

**Tiy Loy Charitable
Scheme Identification
Statement**

Tiy Loy Chinese Community Inc (ABN 63 881 380 322) ("Trustee")

The Tiy Loy Charitable Scheme ABN 69 770 965 792 ("**Charitable Scheme**") is constituted under a trust deed settled on 23 July 2014 ("**Trust Deed**"). It was registered as a charity with the Australian Charities and Not-for-profit Commission on 23 July 2014. Under the Trust Deed two trusts are settled, one for members of the Tiy Loy Community ("**Member Fund**"), the other a charitable trust for the relief of persons in Australia who are in necessitous circumstances ("**Charitable Fund**").

The Trustee holds Australian Financial Services Licence number 503397, issued 23 February 2018.

The Trustee relies upon section 5(1) of ASIC Corporations (Charitable Investment Fund Raising) Instrument 2016/813, ("**Instrument**") for continued operation of the Charitable Scheme.

The Trustee acknowledges that it is required to submit a written report to ASIC of the full particulars of each breach, or likely breach, of a condition in section 7 of the Instrument. The Trustee also acknowledges that the report should be provided to ASIC within 15 business days of the Trustee becoming aware of the breach.

- 1 The Trustee is trustee of both of the Member Fund and the Charitable Fund is the Tiy Loy Chinese Community Inc (ABN 63 881 380 322) The Trustee was incorporated on 14 June 2012 under the NSW *Associations Incorporation Act, 2009* and given registered number INC9897466. Its address is Level 1, 417-419 Sussex Street, Sydney.

(This satisfies section 7(2)(a) of the Instrument.)

- 2 The Trustee operates the Charitable Scheme, which is constituted as a trust into which any member of the Tiy Loy Community may place funds for safe keeping. Any member may place their funds, it being known by the community that the Charitable Scheme offers this service to the members – so no formal offers are issued by the Trustee. All interests in the Charitable Scheme are offered to members as retail, non-associated clients (other than the management committee members (8 only)). There are no voluntary staff members.

(This satisfies condition 7(2)(h) of the Instrument.)

Funds placed by a member are held by the Trustee on trust for the member and may be applied by the Trustee for that member's funeral (ceremony and burial), other life celebrations (as directed by the member) and or to meet any exigencies that arise in the member's elderly years. Funds placed on trust may only be applied, in accordance with the Trust Deed, by the Trustee exclusively for that member's benefit or in accordance with their directions. The balance is repayable to the member (or their estate). The Trustee is obliged to bank the trust funds held in authorised deposit taking institutions that conduct business in Sydney, Australia on term deposits of no greater than six months. The Trustee has notified all members that funds they have placed with the Charitable

Scheme cannot be repaid to the member unless the member requests repayment at least 31 days before they expect to receive payment.

The Trustee does not issue a short term investment product to any person as a retail, non-associated client.

(This satisfies section 7(5)(a) of the Instrument.)

(a) No person holds a short term investment product:

- (i) that is issued by the Trustee; and
- (ii) if it were issued, it would be issued to the holder as a retail, non-associated client.

(This satisfies section 7(5)(b) of the Instrument.)

3 A condition upon which funds are held on trust by the Trustee is that a member assigns any right to interest or other income earned from their funds to the Charitable Fund. That is, the right to interest or other income vests in the Trustee as trustee of the Charitable Fund. The Charitable Fund will be invested within Australia only in at call accounts with authorised deposit taking institutions that conduct business in Sydney, Australia.

4 The Charitable Fund is for the relief of persons in Australia who are in necessitous circumstances. The Charitable Fund is used to deliver services to the aged, impotent and illiterate through the agency of officers and employees of the Trustee. Those services include translation and interpretation, liaison with medical, employment, legal and other social services for the benefit of the aged, impotent and illiterate and other assistance with the exigencies encountered by the aged, impotent and illiterate as they arise. The interest from funds deposited with the Trustee in the Member Fund will be used to promote the charitable objects of the Charitable Fund.

(Paragraph 4 above satisfies section 7(2)(f) of the Instrument.)

