- 26.2 becomes disqualified from managing corporations under the Corporations Act;
- 26.3 dies or is a person whose estate or property has had a personal representative or trustee appointed to administer it;
- 26.4 resigns by notice in writing to the Company;
- 26.5 is removed from office in accordance with the Corporations Act; or
- 26.6 being a Director appointed under clause 24.3, is absent from Directors' meetings for two consecutive meetings without leave of the Directors.

27. ELECTION OF OFFICE BEARERS

- 27.1 At the first Directors' meeting after each annual general meeting, the Directors must appoint a Chairperson of Directors and Deputy Chairperson of Directors from among their number.
- 27.2 Subject to this constitution, those Office Bearers hold office until the conclusion of the election of Office Bearers at the first Directors' meeting after the next annual general meeting.
- 27.3 A retiring Office Bearer is eligible for re-election.
- 27.4 Nominations for office of an Office Bearer are made in the manner determined by the Directors.
- 27.5 If there is only one nomination for the office of an Office Bearer, the nominee stands appointed to such office.
- 27.6 If there is more than one nomination for the office of an Office Bearer, then there must be an election for such office conducted by secret ballot.
- 27.7 The office of any Office Bearer becomes vacant if the Office Bearer:
 - 27.7.1 reaches the end of their term of such office;
 - 27.7.2 resigns from such office by notice in writing to the Directors;
 - 27.7.3 is removed from such office by resolution of the Directors; or
 - 27.7.4 ceases to be a Director.

- 27.8 Should a vacancy occur in the office of any Office Bearer, the Directors must promptly fill such vacancy by appointment from among their number.

28. DIRECTORS' HONORARIUM AND EXPENSES

- 28.1 The Company is prohibited from paying any directors fee, commission, remuneration, honorarium or sitting fee (howsoever described) to the Directors.
- 28.2 The Company may pay any extraordinary travelling and other expenses Directors properly incur:
- 28.2.1 in attending meetings of Directors or of any committee of the Directors;
- 28.2.2 in attending any meeting of Members; and
- 28.2.3 otherwise in connection with the business of the Company.
- 28.3 All payments the Company makes to the Directors (including payments under clause 28.2) must be approved by the Directors.

29. DIRECTORS' INTERESTS

29.1 Notice of material personal interest

- 29.1.1 A Director, who has a material personal interest in a matter that relates to the affairs of the Company, must give the other Directors notice of the interest if required by the Corporations Act, in the manner required by the Corporations Act.
- 29.1.2 A failure to make disclosure under this clause does not affect the validity of any act, transaction, agreement, instrument, resolution or other thing.
- 29.1.3 Disclosures of interest under this clause must be recorded in the minutes of meetings.

29.2 Voting when there is a material personal interest

- 29.2.1 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:
- 29.2.1.1 be present while the matter is being considered; or
- 29.2.1.2 vote on the matter,
- unless permitted by the Corporations Act.
- 29.2.2 A failure to comply with this clause does not affect the validity of any act, transaction, agreement, instrument, resolution or other thing.

29.3 Director may hold other office of profit

Subject to this clause 29 and the Corporations Act, a Director or a body or entity in which the Director has an interest or a relative of a Director may:

- 29.3.1 hold any other office or place of profit (except as auditor) in the Company, on any terms the Directors determine;
- 29.3.2 act in a professional capacity (except as auditor) for the Company or a related body corporate of the Company;
- 29.3.3 hold an office or place of profit or otherwise be interested in a related body corporate of the Company or a body corporate in which the Company is interested;
- 29.3.4 retain benefits from doing any of these.

29.4 **Contracts not void**

- 29.4.1 A Director or a body or entity in which the Director has an interest or a relative of a Director may enter into a contract or arrangement with the Company or a related body corporate of the Company, and retain benefits from doing so.
- 29.4.2 The contract or arrangement is not void or voidable only because the Director holds office as a director.

POWERS AND DUTIES OF DIRECTORS

30. **DIRECTORS TO MANAGE**

- 30.1 Subject to clause 38, the business of the Company is managed by the Directors. They may exercise all the powers of the Company that the Corporations Act or this constitution or a meeting of Members does not require to be exercised by a meeting of Members.
- 30.2 The Directors may appoint a patron or patrons of the Company and revoke such appointments.
- 30.3 The Directors may interpret this constitution and determine any matter relating to the affairs of the Company on which this constitution is silent.

PROCEEDINGS OF DIRECTORS

31. **CIRCULATING RESOLUTIONS OF DIRECTORS**

- 31.1 The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- 31.2 Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 31.3 The resolution is passed when the last Director signs.

