

Constitution of
St. John's College Foundation Ltd.
ABN 75 010 797 887

1.	Definitions and interpretation	5
2.	Type of company	7
3.	Objects	7
4.	Powers	9
5.	Application of income and property	9
6.	No distribution to members	9
7.	Limited Liability	9
8.	Guarantee	10
9.	Winding Up	10
10.	Number of members	11
11.	Membership	11
12.	Qualification of membership	11
13.	Categories of membership	12
14.	Application for membership	13
15.	Admission to membership	13
16.	Register of members	14
17.	Resignation	14
18.	Cessation of Membership	15
19.	Disciplining Members	15
20.	Effect of cessation of membership	16
21.	Eligibility	16
22.	The Board of the Company	16
23.	Election and Appointment of Directors	17
24.	Nomination for election	17
25.	Election procedure for Elected Directors	18
26.	Time appointment or retirement takes effect	19
27.	Office bearers	19
28.	Election of Office Bearers at board meeting	19
29.	Eligibility and nomination	19
30.	Nomination to the Board by Directors	20
31.	Insufficient Directors	20
32.	Validation of acts of Directors and secretaries	20

33.	General business management	20
34.	Borrowing Powers	21
35.	Rules and By-Laws	21
36.	Appointment and Delegation by the Board	21
37.	Committees of Directors	21
38.	Removal of Directors	22
39.	Resignation of Director	22
40.	Vacation of office of Director	22
41.	Director to disclose interests (s191 CA)	22
42.	Effect of interest in contract	23
43.	Other interests	24
44.	Extension of meaning of 'Company'	24
45.	Financial Benefit	24
46.	Circulating resolutions	25
47.	Meetings of Directors	25
48.	Calling Directors' meetings	25
49.	Notice of meeting	25
50.	Technology meeting of Directors	26
51.	Charing Directors' meetings	26
52.	Quorum	27
53.	Passing of Directors' resolutions	27
54.	Circulating resolutions	27
55.	Calling of a general meeting	28
56.	Notice of a meeting	28
57.	Persons entitled to notice of a general meeting	28
58.	How notice is given	28
59.	When notice is given	29
60.	Period of notice	29
61.	Contents of notice	29
62.	Notice of adjourned meeting	29
63.	Accidental omission to give notice	30
64.	Postponement of general meeting	30

65.	Technology	30
66.	Quorum	30
67.	Chair at general meetings	31
68.	Business at adjourned meetings	31
69.	Who can appoint a proxy	31
70.	Rights of proxies	32
71.	Appointing a proxy	32
72.	Receipt of proxy documents	33
73.	Validity of proxy vote	34
74.	Body corporate representative	34
75.	Attorney of member	35
76.	How a vote may be exercised	35
77.	Objections to right to vote	35
78.	How voting is carried out	35
79.	Matters on which a poll may be demanded	36
80.	When and how polls must be taken	36
81.	Chair's casting vote	36
82.	Business of an annual general meeting	36
83.	Resolutions proposed by members	37
84.	Minutes to be kept	38
85.	Accounts	38
86.	Monies	39
87.	Audit	39
88.	Common seal	39
89.	Use of common seal	39
90.	Execution of documents without common seal	40
91.	Execution of document as a deed	40
92.	Execution – general	40
93.	Indemnity	40
94.	Formalities omitted	41
95.	Alterations	41
96.	Company's financial year	41

Introduction

1. Definitions and interpretation

1.1 Definitions

In this Constitution:

- (1) **Act** means the *Corporations Act 2001* and includes any amendment or re-enactment of it or any legislation passed in substitution for it;
- (2) **Appointed Director** means Directors appointed by the Council
- (3) **Board** means the Board of Directors of the Company;
- (4) **Business Day** means a day that is not a Saturday, Sunday or public holiday or bank holiday in the place where the Company has its registered office;
- (5) **Chairman** means the person elected as chairman as provided by clause 28;
- (6) **College** means St. John's College within the University of Queensland;
- (7) **Company** means St. John's College Foundation Limited ABN 75 010 797 887;
- (8) **Council** means the Council of St. John's College within the University of Queensland;
- (9) **Default Rate** means $(x + 2)\%$ per annum where x is the interest rate quoted by the Commonwealth Bank of Australia ("Bank") as its 90 day bank bill rate ("Published Rate") or, should there cease to be a Published Rate, the rate which the Bank designates as being an appropriate substitute for the Published Rate ("Substitute Rate"). A certificate signed by a manager or other officer of the Bank stating the Published Rate or the Substitute Rate at a particular date is conclusive evidence of the rate at the particular date;

- (10) **Directors** means the directors for the time being of the Company or the directors assembled as a board;
- (11) **Elected Directors** means Directors elected at a general meeting;
- (12) **Foundation** means the trust fund called “St. John’s College Foundation Trust”;
- (13) **Foundation Members** means the persons who consented to be members on the registration of the Company;
- (14) **Gift** means:
 - (i) A realisable gift
 - (ii) A non-realisable gift;
 - (iii) A deferred gift; and
- (15) **Secretary** means any person appointed to perform the duties of a secretary of the Company, including an honorary secretary; and
- (16) **State** means the State of Queensland.

1.2 Interpretation

- (1) Reference to:
 - (i) one gender includes the others;
 - (ii) the singular includes the plural and the plural includes the singular; and
 - (iii) a person includes a corporation or body corporate.
- (2) Except so far as the contrary intention appears in the Constitution:
 - (i) An expression in this Constitution has the same meaning as in the Act;
 - (ii) If an expression is given different meanings for the purposes of different provision of the Act, the expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.
- (3) “Including” and similar expressions are not words of limitation.

- (4) Headings and the table of contents or index are for convenience only and do not form part of this Constitution or affect its interpretation.