5 The Trustee will confirm to the member that:

- (b) The member's funds are held on trust by the Trustee pursuant to the terms of the Trust Deed.
- (c) The member assigns the right to interest or other income on their funds to the Trustee of the Charitable Fund.
- (d) The Charitable Scheme is designed for persons who wish to promote the Charitable Scheme and for whom the consideration of profit is not of primary relevance in the investment decision.
- (e) The Charitable Scheme is not subject to the normal requirement to have a disclosure document or product disclosure statement or be registered under the *Corporations Act 2001*.
- (f) The Charitable Scheme has not been examined or approved by the Australian Securities and Investments Commission.

(g) The normal protections that would apply under the *Corporations Act 2001* would not apply.

6 The Trustee will ensure that before a member places funds on trust, the member is given the following information:

(a) The identity of the Charitable Scheme.

(b) The terms and conditions of the trust upon which the funds are held.

(c) The terms and conditions, if any, under which a person other than the Charitable Scheme, or an employee of the charitable body in that capacity, will receive a material benefit in connection with:

(i) The promotion of the Charitable Scheme;

(ii) Administering or managing the assets of the Charitable Scheme; or

(iii) Giving investment advice in respect of the Charitable Scheme.

7 The Charitable Fund is a registered charity and is exempt from income tax. The Trustee in its capacity as trustee of the Charitable Fund will meet all of the Fund's obligations under the *Australian Charities and Not for Profits Act, 2012*, *Income Tax Assessment Act 1936*, *Income Tax Assessment Act 1997*, *Tax Administration Act 1953* and *A New Tax System (Goods and Services Tax) Act 1999* and *Association Incorporations Act, 2009*.

8 The above terms are provided in writing, in Chinese and English script, and the deed of acknowledgement is read by an officer of the Trustee to a member prior to the time of first execution by that member.

9 The Trust Deed records the following obligations:

(a) Funds held are to be held by the Trustee on trust for the member's funeral ceremony and burial expenses, for other life celebrations nominated by the member and for dealing with other exigencies encountered by the member in their elderly years. The funds held on trust must be applied exclusively for the member's benefit or in accordance with their directions.

(b) A member can access their funds and have their funds returned in whole or in part upon a minimum of 31 days' notice to a committee member or officer of the Trustee.

(c) Funds held can only be invested by the Trustee in authorised deposit-taking institutions (as defined in the *Banking Act 1959*) that conduct business in Sydney Australia for terms of no greater than six months. No assets will be held outside Australia.

(This satisfies section 7(2)(k) of the Instrument.)

(d) The right to interest or other income derived from the investment of the funds held by the Trustee is assigned to the Charitable Fund and upon maturity of an investment the interest vests in the Trustee as trustee of the Charitable Fund.

- (e) Funds held on trust in the Member Fund are to be kept separate and distinct from the Charitable Fund and the Trustee's cash accounts.
- (f) The Trustee must:
 - (i) Maintain a ledger of the funds placed on trust.
 - (ii) Issue to a member a passbook and receipt for any funds held on trust or returned to the member.
 - (iii) Make an entry in the passbook and ledger for any funds placed on trust by a member or returned to that member and verify the passbook entry by a Trustee seal and or the signature of the officer of the Trustee responsible for administering the Charitable Scheme.
- (g) The Member Fund, its ledgers and books of account held by the Trustee must be audited annually by an auditor who will report to the Trustee advisory committee.
- (h) The Trustee must lodge the audit report and statement of accounts with ASIC. At the same time the Trustee will notify ASIC of any change in officers and or directors.
- (i) The Trustee must not provide any material benefits to any person for promotion of the Charitable Scheme or for giving investment advice in respect to the Charitable Scheme.

To the extent that the obligations set out in this paragraph 9 fall within the concept or character of a managed investment scheme, then the Trustee issues interest in a managed investment scheme.

10 The Trustee will satisfy conditions 1-5 inclusive as follows:

- (a) **Condition 1** - Registration of an Identification Statement to be completed by ASIC. Written notice of any amendments to be provided to ASIC as a condition of those amendments taking effect.
- (b) **Condition 2** - Upon placing funds on trust, the member will sign a deed of acknowledgement in the form of appendix "A" endorsed with the name "Tiy Loy Charitable Scheme".
 - (i) There is no rate of return or distribution;
 - (ii) There are no fees and costs payable by any person placing funds with the Charitable Scheme;
 - (iii) There are no fees and costs payable from the assets of the Charitable Scheme.