32. **CALLING MEETINGS OF DIRECTORS**

- 32.1 The Directors may meet, adjourn and otherwise regulate their meetings as they think fit.

- 32.2 A Director may at any time, and the Secretary must on the request of a Director, call a meeting of Directors.
- 32.3 At least 48 hours' notice of each Directors' meeting must be given to each Director, except in the case of emergency.
- 32.4 Notice may be given in writing, or by any technology consented to by all the Directors. The consent may be a standing one and can only be withdrawn by a Director on 48 hours' notice.

33. CHAIRPERSON OF MEETINGS OF DIRECTORS

- 33.1 The Chairperson of Directors may preside at all Directors' meetings.
- 33.2 If there is no Chairperson of Directors, or if the Chairperson of Directors is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the Deputy-Chairperson of Directors may preside at the meeting.
- 33.3 If there is no Deputy-Chairperson of Directors, or if the Deputy Chairperson of Directors is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the Directors present must elect one of their number to preside at the meeting.

34. QUORUM FOR MEETINGS OF DIRECTORS

- 34.1 The quorum for a Directors' meeting is a majority of the Directors for the time being.
- 34.2 The quorum must be present at all times during the meeting.
- 34.3 If a quorum cannot be established because of a casual vacancy, the remaining Directors may appoint Directors to form a quorum.

35. DECISIONS OF DIRECTORS

- 35.1 Subject to the Corporations Act and clause 29, each Director has one vote.
- 35.2 A resolution of the Directors is passed by a majority of votes cast.
- 35.3 The Chairperson has a casting vote, if the Chairperson has a deliberative vote.

36. MEETINGS OF DIRECTORS USING TECHNOLOGY

A meeting of Directors may be held using any technology by which they are able simultaneously to hear each other and participate in discussion, or by any other technology consented to by all the Directors. The consent may be a standing one and can only be withdrawn by a Director on 48 hours' notice.

37. ATTENDANCE BY NON-DIRECTORS AT MEETINGS OF DIRECTORS

- 37.1 The Chief Executive Officer may attend all Directors' meetings unless determined otherwise by the Directors.
- 37.2 Others may attend a Directors' meeting only with the approval of the Directors, and only if the resolution of approval is recorded in the minutes of the meeting.

38. DELEGATIONS BY DIRECTORS

38.1 The Directors must establish a committee comprising at least two individuals nominated by each Member from time to time, and such other persons determined by the Directors from time to time. Such committee shall be known as “the Management Committee” and will be generally responsible for the day to day activities of the Company. The Directors must within three months of the first meeting of the Directors, adopt terms of reference for the Management Committee which will constitute a delegation of the Directors’ powers in accordance with those terms of reference. The terms of reference for the Management Committee must include the Management Committee’s:

38.1.1 roles and responsibilities;

38.1.2 financial delegations;

38.1.3 personnel delegations;

38.1.4 contractual and purchasing delegations;

38.1.5 reporting responsibilities;

38.1.6 tenure arrangements; and

38.1.7 other expectations of the Directors.

38.2 The Directors may delegate any of their other powers (including the power to delegate) to:

38.2.1 a Director;

38.2.2 an ad hoc committee of Directors and/or other persons;

38.2.3 a standing committee of Directors and/or other persons;

38.2.4 an employee of the Company; or

38.2.5 any other person.

38.3 A delegation must be in writing.

38.4 The Directors may revoke or vary a delegation.

38.5 A delegation does not derogate from the powers of the Directors to act in any matter.

38.6 A Committee or other delegate must exercise their powers in accordance with any directions given by the Directors.

39. COMMITTEES

39.1 A delegation to a Committee may be by way of written terms of reference for that Committee approved by the Directors.

39.2 An Ad Hoc Committee may only operate for a period up to 12 months as determined by the Directors.

- 39.3 Save for the Management Committee under clause 38.1, a Standing Committee will operate until the Directors so determine.
- 39.4 All delegations to Standing Committees (including the terms of reference for the Management Committee) must be reviewed at the first Directors' Meeting held after each annual general meeting.
- 39.5 The Directors may remove and appoint replacement or new members of a Committee at any time.
- 39.6 The Directors may appoint any person as chairperson of a Committee.
- 39.7 Rules about Directors' meetings apply to meetings of all Committees, unless the Directors otherwise determine.
- 39.8 All Committees must furnish regular reports of their activities to the Directors.