2. Type of company

The Company is a not-for-profit public company limited by guarantee which is established to be, and continue as, a charity.

3. Objects

3.1 The objects for which the Company is established are:

- (1) To support and assist the Council and College in encouraging and fostering the interest and financial support of past students, parents of students and friends of the College;
- (2) To preserve, improve and develop the College's standards, services, property and facilities; and
- (3) To accept office as trustee and to administer any trust funds of the Foundation for the benefit of the College, in particular the "St John's College Foundation Trust".

3.2 Without limiting the generality of clause 3.1, for the purposes of carrying out its objects, the Company may:

- (1) solicit donations and gifts to or for the benefit of the College or any of its funds or accounts or any trusts or funds established to benefit the College from its past students, parents of students, friends and from any other source deemed appropriate for the promotion of the objects of the Company;
- (2) extend invitations to past students, parents of students, and friends of the College to become members of the Company;
- (3) raise finance for the acquisition of land or the acquisition, construction, alteration or maintenance of buildings used or to be used by the College, and to acquire, construct or maintain the same;

- (4) provide financial assistance for the acquisition by the College of library books, works of art, and plant and equipment of all kinds;
- (5) attract and encourage bequests, legacies and all forms of deferred gifts for the Company's objects;
- (6) enlist support for and provide financial assistance to the College for any of its purposes including the employment of staff with special skills, visits from distinguished scholars and others who may contribute to the education of students and staff of the College, granting of scholarships, bursaries, endowments and educational allowances, and the social, cultural and sporting activities of the College;
- (7) raise money for the Company's objects by any method that seems desirable to the Company (including the undertaking or participation in commercial ventures of all kinds);
- (8) to disseminate information and material relating to the College and its activities, needs and objectives to members of the Company and others;
- (9) appoint, employ, remove or suspend managers, clerks, secretaries, workmen and other persons as may be necessary or convenient for the purposes of the Company;
- (10) invest and deal with the Company funds not immediately required for its objects;
- (11) act as manager and/or trustee of trusts and funds established for the benefit of the College; and
- (12) do all such things as are incidental or conducive to the attainment of the above objects or any of them.

3.3 The Company must only pursue charitable purposes and apply its income to promoting those purposes.

4. Powers

- 4.1 The Company has all the powers of an individual and a body corporate but does not have the power to issue shares.
- 4.2 Despite clause 4.1, the powers of the Company are ancillary to and are only exercisable pursuant to the objects of the Company set out in clause 3.

5. Application of income and property

- 5.1 The income and property of the Company, from wherever it is derived, must be applied solely toward the promotion of the objects of the Company set out in clause 3.

6. No distribution to members

- 6.1 No portion of the income or property of the Company may be paid directly or indirectly, by way of dividend, bonus or otherwise to the members of the Company.
- 6.2 Clause 6.1 does not prevent:
 - (1) the payment in good faith of remuneration to any officer, servant or member of the Company in return for services actually rendered to the Company or for goods supplied in the ordinary and usual way of business;
 - (2) the payment of interests at a rate not exceeding the Default Rate on money borrowed from any member of the Company;
 - (3) the payment of reasonable and proper rent by the Company to a member of the Company for premises leased by the member to the Company; or
 - (4) the reimbursement of expenses incurred by any member on behalf of the Company.

7. Limited Liability

- 7.1 The liability of Company members is limited.

8. Guarantee

8.1 Every member of the Company undertakes to contribute an amount not exceeding \$5.00 to the property of the Company in the event of the Company being wound up while the member is a member or within 1 year after the member ceases to be a member if required for payment:

- (1) of the debts and liabilities of the Company (contracted before the member ceases to be a member)
- (2) of the costs, charges and expenses of winding up; and
- (3) for the adjustment of the rights of contributories among themselves.

9. Winding Up

9.1 If upon winding up or dissolution of the Company any property remains, after satisfaction of all its debts and liabilities, that property must not be paid to or distributed among the members of the Company but must be given or transferred to the College, or if it does not exist, to similar institution/s determined by the members of the Company at or before the time of dissolution which has similar objects to the Company and which is approved by the Commissioner of Taxation as a charitable fund or institution for the purposes of any Commonwealth Taxation Act.

9.2 The institution chosen for the purposes of clause 9.1 must prohibit the distribution of surplus assets to its members to the same extent of the Company and be a deductible gift recipient within the meaning of the *Income Tax Assessment Act 1997* (Cth).

9.3 If the members do not make the necessary determination under clause 9.1, the Company may apply to the Supreme Court to determine the institution or institutions.

Membership

10. Number of members

10.1 The number of members for which the Company proposes to be registered is 2000 but the Directors may increase the number of members at any time.

11. Membership

11.1 The members of the Company are:

- (1) The Foundation Members; and
- (2) Any other persons who qualify for membership or are otherwise admitted by the Board in its discretion in accordance with this Constitution.

11.2 Subject to other provisions of this Constitution, membership of the Company will continue:

- (1) in the case of an individual, until they resign, die, become bankrupt or are of unsound mind; and
- (2) in the case of a corporation, for a period of fifteen years from when it was first admitted as a member, but may be renewed by again qualifying for membership, or until it resigns, goes into liquidation, is dissolved or otherwise ceases to exist.

12. Qualification of membership

12.1 Qualification of membership is the making of a gift or gifts to the Company as trustee amounting to \$2,000 by an individual or a company at any time or in aggregate. The value of a gift for the purposes of this Constitution is to be determined by the Board.

12.2 If a person enters into an undertaking to make a gift over a period of not more than 5 years, the gift will be deemed to have been made in full at the date of the undertaking. If the person fails to satisfy the undertaking within one month of written notice that the amount has fallen due by the Company, the membership

of that person will cease unless the amount previously gifted already qualifies them for membership.