(This satisfies section 7(2)(g) of the Instrument.)
- (c) **Condition 3** - There is no reference in any promotional material or offer document that the Charitable Scheme has been approved or examined by the Australian Securities and Investments Commission.

- (d) **Condition 4** - The Charitable Scheme will lodge with ASIC further statements or another identification statement to rectify any false or misleading material statement in or any material omission from the identification statement as soon as practicable after the Trustee becomes aware that this Identification Statement is false or misleading or that there is a material omission. The Trustee undertakes to make such further statements.
- (e) **Condition 5** - The Trustee is obliged under the Trust Deed to lodge with ASIC:
 - (i) Where the Charitable Scheme is required under a law of Commonwealth or a State or Territory to lodge an annual statement of the accounts kept in relation to the Charitable Scheme with a statutory body or the Crown, a copy of that statement as soon as practicable; and
 - (ii) a copy of the auditor's report within six months after the end of that financial year.

The Trustee will lodge with ACNC:

- (i) audited financial statements for the Charitable Fund; and
- (ii) audited financial statements for the Member Fund.

There are no separate accounts kept for the Trustee.

(This satisfies section 7(2)(i) of the Instrument.)

11 The Trustee will comply with its obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* in relation to the Charitable Scheme. Specifically the Trustee will:

- (a) Establish an Anti-Money Laundering/Counter-Terrorism Financing program in relation to the Member Fund.
- (b) At the time a new member places funds on trust, or at the time an existing member places further funds,
 - (i) sight the following evidence of identity of the member
 - (A) one of the following primary documents:
 - i. passport (current or expired within the last two years but not cancelled), or
 - ii. birth certificate/extract, or
 - iii. citizenship certificate, or
 - iv. driver's licence issued under Australian law, or
 - v. government issued proof of age card, or
 - vi. pension card (issued by Centrelink), or
 - vii. foreign driver's licence,
 - (B) and one of the following secondary documents:

- i. Centrelink health care card or Commonwealth seniors health card, or
 - ii. tertiary education institution ID card, or
 - iii. council rates (issued within the preceding 12 months)
 - iv. Medicare card, or
 - v. a bank/credit union/building society passbook, statement or debit/credit card, or
 - vi. an account (e.g. mobile telephone or pay TV issued within the preceding 3 months), or
 - vii. utility bill (e.g. water, electricity, gas or landline telephone issued within the preceding 3 months).
- (c) If either a birth certificate/extract, passport, citizenship certificate or driver's licence is in a language other than English, it must be accompanied by an accredited English translation.
- (d) The two primary and secondary documents combined must show the member's:
 - (i) full name, and
 - (ii) current residential address, and
 - (iii) date of birth, and
 - (iv) nationality, and
 - (v) photograph.
- (e) Refuse to accept funds except where the above identification requirements are satisfied.
- (f) Retain copies in its records of those identification documents upon which it has relied.
- (g) Create a new ledger for the new member.
- (h) Issue the new member with a passbook containing the name and address details of the member and his/her identifying ledger number, in both English and Chinese.
- (i) At the time an existing member places further funds on trust or withdraws funds from the trust, the Trustee will:
 - (i) sight the above identification evidence as to the identity of the member; and
 - (ii) retain copies in its records of those identification documents upon which it has relied to identify the member; and
 - (iii) inspect the existing member's ledger and passbook and ensure his/her identity corresponds with the name and address details of the existing member and his/her identifying ledger number, in both English and Chinese.

12 The financial year of the Member Fund and the Charitable Fund each ends on 30 June of each year.

(This satisfies section 7(2)(d) of the Instrument.)

- 13 The Trustee holds Australian Financial Services Licence number 503397, issued 23 February 2018.

(This satisfies section 7(2)(e) of the instrument.)

- 14 No person will provide a guarantee to members who place funds with the Trustee.

(This satisfies section 7(2)(j) of the Instrument.)

- 15 No sponsor is involved.

(This satisfies section 7(2)(l) of the Instrument.)

