



Constitution
of
The Essington School Darwin Limited

ACN 082 486 904

A company limited by guarantee

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1. Preliminary

1.1 Company Constitution

This Constitution is the constitution of the Company.

1.2 Definitions and interpretation

Schedule 1 applies and forms part of this Constitution.

1.3 Nature of the Company

- (a) The Company is a public company limited by guarantee.
- (b) Each Member undertakes to contribute not more than fifty dollars (\$50) to the assets of the Company if it is wound up while that individual is a member, or within one (1) year afterwards, for:
 - (i) payment of the Company's debts and liabilities contracted before they ceased to be a Member; and
 - (ii) costs and expenses of winding up.

1.4 Replaceable rules

The replaceable rules in the Corporations Act do not apply to the Company.

1.5 Effect of Constitution

This Constitution binds every Member and the Company to the same extent as if every Member and the Company had signed and sealed this Constitution and agreed to be bound by it.

1.6 Inconsistency between Constitution and Corporations Act

If there is any inconsistency between the Constitution and the Corporations Act, the Corporations Act prevails to the extent of any inconsistency.

1.7 Altering the Constitution

The Company may alter this Constitution by Special Resolution but not otherwise.

2. Objects and purpose

2.1 Principal Objects

The principal objects of the company are to provide education that develops:

- (a) academic excellence within a well-balanced physical and social environment;
- (b) self esteem, independence and strong habits of self-discipline;
- (c) an interest in and acceptance of all peoples, cultures and religions;
- (d) a close and co-operative working relationship among teachers, parents and students;
- (e) a creative approach to science, the arts and physical development;
- (f) opportunities for the expression of each child's special skills and interests; and
- (g) an understanding and acceptance of one's self as a fundamental and potentially

important unit of wider society.

2.2 Application of income and property for objects only

The profits (if any), other income and property of the Company, however derived, must be applied towards achieving the objects of the Company as set out in Rule 2.1.

2.3 No Distribution

No part of any profits, income or property of the Company may be paid or transferred to a Member either directly or indirectly by way of dividend, distribution, bonus or in any other way. Subject to Rule 13, this does not prevent payment being made in good faith by the Company to an Officer or Member, or to a firm, company or business of which an Officer or a Member is related directly or indirectly:

- (a) for remuneration of services provided by that Officer or Member to the Company or a firm, company or business related to that Officer or Member;
- (b) for goods supplied in the ordinary course of business where such remuneration has the prior approval of the Board;
- (c) for out of pocket expenses properly incurred by any such officer, servant or Member on behalf of the Company while actually rendering any services or supplying goods to the Company where the amount payable does not exceed an amount previously approved by the Directors;
- (d) for interest at a rate not exceeding the rate fixed for the purposes of this rule by the Company in general meeting on money borrowed from an Officer of the Company or a Member; or
- (e) of reasonable rent for premises demised or let by an Officer or a Member of the Company or an entity associated with an Officer or a Member of the Company.

2.4 Provision of Services

Rule 2.3 does not prevent an Officer or a Member of the Company or an entity associated with an Officer or Member of the Company from being the recipient of services from the Company in performance of the Company's objects.

3. Company Powers

In furtherance of and for the purpose of carrying out the Company's objects, the Company has the power to:

- (a) subscribe to, become a member of and co-operate with any other association or organisation whose objects are similar to those of the Company provided that any such association or organisation imposes prohibitions on distribution of profits, income or property among its members at least to the extent as that imposed by Rules 2.2 and 2.3.
- (b) to sell, improve, manage, develop, exchange, lease, sub-lease, dispose of, turn to account or otherwise deal with all or any part of the Company's interest in land, buildings, easements and property (both real and personal property).
- (c) to construct, improve, maintain, develop, repair and alter any buildings, grounds, facilities, improvements or other works necessary or convenient for the carrying out of any of the Company's objects.
- (d) to invest and deal with the monies of the Company not immediately required, for any Company Objects in such a manner as may be permitted by law and as the School may determine from time to time.