12.3 A person who enters a covenant with the Company to make a testamentary bequest to the Company or Foundation shall be deemed to have made an immediate gift of an amount equal to half the sum specified.

12.4 The Board may decline to accept any gift or promise of gift without providing any reasons for the rejection.

13. Categories of membership

13.1 The categories of membership, effective from 18 May 2021, in addition to Foundation Members and members existing as at 17 May 2021 as designated under previous classifications of the Company Constitution (who will retain those classifications), are:

(1) Ordinary Members, being:

(i) Individuals or corporations who give to the Foundation between \$2,000 and \$20,000.

(2) Benefactors, being:

(i) Individuals or corporations who give to the Foundation between \$20,000 and \$50,000.

(3) Governors, being:

(i) Individuals or corporations who give to the Foundation \$50,000 or more.

13.2 The Board may, in its discretion from time to time, change the limits determining membership categories in clause 13.1.

13.3 Benefactors and Ordinary Members may progress to a higher membership classification by making or undertaking such additional contributions as required.

(1) A member may notify the Secretary in writing of their intention to make additional contributions and of any change to their category to membership.

13.4 Additional categories of members, if recommended by the Directors, may be created by the members in a general meeting.

14. Application for membership

14.1 An application for membership in any of the categories referred to in clause 13 must:

- (1) Be in writing in a form approved by the Directors; and
- (2) Be accompanied by any other documents or evidence as to qualification for the type of membership applied for which the Directors require.

14.2 If the applicant is a body corporate, it must nominate 1 person (**nominated representative**) to represent it in the Company. The application must:

- (1) State the name and address of the nominated representative; and
- (2) Be signed by the nominated representative.

14.3 A person nominated as a nominated representative under clause 14.2 must consent to the nomination in writing.

14.4 Despite anything in this Constitution to the contrary, an Ordinary Member, Benefactor or Governor:

- (1) Has the right to receive notices of and to attend and be heard at any general meeting; and
- (2) Has the right to vote at any general meeting.

15. Admission to membership

15.1 The Directors must consider an application for membership as soon as practicable after its receipt and determine, in their discretion, the admission or rejection of the application.

15.2 The Directors need give no reason for the rejection of an application.

15.3 If the applicant is accepted for membership:

- (1) The Secretary must notify the applicant of admission in the form the Directors determine; and

- (2) The name and details of the member must be entered in the register of members.

15.4 If an application for membership is rejected, the Secretary must notify the applicant in writing.

16. Register of members

16.1 A register of members of the Company must be kept in accordance with the Act.

16.2 The following must be entered in the register of members in respect of each member:

- (1) The full name of the member;
- (2) The residential address and electronic mail address, if any, of the member;
- (3) The category of membership;
- (4) The date of admission to and cessation of membership (if applicable); and
- (5) Any other information as the Directors require (eg. mobile phone number).

16.3 Each member and nominated representative must notify the Secretary in writing of any change in that person's name, address or electronic mail address within 1 month after the change.

16.4 If a member does not advise the Secretary of changes to their details contained in clause 16.2, the Secretary may contact or otherwise ascertain the new details of the member.

Cessation of Membership

17. Resignation

17.1 A member may resign from membership of the Company by giving written notice to the Secretary.

17.2 The resignation of a member takes effect on the date of receipt of the notice of resignation or any later date provided in the notice

18. Cessation of Membership

18.1 A member who is an individual ceases to be a member:

- (1) Upon their death; or
- (2) If the member is expelled under clause 19.

18.2 A corporate member ceases to be a member:

- (1) if it is wound up or is otherwise dissolved or deregistered; or
- (2) if it is expelled under clause 19.

19. Disciplining Members

19.1 If any member:

- (1) Wilfully refuses or neglects to comply with the provisions of this Constitution; or
- (2) Is guilty of any conduct which, in the opinion of the Directors, is unbecoming of a member or prejudicial to the Company interests;

The Directors may resolve to censure, fine, suspend or expel the member from the Company and, in the case of expulsion, remove the member's name from the register of members.

19.2 At least 1 week before the meeting of the Directors at which a resolution of nature referred to in clause 19.1 is passed, the Directors must give to the member notice of:

- (1) The meeting;
- (2) What is alleged against the member; and
- (3) The intended resolution.

19.3 At the meeting and before the passing of the resolution, the member must have an opportunity of giving orally or in writing any explanation or defence as the member sees fit.

19.4 A member may, by notice in writing lodged with the Secretary at least 24 hours before the time for holding the meeting at which the resolution is to be considered

by the Directors, elect to have the question dealt with by the Company in a general meeting and in that event, a general meeting of the Company must be called for that purpose.

19.5 If at the meeting a resolution to the same effect as the resolution which was to be considered by the Directors is passed by a majority of 2/3 of those present and voting (and the vote must be taken by secret ballot), the member must be punished in the manner resolved and in the case of a resolution for expulsion, the member is expelled and the member's name must be removed from the register of members.

19.6 If any member ceases to be a member under clause 19.5, the Directors may reinstate the member and restore the name of that member to the register of members upon and subject to any terms and conditions they see fit.

20. Effect of cessation of membership

20.1 If any member ceases to be a member under this Constitution, the member remains liable to pay to the Company for any money which, at the time of the member ceasing to be a member, the member owes to the Company on any account and for any sum not exceeding \$5.00 for which the member is liable under clause 8 of this Constitution.

Election and Appointment of Directors

21. Eligibility

21.1 No person shall be eligible to be appointed, elected or re-elected as a member of the Board unless such person is a resident of Australia.