- 16 Reporting

The Trustee will:

- (a) give notice to the Australian Transaction Reports and Analysis Centre (AUSTRAC) CEO of suspicious matters as defined in section 41(1) *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, namely if the Trustee on reasonable grounds suspects that a person placing funds (in his/her own right or as an agent) is not the individual he/she purports to be, or, the Trustee suspects, on reasonable grounds, that it has information concerning the acceptance of funds or their withdrawal which may be relevant to tax law investigation, evasion, offence against a law of the Commonwealth or a state or territory, enforcement of a *Proceeds of Crime Act 2002* offence, or that the acceptance or withdrawal of funds is preparatory to commission of or relevant to investigation of a financing of terrorism or money laundering offence (section 5). The Trustee will report within the time periods required under section 41(2) using the approved form.
- (b) give AUSTRAC CEO a report about delivery of any designated service that involves a **threshold transaction**. The Trustee will report within the time periods required under section 43(2) using the approved form.
- (c) not accept any **international funds transfer instruction** (as defined in section 46 of the Act) from its members.
- (d) if required by the Anti-Money Laundering /Counter Terrorism Funding Rules, provide a compliance report to AUSTRAC CEO. The Trustee will report within the time periods required under section 47(2) using the approved form.

- 17 The Trustee will maintain a publicly accessible website on which this Identification Statement is published for five years after the last time the Trustee relied upon ASIC's acceptance of this Identification Statement. Website address (www.tyloy.org)

(This satisfies section 7(3) of the Instrument.)

- 18 The Trustee will take all reasonable steps to ensure this Identification Statement is up to date, complete and not misleading at all times.

(This satisfies condition 7(4) of the Instrument.)

- 19 Concerning sections 7(5)-7(17) of the Instrument:

- (5)(a) - See paragraph 2 above of this Identification Statement
- (5)(b) - See paragraph 2 above of this Identification Statement .
- (6) - The Trustee will ensure that all interests in the Member Fund will only be held on terms permitting moneys be repaid within 31 days of them being placed:
 - (e) If the Trustee has reasonable grounds to believe that if:
 - (i) all repayments it may be required to pay on a particular day were paid; and
 - (ii) all repayments that may reasonably be expected to be due on a particular future day were paid on that future day;then all members will be repaid on that particular day or future day; or
 - (f) All members are individuals, and will only be repaid (earlier than 31 days) if the Trustee is satisfied that repayment would alleviate financial hardship that a particular member is suffering; or
 - (g) On a winding up of the Charitable Scheme.
- (7) The Trustee will only repay funds held for less than 31 days according to the above subparagraph (6)(a)-(c) inclusive.
- (8) The Trustee will only repay funds held to a member:
 - (a) by transfer to an Australian Approved Deposit-taking Institution (ADI) account; or
 - (b) by cheque payable only to the person.
- (9) The Trustee will not refer to funds held “at call” or on “deposit” or any other like word or expression.
- (10) See paragraph 5(e) above of this Identification Statement. None of the following has been examined or approved by ASIC.
 - (a) Tiy Loy Chinese Community Inc or the Charitable Scheme;
 - (b) The interest of members in the Charitable Scheme;
 - (c) The promotional material or offer document.
- (11) See paragraph 4 above of this Identification Statement to explain:
 - (c) How the investment funds will be used to support the charitable purpose of the charitable investment fundraiser.
 - (d) This Identification Statement will be published on the Charitable Scheme’s website

and is available for inspection at the address of the Trustee referred to in paragraph 1 of this Identification Statement.

- (e) See paragraph 5(f) above of this Identification Statement.
- (f) See paragraph 13 above of this Identification Statement
- (12)
 - (a) The Trustee does not provide any promotional or offer document other than this Identification Statement.
 - (c) See paragraph 5(c) above of this Identification Statement.
 - (d) The member maynot receive repayment of all or some funds left with the Trustee when the member expects.
 - (e) When a member leaves funds with the Trustee, this is not comparable to investments with banks, finance companies or fund managers.
- (13) All members must sign a statement when they leave funds with the Trustee stating they understand the content of (11) and (12) in the immediately preceding paragraphs.(see Annexure A)
- (14) Signing the statement referred to in (13) can be electronic.
- (15) See paragraph 10(e)(ii) of this Identification Statement above.
- (16)
 - (a) See paragraph 10(e)(ii) of this Identification Statement above.
 - (b) The Trustee will ensure the financial statements comply with all the recognition requirements and measurement requirements that apply to reporting entities and all other requirements of the accounting standards that apply to non-reporting entities will also be complied with.
- (17)
 - (a) See paragraph 10(e)(ii) of this Identification Statement above.
 - (b) See Paragraph 7 of this Identification Statement above.
 - (c) The Trustee will publish audited financial statements and auditor's report at a web address accessible by a direct link where this or the relevant Identification Statement is or was most recently published. The audited financial statements and the auditor's report must be published for at least three years.
 - (d) The Trustee's audited financial statements and the auditor's report may be inspected at the Trustee's website (tiyloy.org).