- (e) to found or take over and carry on from time to time whenever it may be considered desirable any similar educational establishment having objects similar to or in part similar to those of the Company, and to subscribe to, become a member of, co-operate or amalgamate with any other institution, association or organisation, whether incorporated or not, having objects similar to or in part similar to those of the Company and to affiliate any educational establishment conducted by the Company with any university, college or school or company having objects similar to the Company.
- (f) to purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any one or more of the companies, institutions, societies or associations with which the Company is authorised to amalgamate.
- (g) to take or hold mortgages, liens and charges to secure payment of the Company's property or any money due to the Company.
- (h) to lend and advance money or give credit to any person in pursuance of the Company Objects.
- (i) to apply for, promote, and obtain any statute, order, regulation, or other authorisation or enactment which may seem calculated directly or indirectly to benefit the Company and to oppose any bills, proceedings, or applications which may seem calculated directly or indirectly to prejudice the Company's interests.
- (j) to institute, conduct, defend, compound or abandon any legal proceedings by or against the Company, its officers or otherwise concerning the affairs of the Company and also to compound or allow time for payment and satisfaction of any debts due to, and any claims or demands by or against the Company and to refer any claims or demands by or against the Company to conciliation or arbitration if appropriate.
- (k) to make draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments.
- (l) to establish and support or aid in or contribute to the establishment and support of associations, institutions, funds, trusts and arrangements calculated to benefit employees or past employees of the Company or any of them or their dependents or connections and to grant pensions and allowances and to make payments towards insurance and endow or contribute towards the same.
- (m) to subscribe or guarantee money for charitable or benevolent objects or for any exhibition or for any public, general or useful object.
- (n) to deal in produce, dairy farm and garden produce of all kinds for the purpose of supplying food for the students and staff and for educational purposes and to engage in other ventures that may be conducted for the purpose of educating the students in commercial activities including selling goods for the benefit of the Company.
- (o) acquire, dispose, purchase, sell, take licence, exchange, hire or otherwise deal with any rights including the right of patent, copyright and design.
- (p) deal with any licenses or privileges which may be capable of being conveniently used in connection with any of the Company Objects.
- (q) apply for and accept grants, loans, advances from any Authority.
- (r) apply to any Authorities, individuals, companies, trusts, charities or associations for financial and/or other assistance in the promotion of the Company Objects.
- (s) enter into contracts.

(t) Enter into arrangements with any Authority that is or may be conducive to its objects and to obtain from any Authority any rights, privileges and concessions which the Company may think desirable to obtain, carry out, exercise and comply with any such rights, privileges and concessions.

(u) do anything of and incidental to the furtherance of the Company Objects.

4. Members

4.1 Exercise of powers

The powers of the Company under this Rule 4 may only be exercised by the Board, unless provided for otherwise.

4.2 Number of Parent Members

The permitted number of Parent Members of the Company is unlimited but may be limited from time to time by Special Resolution of the Members at a general meeting of the Company.

4.3 Member Classes

There are two (2) classes of Members:

(a) Parent Members; and

(b) Life Members.

4.4 Application to become a Member

To apply to become a Member of the Company an individual must:

(a) submit a written application to the Secretary in the form and manner prescribed from time to time by the Company;

(b) make payment of the Membership Fee in full as determined by the Company in accordance with Rule 4.7; and

(c) satisfy the requirements for membership determined by the Board from time to time. The Board shall not be required to give any reason for the rejection of an application for membership to the Company.

4.5 Parent Members

(a) If an application for membership is approved by the Secretary, the applicant becomes a Parent Member.

(b) Subject to Rule 4.5(f), Parent Members shall:

(i) be invited to attend Annual General Meetings; and

(ii) be entitled to vote at a meeting of Members.

(c) The period of membership for a Parent Member shall be for no longer than one (1) calendar year and shall expire through the effluxion of time or in accordance with rule 4.15.