22. The Board of the Company

22.1 The Board of Directors of the Company shall comprise a minimum of 6 persons and not more than 15, including:

- (1) A nominee (if any) of the Archbishop of Brisbane (which may be the Archbishop);

- (2) The Warden of the College;
- (3) One person appointed by the past students of the College as nominated by the 'Old Johnians Association';
- (4) One current student of the College appointed by the Student Club Executive of the College;
- (5) One person appointed by the Council; and
- (6) Up to 10 persons elected by the members who are individuals, which may include:
 - (i) any one person of those persons nominated by the governors of the Company (if any).

22.2 An individual appointed under clauses 22.1(1) - 22.1(6) can be the same person.

23. Election and Appointment of Directors

23.1 Directors are either elected at an annual general meeting of the Company or appointed by the Council. Members of the Board will hold office until the close of the next annual general meeting.

24. Nomination for election

24.1 Each candidate for election as a Director must:

- (1) Be proposed by a member; and
- (2) Be seconded by another member;

Both of which must be current members of the Company at the time of nomination.

24.2 No member or nominated representative of a member may propose more than 1 person as a candidate but may second more than 1 nomination.

24.3 A nomination of a candidate for election must:

- (1) Be in writing;
- (2) Be signed by the candidate; and
- (3) Be signed by the proposer and seconder.

24.4 A nomination may be provided to the Company in person to the Secretary, by post, electronic mail or facsimile.

- 24.5 A nomination of a candidate for election must be received at the registered office of the Company no later than 5pm on the day which is 30 days prior to the annual general meeting at which the candidate seeks election.
- 24.6 The Chairman may accept late nominations under clause 24.4 at his or her discretion.
- 24.7 A list of the candidates' names in alphabetical order must be sent to members with the notice of the annual general meeting.
- 25. Election procedure for Elected Directors**
- 25.1 If the number of candidates for election as Elected Directors is equal to or less than the number of vacancies on the Board, the Chair of the annual general meeting must declare those candidates to be duly elected as Elected Directors.
- 25.2 If the number of candidates for election as Elected Directors is greater than the number of vacancies on the Board, a ballot must be held for the election of the candidates.
- 25.3 If a ballot is required, balloting lists must be prepared listing the names of the candidates.
- 25.4 At the annual general meeting each person entitled to vote and voting on the ballot may vote for a number of candidates equal to the number of vacancies.
- 25.5 The candidates receiving the greatest number of votes in their favour must be declared by the Chair of the meeting as Elected Directors.
- 25.6 If an equality of votes would otherwise prevent the successful candidate for a vacancy from being determined, the Chair, prior to the declaration of the result of the ballot, in addition to his or her deliberative vote (if any) is entitled to a casting vote, except that if the Chair:
- (1) Does not exercise a casting vote; or
 - (2) Is one of the candidates who received the same number of votes;
- Then the names of the candidates who received the same number of votes must be put to a further ballot immediately.

25.7 There is not a vacancy of the Board if the number of elected Directors is less than the maximum number as permitted by clause 22.

26. Time appointment or retirement takes effect

26.1 Directors who are appointed at a meeting of members take office immediately after the end of the meeting.

26.2 Directors who retire at a meeting of members continue to hold office until the end of the meeting.

27. Office bearers

27.1 The office bearers of the Company are:

- (1) The Chairman; and
- (2) The Secretary.

28. Election of Office Bearers at board meeting

28.1 Office bearers other than the Secretary are elected by the Directors at the first meeting of the Directors held immediately after the annual general meeting and hold office until the end of the next annual general meeting.

28.2 The Directors present must appoint one of their number to act as Chair of the meeting for the purpose of the election.

29. Eligibility and nomination

29.1 Each director standing for election as an office bearer must be proposed by another Director

29.2 If a Director stands for election for more than 1 position as an office bearer, separate nominations must be received in respect of each position.

29.3 A nomination may be:

- (1) In writing, received by the secretary not less than 24 hours prior to the board meeting at which the election is to take place and signed by the candidate and the proposer; or
- (2) Made orally at the meeting, provided that the candidate is present and consents to the nomination.

30. Nomination to the Board by Directors

30.1 The Board may, at any time, appoint any person qualified to be a member of the Board to fill a casual vacancy.

30.2 A Director appointed through clause 30 will hold the position until the end of the next annual general meeting.

31. Insufficient Directors

31.1 In the event of a vacancy in the office of a Director, the remaining Directors may act, but if the number of remaining Directors is insufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of directors in accordance with clause 30.

Powers of Directors

32. Validation of acts of Directors and secretaries

32.1 The acts of a Director or secretary of the Company are valid despite any defect that may afterwards be discovered in their appointment or qualification.

32.2 Where a person whose office as Director of the Company is vacated under a provision of the Act purports to do an act as a Director of the Company, that act is as valid, in relation to a person dealing with the Company in good faith and for value and without actual knowledge of the matter because of which the office was vacated, as if the office had not been vacated.

33. General business management

33.1 The business of the Company is to be managed by or under the direction of the Directors.

33.2 The Directors may exercise all the powers of the Company except any powers that the Act or this Constitution requires the Company to exercise in general meeting.

33.3 A rule made or resolution passed by the Company in general meeting does not invalidate any prior act of the Directors which would have been valid if that rule or resolution had not been made or passed.

34. Borrowing Powers

34.1 Not limiting the generality of clause 33, but subject to clause 6, the Directors may exercise all the powers of the Company to borrow money, to charge any property or business of the Company and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person but only with the prior approval of the Council.

35. Rules and By-Laws

35.1 The Directors may make, amend or repeal rules and by-laws, not inconsistent with these rules, for the internal management of the company.

35.2 The Directors will specifically endorse Rules for the operation of a scholarship gift fund known as the St. John's College Foundation Trust and to be approved by the Australian Taxation Office.