40. **VALIDATION OF ACTS**

The acts of the Directors' meetings, a Committee, an Officer or delegate of the Directors are valid even if it is subsequently discovered that there was a defect in an appointment or any of them was disqualified.

41. **ATTORNEYS AND AGENTS**

- 41.1 The Directors may appoint any person to be the attorney or agent of the Company for any purpose, to exercise any of their powers (including the power to delegate), for any period and on any terms the Directors think fit.
- 41.2 The Directors may revoke or vary the appointment or the powers delegated.

42. **SECRETARY**

- 42.1 The Directors must appoint at least one Secretary, for any period, for any remuneration and on any terms they think fit.
- 42.2 Subject to the terms of the employment contract, the Directors may remove or dismiss the Secretary at any time, with or without cause.

43. **INDEMNITY**

- 43.1 To the extent permitted by the Corporations Act and other laws, the Company must indemnify each person who is or has been an Officer against:
 - 43.1.1 any liability (except for legal costs) incurred by that person as an Officer; and
 - 43.1.2 reasonable legal costs incurred in defending an action for a liability by that person as an Officer.
- 43.2 The Company need not indemnify a person under 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.
- 43.3 Where a person seeks to rely on the indemnity contained in this clause, that person must:

- 43.3.1 immediately notify the Company of any claim which gives rise to or could give rise to a liability of the Company to that person under the indemnity;
 - 43.3.2 permit the Company to conduct any negotiations and proceedings in respect of the claim in the name of the person and to have the sole arrangement and the control of such negotiations or proceedings and to settle or compromise the claim or make any admission or payment in relation thereto;
 - 43.3.3 not make any admission without the prior written consent of the Company;
 - 43.3.4 promptly render all reasonable assurance and co-operation to the Company as requested by the Company.
- 43.4 To the extent permitted by the Corporations Act, the Company may pay a premium for a contract insuring a person who is or has been an Officer against those liabilities.
- 43.5 Subject to the Corporations Act, the Company may contract with an Officer to:
- 43.5.1 keep a set of the Company's books (including minutes) and allow the Officer and the Officer's advisers access to the books;
 - 43.5.2 indemnify the Officer against liability incurred as an Officer;
 - 43.5.3 insure the Officer against liability incurred as an Officer.

DOCUMENTS AND RECORDS

44. EXECUTION OF DOCUMENTS

- 44.1 The Company may execute a document (including a deed):
- 44.1.1 in accordance with section 127 of the Corporations Act; or
 - 44.1.2 in any other way approved by the Directors.
- 44.2 The Company may execute a document only if authorised by the Directors.
- 44.3 If the Company has a common seal the Directors must provide for its safe custody.

45. NEGOTIABLE INSTRUMENTS

All negotiable instruments (including cheques) and receipts for payments to the Company must be signed, drawn, accepted, endorsed or otherwise executed by two Directors or in any other manner the Directors determine.

46. MINUTES

- 46.1 The Company must keep minute books in which it records within one month:
- 46.1.1 the names of the Directors and Secretaries present at all meetings of Members, Directors' meetings and meetings of Committees;

46.1.2 all proceedings and resolutions passed at all meetings of Members, Directors' meetings and meetings of Committees, and all resolutions passed without meetings; and

46.1.3 all disclosures of interest.

46.2 Minutes must be signed by the person presiding at the meeting or at the next meeting.

46.3 Unless proved incorrect, signed minutes are presumed to be an accurate record of the proceedings.

47. FINANCIAL RECORDS AND REPORTS

47.1 The Company must keep financial records required by the Corporations Act.

47.2 Unless authorised by the Directors or a meeting of Members or the Corporations Act, a Member is not entitled to inspect the books of the Company.

47.3 The Company must prepare and distribute financial reports if required by the Corporations Act.

48. AUDITOR

If required by the Corporations Act:

48.1 the Directors or a meeting of Members must appoint an auditor;

48.2 the Directors must cause the financial records of the Company to be audited in accordance with the Corporations Act.

49. AMENDMENT OF CONSTITUTION

49.1 The Company may modify or repeal this constitution, or a provision of this constitution, by special resolution (within the meaning of section 9 of the Corporations Act).

49.2 The Company must lodge with ASIC a copy of the special resolution as required by the Corporations Act.

GIFT FUND

50. GIFT FUND

50.1 The Company may maintain for the principal objects of the Company a gift fund which complies with Subdivision 30-BA of the Tax Act.