20 Consent

The Trustee consents to allow any person on request statement to ASIC to examine this Identification Statement, the Trust Deed and the form of Acknowledgement comprising the documents submitted to ASIC as its application for approval of the Charitable Scheme.

Signed on behalf of Tiy Loy Chinese
Community Inc (ABN 63 881 380 322)
by its duly appointed agent who by
his/her execution warrants his/her
authority to execute this instrument in the
presence of:

Tiy Loy Chinese Community Inc
(ABN 63 881 380 322) by its agent



Agent

Albert Soo

Witness

RUIXIANG SU

Print name

ALBERT LAM FUN SOO

Full name

CHAIRMAN

Position

APPENDIX A

I, _____ (full name) of
_____ (address)

place \$ _____ (amount) with **TIY LOY CHINESE COMMUNITY INC** (ABN 63 881 380 322) ("**Trustee**") on the terms of the Tiy Loy Charitable Scheme Trust Deed dated 23 July 2014.

I acknowledge that my funds are held on trust by the Trustee and will be applied for my funeral ceremony and burial, life celebrations nominated by me and or to meet any exigencies that I encounter in my elderly years. My funds held on trust must be applied exclusively for my benefit or in accordance with my directions. The Trustee may invest my funds with an Australian bank until I need them. I assign my right to any interest from such funds to the Trustee to be applied for the relief of persons who are in necessitous circumstances and to be used to deliver services to the aged, impotent and illiterate. The Trustee may pay fair and reasonable remuneration and pay reasonable expenses incurred in operating the Tiy Loy Charitable Scheme in accordance with the Trust Deed.

I acknowledge that:

- a. The Tiy Loy Charitable Scheme is designed by persons who wish to promote that scheme and for whom the consideration of profit is not of primary relevance in the investment decision.
- b. The Tiy Loy Charitable Scheme is not subject to the normal requirement to have a disclosure document or product disclosure statement or be registered or have a trust deed under the Corporations Act 2001 and has not been examined or approved by the Australian Securities and Investments Commission.
- c. There will be no material benefits flowing to any person in connection with the promotion of the Charitable Scheme. There will be no material benefits to any person (other than the Trustee or an employee of the Trustee in that capacity) in connection with administering or managing the assets of the Charitable Scheme. There will be no material benefits flowing to any person (other than the Trustee or an employee of the Trustee in that capacity) for giving investment advice in connection with the Charitable Scheme.
- d. The normal protections that would apply under the Corporations Act 2001 do not apply. The Tiy Loy Charitable Scheme has not been examined or approved by the Australian Security and Investments Commission.
- e. The Trustee will only repay my funds if I or my nominated family representative gives at least 31 days' notice to the Trustee of my wish to receive repayment.
- f. The Trustee can only repay my funds to my nominated bank account or by cheque payable to me.
- g. There is a chance that I may not receive repayment of all of the funds I place with the Trustee at the time I expect to receive that repayment.

- h. Placing funds with the Trustee is not comparable to investments with banks, finance companies or fund managers.

I acknowledge that the Trustee is obliged pursuant to the:

Income Tax Assessment Act 1936, Australian Charities and Not for Profits Commission Act, 2012, Associations Incorporation Act, 2009, Income Tax Assessment Act 1997 Tax Administration Act 1953 and A New Tax System (Goods and Services Tax) Act, 1999 (unless granted charitable exemption) to file an income tax return and to file business activity statements; and *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the 'AML Act') to collect identification evidence in the form referred to in the Identification Statement and report to AUSTRAC any suspicious transactions and any international transactions of over \$10,000 and otherwise as required by the AML Act.

I consent to the Trustee complying with its obligations and any resultant incursion into my privacy to achieve such compliance.

I understand all of the above statements and in particular, the provisions in paragraphs (g) and (h).

The Trustee's identification statement may be inspected at the Trustee's website (tiyloy.org).

EXECUTED as a DEED

Signature of Member

Signature of witness

Member account number

Name of witness

Date