36. Appointment and Delegation by the Board

36.1 The Board may from time to time delegate any of its powers except for those powers outlined in clauses 10 and 15.

37. Committees of Directors

37.1 The Directors may delegate any of their powers capable of being delegated to a committee of directors.

37.2 A committee must exercise the powers delegated to it in accordance with any directions of the Directors. The effect of the committee exercising a power in this way is the same as if the Directors exercised it.

37.3 The meetings and proceedings of any committee consisting of 2 or more Directors are governed by the provisions in this Constitution regulating the meetings and proceedings of the Directors.

Removal and resignation of Directors

38. Removal of Directors

38.1 Subject to the Act the Company may by ordinary resolution of its members remove a Director.

39. Resignation of Director

39.1 A Director may resign as a Director of the Company by giving a written notice of resignation to the Company at its registered office.

40. Vacation of office of Director

40.1 In addition to any other circumstance in which the office of a Director becomes vacant under the Act, the office of a Director becomes vacant if the Director:

- (1) Becomes bankrupt or suspends payment or compounds with his or her creditors;
- (2) Becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (3) Is not present at 3 consecutive meetings of Directors without special leave of absence from the Directors and the Directors declare their seat to be vacant;
- (4) Ceases to be qualified as a Director under clause 21;
- (5) Becomes disqualified from being a Director under the Act or any order made under the Act;
- (6) Is removed from office in accordance with clause 38; or
- (7) Resigns from office in accordance with rule 39.

Directors' interests

41. Director to disclose interests (s191 CA)

41.1 A Director who is in any way, whether materially or indirectly, interested in a contract or proposed contract with the Company must, as soon as practicable

after the relevant facts have come to the Director's knowledge, declare the nature of the interest at a meeting of the Directors or by written notice to the Secretary.

41.2 A Director who holds any office or possesses any property by which, whether directly or indirectly, duties or interests might be created in conflict with their duties or interest as Director must declare at a meeting of the Directors of the company or by written notice to the Secretary the fact and the nature, character and extent of the conflict.

41.3 For the purposes of this clause, a Director's interest or any conflict must be disregarded if it arises from or relates to:

- (1) A guarantee given by the Director (or by persons including the Director) in respect of a loan to the Company; or
- (2) The position of the Director as a Director of a related body corporate.

42. Effect of interest in contract

42.1 If a Director has an interest in a contract or proposed contract with the Company (other than as a member), or a conflicting interest or duty in relation to any other matter being considered by the Directors, and the Director discloses the nature and extent of the interest or duty at a meeting of the Directors or by written notice to the Secretary:

- (1) The contract may be entered into; and
- (2) If the disclosure is made before the contract is entered into:
 - (i) The Director may retain benefits under the contract even though the Director has an interest in the contract;
 - (ii) The Company cannot avoid the contract merely because of the existence of the interest; and
 - (iii) The Director is not disqualified from the office of Director.

42.2 For the purposes of this clause, a contract includes an arrangement, dealing or other transaction.

43. Other interests

43.1 Without limiting clauses 41 and 42, a Director may to the extent permitted by the Act:

- (1) Hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with the office of Director;
- (2) Contract or enter into any arrangement with the company; or
- (3) Take part in negotiations or fulfilment of any contract or arrangement between the company and any other entity.

43.2 No Director will be liable to account to the Company for any profit arising from such office, place of profit or interest realised by any contracts or arrangements by reason of their fiduciary relationship to the company.

43.3 Any member of the board may act in a professional capacity for the Company and be entitled to remuneration for professional services as if they were not a member of the Board.

43.4 Nothing in this clause will authorise a member of the board to act as an auditor for the Company.

44. Extension of meaning of 'Company'

44.1 For the purposes of clauses 41, 42 and 43, the Company includes any subsidiaries and any other company in which the Company or any subsidiary of the Company is or becomes a shareholder or is otherwise interested.

45. Financial Benefit

45.1 To the extent, if any, required by the Act, a Director must ensure that the requirements of the Act are complied with in relation to any financial benefit given by the Company to the Director or to any other related party of the Director.

Director's Meetings

46. Circulating resolutions

- 46.1 The Directors may pass a resolution without a Directors' meeting being held if all or the required majority of the Directors entitled to vote on the resolution (except a Director absent from Australia who is not contactable) sign a document containing a statement that he or she is in favour of the resolution set out in the document.
- 46.2 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.
- 46.3 The resolution is passed when the last Director signs.
- 46.4 A facsimile or electronic mail addressed to or received by the Company and purporting to be signed or sent by a Director for the purpose of this clause must be treated as a document in writing signed by that Director.

47. Meetings of Directors

- 47.1 The Directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they see fit.

48. Calling Directors' meetings

- 48.1 A director may at any time, and a secretary must on the requisition of a Director, call a meeting of the Directors.

49. Notice of meeting

- 49.1 Reasonable notice of every Director's meeting must be given to each Director except that it is not necessary to give notice of a meeting to any Director who:
- (1) Has been given special leave of absence; or
 - (2) Is absent from Australia and has not left an electronic mail address or facsimile number at which they may be given notice.
- 49.2 Any notice of a meeting may be given in writing, orally, facsimile, telephone, electronic mail or any other means of communication.

50. Technology meeting of Directors

- 50.1 A Directors' meeting may be held using telephone or, if consented to by all Directors (or the appropriate quorum), other technology. The consent may be a standing one. A Director may only withdraw the consent within a reasonable period before the meeting.
- 50.2 If a Directors' meeting is held using any technology and all the Directors (or the appropriate quorum) take part in the meeting, they must be treated as having consented to the use of the technology for that meeting.
- 50.3 The following provisions apply to a technology meeting:
- (1) each of the Directors taking part in the meeting must be able to hear and be heard by each of the other Directors taking part in the meeting; and
 - (2) at the commencement of the meeting each Director must announce their presence or otherwise make it known to all the other Directors that they are taking part in the meeting.
- 50.4 If the secretary is not present at a technology meeting 1 of the Directors present must take minutes of the meeting.
- 50.5 A Director may not leave a technology meeting by disconnecting his or her link to the meeting unless that Director has previously notified the Chairman of the meeting.
- 50.6 A Director is conclusively presumed to have been present and to have formed part of a quorum at all times during a technology meeting unless that Director has previously obtained the express consent of the Chairman to leave the meeting.