50.2 The Company must use the Gift Fund only for the principal objects of the Company.

50.3 At the first occurrence of one of the following events:

50.3.1 the winding up of the Gift Fund; and

50.3.2 the revocation of the Company's endorsement as a Deductible Gift Receipt under Subdivision 30-BA of the Tax Act,

the Company must give any surplus assets of the Gift Fund to such one or more charitable entities, funds, authorities or institutions as the Directors determine provided that the relevant recipient:

50.3.3 is endorsed as a Deductible Gift Recipient;

50.3.4 has objects similar to those of the Company; and

50.3.5 has rules which prohibit any distribution of profit to its members.

WINDING UP

51. WINDING UP

51.1 The Company may be wound up in accordance with the Corporations Act.

51.2 If the Company is wound up, each Member and each person who ceased to be a Member in the preceding year undertake to contribute \$20 to the property of the Company towards:

51.2.1 the payment of debts and liabilities of the Company contracted before the person ceased to be a Member;

51.2.2 the payment of costs, charges and expenses of winding up; and

51.2.3 the adjustment of the rights of the contributories amongst themselves.

51.3 If the Company is wound up any surplus (after satisfaction of its debts and liabilities) must be given to one or more of the charitable entities, funds, authorities or institutions determined by the Members (or in default, by the Supreme Court of South Australia) provided that the relevant recipient:

51.3.1 is endorsed as a Deductible Gift Recipient;

51.3.2 has objects similar to or including those of the Company; and

51.3.3 has rules which prohibit any distribution to its members.

NOTICES

52. NOTICE TO MEMBERS

52.1 Each Member must notify the Company in writing of the Member's address for notices and any change to that address.

52.2 The Company may give notice to a Member:

52.2.1 by delivering it by hand or sending it by post to the postal address (if any) nominated by the Member;

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

52.2.3 if it is a notice of meeting, by giving it in accordance with section 249J of the Corporations Act.

52.3 A notice is deemed to be received:

52.3.1 if hand delivered, on delivery;

52.3.2 if sent by prepaid mail, two business days after posting within Australia (or seven business days after posting by airmail to or from a place outside Australia);

52.3.3 if sent by facsimile, at the time and on the day shown in the sender's transmission report, if it shows that the entire notice was sent to the correct facsimile number;

52.3.4 if sent by electronic transmission or by posting on the noticeboard, 24 hours after transmission or posting;

52.3.5 if given under section 249J(3)(cb) of the Corporations Act, on the business day after the day on which the Member is notified that the notice of meeting is available.

However if the notice is deemed to be received on a day that is not a business day or after 5:00pm at the registered office of the Company, the notice is deemed to be received at 9:00am on the next business day at the registered office of the Company.

52.4 A notice given to a Member in accordance with this clause is sufficient, even if the Member is dead, mentally incapacitated, an infant, bankrupt or an externally-administered body corporate, and even if the Company has notice of that event.

53. NOTICE TO COMPANY

A Member or Director must give any document or notice required by the Corporations Act or this constitution to the Company at its registered office.

54. CALCULATING TIME

Time is calculated in accordance with the Corporations Act.

Annexure A – First Directors

Colin John Stirling	<i>Vice-Chancellor of Flinders University appointed under clause 24.1</i>
Warren Arthur Bebbington	<i>Vice-Chancellor of Adelaide University appointed under clause 24.1</i>
Catherine Anne King	<i>Appointed under clause 24.3</i>
Lynn Maurice Ferguson Arnold	<i>Appointed under clause 24.3</i>

Annexure B – Founding Principles

The Company is established with the view of perpetuating the memory of the Honourable Donald Allan Dunstan AC by honouring the principles on which he established the Don Dunstan Foundation Trust.

The principles reflect Don Dunstan's life and work through the fostering of research, education and policy on a broad range of issues concerning social, cultural and economic development based on:

1. social and economic equity;
2. the appropriate use of government intervention to secure socially just outcomes;
3. the ability of individuals substantially to control their own lives;
4. democratic and inclusive forms of governance;
5. cultural and ethnic diversity;
6. tolerance and respect for fundamental human rights and the rights of minorities suffering discrimination;
7. respect for and protection of the rights of indigenous people; and
8. remediation of global mal distribution of wealth and income.

MEMBERS' AGREEMENT

The Members at registration of the Company agree to this constitution.

Date:

**Signed for and on behalf of
The University of Adelaide**

.....
Signature of Authorised Person

.....
Print full name

.....
Print position

**Signed for and on behalf of
Flinders University**

.....
Signature of Authorised Person

.....
Print full name

.....
Print position