51. Charing Directors' meetings

- 51.1 The Chairman is the chair of all meetings of the Directors.
- 51.2 At a meeting of Directors if:
- (1) No Chairman has been elected as provided by clause 28; or

- (2) The Chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act;

The Directors present must elect a Director present to chair the meeting

52. Quorum

- 52.1 The quorum for a Directors' meeting is 3 Directors entitled to vote or a greater number determined by the Directors. The quorum must be present at all times during the meeting.

53. Passing of Directors' resolutions

- 53.1 A resolution of the Directors must be passed by a majority of the votes cast by Directors at the meeting entitled to vote on the resolution.
- 53.2 The Chairman has a casting vote if necessary, in addition to any vote they have as a Director. The Chairman has a discretion both as to whether or not to use the casting vote and as to how it is used.

Meetings of Members

54. Circulating resolutions

- 54.1 This clause applies to resolutions which the Act, or this Constitution, requires or permits to be passed at a general meeting, except a resolution under section 329 of the Act to remove an auditor.
- 54.2 The Company may pass a resolution without a general meeting being held if all members 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.
- 54.3 Separate copies of a document may be used for signing by members if the wording of the resolution and statement is identical in each copy.
- 54.4 The resolution is passed when the last member signs.
- 54.5 If the Company received by facsimile or electronic mail transmission a copy of a document referred to in this clause, it is entitled to assume that the copy is a true copy.

55. Calling of a general meeting

55.1 A majority of Directors may call a general meeting whenever they see fit.

55.2 Except as permitted by law, a general meeting, to be called the **annual general meeting**, must be held at least once in every calendar year.

55.3 Except as provided in the Act, no member or members may call a general meeting.

56. Notice of a meeting

56.1 Subject to the provisions of the Act as to short notice, at least 21 days' notice of a general meeting must be given in writing to those persons who are entitled to receive notices from the company

57. Persons entitled to notice of a general meeting

57.1 Written notice of a meeting of the Company's members must be given individually to:

- (1) Each member entitled to vote at the meeting;
- (2) Each Director; and
- (3) The Company's auditor.

57.2 No other person is entitled to receive notice of general meetings.

58. How notice is given

58.1 The company may give notice of meeting to a member:

- (1) Personally;
- (2) By sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member;
- (3) By sending it by electronic means to the electronic mail address (if any) nominated by the member;
- (4) By sending it by other electronic means (if any) nominated by the member;
- (5) By posting on the Company or the College website; or
- (6) By any other means as agreed by the Directors.

59. When notice is given

59.1 A notice of meeting sent by post is taken to be given 3 days after it is posted.

59.2 Except as provided by clause, a notice of meeting given to a member under clause 58.1(3) is taken to be given on the business day after it is sent.

59.3 A notice of meeting given to a member under clause 58.1(3) is not effective if:

- (1) In the case of service by electronic mail, the Company's computer reports that delivery has failed; or
- (2) In either case the addressee notifies the Company immediately that the notice was not fully received in a legible form.

59.4 A certificate signed by a manager, secretary or other officer of the Company that the notice was posted or given in accordance with this clause is conclusive evidence of the matter.

60. Period of notice

60.1 Subject to the Act and this Constitution where a specified number of days' notice or notice extending over any period is required to be given, the day of service is excluded, and the day upon which the notice expires is included.

61. Contents of notice

61.1 A notice of a general meeting must:

- (1) Set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used);
- (2) State the meeting's business;
- (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;
- (4) Be worded and presented in a clear, concise and effective manner; and
- (5) Contain a statement setting out the following information:
 - (i) That the member has a right to appoint a proxy; and
 - (ii) That the proxy need not be a member of the Company.

62. Notice of adjourned meeting

- 62.1 When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 1 month or more.
63. **Accidental omission to give notice**
- 63.1 The accidental omission to give notice of any general meeting to or the non-receipt of the notice by any person entitled to receive notice of a general meeting under this Constitution does not invalidate the proceedings at or any resolution passed at the meeting.
- 63.2 This clause will not apply to a complete omission to give notice of a general meeting.
64. **Postponement of general meeting**
- 64.1 The Directors may postpone the holding of any general meeting whenever they see fit (other than a meeting requisitioned by members as provided by the Act) for not more than 42 days after the date for which it was originally called.
- 64.2 Whenever any meeting is postponed (as distinct from being adjourned under rule 66.3 or 67.3), the same period of notice of the meeting must be given to persons entitled to receive notice of a meeting as if a new meeting were being called for the date to which the original meeting is postponed.
65. **Technology**
- 65.1 The Company may hold a meeting of its members at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.
66. **Quorum**
- 66.1 The quorum for a meeting of the Company's members are 6 members of the Company present in person or by proxy.
- 66.2 In determining whether a quorum is present, individuals attending as proxies, attorneys or body corporate representatives are counted.
- 66.3 If a quorum is not present within 30 minutes after the time for the meeting set out in the notice of the meeting:

- (1) When the meeting was called by the members or upon the requisition of members, the meeting is dissolved; or
- (2) In any other case, the meeting is adjourned to the date, time and place the Directors specify. If the Directors do not specify 1 or more of those things, the meeting is adjourned to:
 - (i) If the date is not specified – the same day in the next week;
 - (ii) If the time is not specified – the same time; and
 - (iii) If the place is not specified – the same place.

66.4 If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

67. Chair at general meetings

67.1 The Chairman of the Company, if present, presides as chair at every general meeting.

67.2 Where a general meeting is held and:

- (1) There is no Chairman of the company; or
- (2) The Chairman is not present within 30 minutes after the time appointed for the holding of the meeting or is unwilling to act;

the members shall elect one of the Directors present to assume the Chair.

67.3 The Chairman must adjourn a meeting of the Company's members if the members present with a majority of votes at the meeting agree or direct the Chairman to do so.

68. Business at adjourned meetings

68.1 Only unfinished business is to be transacted at a meeting resumed after an adjournment.

Proxies and Body Corporate Representatives

69. Who can appoint a proxy

69.1 A member who is entitled to attend and cast a vote at a meeting of the Company's members may appoint an individual or a body corporate as the member's proxy to attend and vote for the member at the meeting. The proxy need not be a member.

70. Rights of proxies

70.1 A proxy appointed to attend and vote for a member has the same rights of the member:

- (1) To speak at the meeting;
- (2) To vote (but only to the extent allowed by the appointment); and
- (3) To join in a demand for a poll

70.2 If a proxy is for a single meeting it may be used at any postponement or adjournment of that meeting, unless the proxy states otherwise.

70.3 A proxy's authority to speak and vote for a member at a meeting is suspended while the member is present at the meeting.

70.4 A proxy may be revoked at any time by notice in writing to the Company.

71. Appointing a proxy

71.1 An appointment of a proxy is valid if it is signed or otherwise electronically authenticated (as referred to in regulation 2G.2.01 of the *Corporations Regulations 2001*, and in rules 103.2 and 103.3) by the member making the appointment and contains the following information:

- (1) the member's name and address;
- (2) the Company's name;
- (3) the proxy's name or the name of the office held by the proxy; and
- (4) the meetings at which the appointment may be used.

An appointment may be a standing one.

71.2 An undated appointment is taken to have been dated on the day it is given to the Company.

71.3 An appointment may specify the way the proxy is to vote on a particular resolution. If it does:

- (1) The proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
- (2) If the proxy has 2 or more appointments that specify different ways to vote on the resolution – the proxy must not vote on a show of hands;
- (3) If the proxy is the Chairman – the proxy must vote on a poll, and must vote that way; and
- (4) If the proxy is not in the chair – the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.

If a proxy is also a member, this rule 71.3 does not affect the way that the person can cast any votes the person holds as a member.

71.4 An appointment does not have to be witnessed.

71.5 A later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting.

72. Receipt of proxy documents

72.1 For an appointment of a proxy for a meeting of the Company's members to be effective, the following documents must be received by the Company at least 48 hours before the meeting:

- (1) The proxy's appointment; and
- (2) If the appointment is signed or otherwise authenticated by the appointer's attorney – the authority under which the appointment was signed or authenticated or a certified copy of the authority.

72.2 If a meeting of the Company's members has been adjourned, an appointment and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.

72.3 The company receives an appointment or authority:

- (1) When it is received at
 - (i) The company's registered office;

- (ii) a place, facsimile number or electronic mail address specified for the purpose in the notice of meeting.

73. Validity of proxy vote

73.1 A proxy who is not entitled to vote on a resolution as a member may vote as a proxy for another member who can vote if the appointment specifies the way the proxy is to vote on the resolution and the proxy votes that way.

73.2 A vote cast by a proxy is valid unless, before the proxy votes:

- (1) The appointing member dies;
- (2) The member is mentally incapacitated;
- (3) The member revokes the proxy's appointment; or
- (4) The member revokes the authority under which the proxy was appointed by a third party;

Unless the Company receives written notice of that event before the start or resumption of the meeting at which the proxy votes.

74. Body corporate representative

74.1 A body corporate may appoint an individual as a representative to exercise all or any of the powers the body corporate may exercise:

- (1) at meetings of the Company's members;
- (2) at meetings of creditors or debenture holders;
- (3) relating to resolutions to be passed without meetings; or
- (4) in the capacity of a member's proxy appointed under clause 69.

The appointment may be a standing one.

74.2 The appointment may set out restrictions on the representative's powers. If the appointment is to be by reference to a position held, the appointment must identify the position.

74.3 A body corporate may appoint more than 1 representative but only 1 representative may exercise the body's powers at any one time.

74.4 Unless otherwise specified in the appointment, the representative may exercise, on the body corporate's behalf, all of the powers that the body could exercise at a meeting or in voting on a resolution.

75. Attorney of member

75.1 An attorney for a member may do whatever the member could do personally as a member, but if the attorney is to vote at a meeting of members or a class of members the instrument conferring the power of attorney or a certified copy of it must be produced to the Company at least 48 hours before the meeting, in the same way as the appointment of a proxy.

Voting at meetings of members

76. How a vote may be exercised

76.1 Subject to clause 77, at any general meeting of members each member present has 1 vote on a show of hands and on a poll.

76.2 The vote may be exercised in person or by proxy, body corporate representative or attorney

77. Objections to right to vote

77.1 A challenge to a right to vote at a meeting of members

(1) May only be made at the meeting; and

(2) Must be determined by the chair, whose decision is final.

77.2 A vote not disallowed following the challenge is valid for all purposes.

78. How voting is carried out

78.1 A resolution put to the vote at a meeting of the Company's members must be decided on a show of hands unless a poll is demanded.

78.2 On a show of hands, a declaration by the Chairman is conclusive evidence of the result. Neither the Chairman nor the minutes need to state the number or proportion of the votes.

78.3 Unless otherwise required by this Constitution or the Act, all resolutions of the company are ordinary resolutions which are resolutions passed by more than 50% of the votes cast by members entitled to vote on the resolutions.

79. Matters on which a poll may be demanded

79.1 A poll may be demanded on any resolution.

79.2 A demand for a poll may be withdrawn.

80. When and how polls must be taken

80.1 A poll demanded on a matter other than the election of a Chairman or the question of an adjournment must be taken when and in the manner the Chairman directs.

80.2 A poll on the election of the Chairman or on a question of an adjournment must be taken immediately.

80.3 The demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

80.4 The result of the poll is the resolution of the meeting at which the poll was demanded.

81. Chair's casting vote

81.1 In the case of an equality of votes, whether by a show of hands or poll, the Chairman of the meeting has a casting vote in addition to any vote they may have in their capacity as a member or proxy.

81.2 The Chairman has a discretion both as to use the casting vote and as to the way in which it is used.

Annual general meeting

82. Business of an annual general meeting

82.1 The business of an annual general meeting may include any of the following, even if not referred to in the notice of the meeting:

- (1) The consideration of the annual financial report, Directors' report and auditor's report;
- (2) The election of Directors;
- (3) The appointment of the auditor; and
- (4) The fixing of the auditor's remuneration.

All other business transacted at an annual general meeting and all business transacted at any other general meeting is special business.

82.2 The business of the annual general meeting also includes any other business which under this Constitution or the Act ought to be transacted at an annual general meeting.

82.3 The Chairman of the annual general meeting must allow a reasonable opportunity for the members as a whole at the meeting to ask question about or make comments on the management of the Company.

82.4 If the Company's auditor or the auditor's representative is at the meeting, the Chairman of an annual general meeting must allow a reasonable opportunity for the members as a whole at the meeting to ask the auditor or that representative questions relevant to the conduct of the audit and the preparation and content of the auditor's report.

83. Resolutions proposed by members

83.1 A member may not at any meeting move any resolution relating to special business unless:

- (1) members with at least 5% of the votes that may be cast on the resolution have given the Company notice of the resolution or the requirements of section 249N of the Act have otherwise been satisfied, and 2 months' notice has elapsed since the notice was given; or
- (2) the resolution has previously been approved by the Directors.

Minutes

84. Minutes to be kept

84.1 The Directors must keep minute books in which they record within 1 month:

- (1) Proceedings and resolutions of meetings of the Company's members;
- (2) Proceedings and resolutions of Director's meetings (including meetings of a committee of Directors);
- (3) Resolutions passed by members without a meeting; and
- (4) Resolutions passed by Directors without a meeting.

84.2 The Directors must ensure that minutes of a meeting are signed within a reasonable time after the meeting by 1 of the following:

- (1) The Chairman of the meeting; or
- (2) The Chairman of the next meeting.

84.3 The Directors must ensure that minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.

84.4 Without limiting clause 84.1, the Directors must record in the minute books:

- (1) All appointments of officers;
- (2) The names of the Directors and alternate Directors present at all meetings of Directors and the Company;
- (3) In the case of a technology meeting, the nature of the technology; and
- (4) All other matters required by the Act to be recorded in the minute books, including each notice and standing notice given by a Director of a material personal interest.

Accounts, audit and records

85. Accounts

- 85.1 The Directors must cause proper accounting and other records to be kept in accordance with the Act.
- 85.2 The Directors must distribute copies of every profit and loss account, balance sheet and statement of cash flows (including every document required by law to be attached to them) as required by the Act.
86. **Monies**
- 86.1 All monies other than contributions to the College or any approved gift fund received by or on behalf of or as a result of the activities of the Company will after meeting normal management operation and collection costs be applied for the promotion of the objects of the Company subject to the prior written agreement of the Council.
87. **Audit**
- 87.1 A registered company auditor must be appointed.
- 87.2 The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Act.

Execution of documents

88. **Common seal**
- 88.1 The Company may, but need not, have a common seal.
89. **Use of common seal**
- 89.1 If the Company has a common seal the Directors must provide for its safe custody.
- 89.2 The common seal may not be fixed to any document except by the authority of a resolution of the Directors or of a committee of the Directors duly authorised by the Directors.
- 89.3 The Company executes a document with its common seal if the fixing of the seal is witnessed by:
- (1) 2 Directors of the Company; or

(2) A Director and the Secretary.

90. Execution of documents without common seal

90.1 The Company may execute a document without using a common seal if the document is signed by:

(1) 2 Directors of the Company; or

(2) A Director and the Secretary.

91. Execution of document as a deed

91.1 The Company may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with clause 89 or clause 90.

92. Execution – general

92.1 The same person may not sign in the dual capacities of Director and Secretary.

92.2 A Director may sign any document as Director, with or without the common seal, although the document relates to a contract, arrangement, dealing or other transaction in which he or she is interested and his or her signature complies with the requirements of this Constitution as to execution despite his or her interest.

92.3 Clauses 89 and 90 do not limit the ways in which the Directors may authorise documents (including deeds) to be executed on behalf of the Company.

Indemnity

93. Indemnity

93.1 To the extent permitted by the Act, every member of the Board, agent, auditor, secretary or other officer shall be indemnified out of the Company Assets against any liability incurred in defending any proceedings which directly or indirectly relate to their exercise or discharge of their responsibilities as an officer of the company.

Inadvertent omissions

94. Formalities omitted

94.1 If some formality required by this Constitution is inadvertently omitted or is not carried out the omission does not invalidate anything, including any resolution, which but for the omission would have been valid unless it is proved to the satisfaction of the Directors that the omission has directly prejudiced any member financially. The decision of the Directors is final and binding on all members.

95. Alterations

95.1 No alternation can be made to this Constitution without the express approval of the Council.

95.2 If the Company is approved as a deductible gift recipient by the Australian Taxation Office, the Australian Taxation Office must be notified in writing of any alterations to this Constitution.

Financial Year

96. Company's financial year

96.1 The Company's financial year is from 1 January to 31 December, unless the Directors pass a resolution to change the financial year.