(d) The parent or guardian of a student or students currently enrolled at the School shall be entitled to and must make an application to become a Parent Member in accordance with rule 4.4.

(e) In the event that an individual ceases to be a Member as provided for by Rule 4.10, the Parent Member shall be prohibited to enrol or have enrolled a student at the

School. The School is entitled to terminate the Parent Member's student or students' enrolment at School forthwith upon that Parent Member ceasing to be a Member.

- (f) A Parent Member shall not be entitled to vote at any General Meeting if his or her Membership Fee or Fees are not paid by the date on which they become due and payable, unless the Board resolves in its unfettered discretion to allow the Parent Member to vote at the General Meeting.

4.6 Life Members

- (a) The Board may recommend an individual for election as a Life Member, by a majority vote of Members at the Annual General Meeting, who it considers has:
 - (i) made an exceptional contribution to the advancement and well-being of the School;
 - (ii) rendered outstanding service to the School in furtherance of its objects; and/or
 - (iii) been a benefactor of the School.
- (b) The Board shall announce the recommendations for election of Life Members at the Annual General Meeting and the life membership of those Life Member(s) shall commence from the close of that Annual General Meeting in which the election is approved by a majority vote of Members.
- (c) Life Members shall:
 - (i) be invited to attend Annual General Meetings;
 - (ii) be entitled to vote at a meeting of Members; and
 - (iii) have all of the rights enjoyed by Parent Members but shall not be required to pay the Membership Fee.

4.7 Membership Fee

- (a) The Membership Fee is the amount determined by the Board from time to time.
- (b) The Membership Fee must be paid on or before the last day in the calendar month of February.
- (c) The Membership Fee shall never be less ten dollars (\$10.00).

4.8 No transfers

The rights of a Member are not transferable whether by operation of law or otherwise.

4.9 Prohibition of Membership

A corporation (as defined under the Corporations Act) cannot be Member of the Company.

4.10 Ceasing to be a Member

- (a) A person will cease to be a Member if:
 - (i) the person resigns in accordance with Rule 4.11;
 - (ii) the person is expelled in accordance Rule 4.13;
 - (iii) the expiry of membership in accordance with 4.15;

- (iv) a Cessation Event occurs in respect of the person;
- (v) the cancellation of enrolment of a Parent Member's child;
- (vi) if a Member dies; or
- (vii) the Board resolves that the person should cease to be a Member.

4.11 Resignation

A Member may resign by giving the Company notice in writing. Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Company.

4.12 Responsibility of Members

The Members must at all times further the objects, interest and influence of the Company and shall observe all policies set down by the Board from time to time.

4.13 Expulsion

- (a) If the Board considers that a Member should be expelled because his or her conduct is detrimental to the interests of the Company, the Board must give notice of the proposed expulsion to the Member.
- (b) The notice must:
 - (i) be in writing and include:
 - A. the time, date and place of the Board Meeting at which the question of that expulsion will be decided; and
 - B. the particulars of the conduct; and
 - (ii) be given to the Member not less than five (5) Business Days before the date of the Board Meeting referred to in Rule 4.13(b)(i)A.
- (c) At the Board Meeting, the Board must afford the Member a reasonable opportunity to be heard or to make representations in writing.
- (d) The Board may expel or decline to expel the Member from the Company and must give written notice of the decision and the reason for it to the Member.
- (e) Subject to Rule 4.14, the decision to suspend or expel a Member takes effect five (5) Business Days after the day on which written notice outlining the reasons for the decision is given to the Member.
- (f) A Member expelled in accordance with Rule 4.14 shall forfeit all claims to the repayment of all or part of the Membership Fee paid by them to the Company.
- (g) A Member expelled in accordance with Rule 4.14 shall remain liable for the payment of all monies due and payable at the date of the cessation of membership to the Company (including but not limited to the Membership Fee).

4.14 Appeals against Expulsion

- (a) A Member who is expelled under Rule 4.13 may appeal against that expulsion by giving notice to the Secretary within five (5) Business Days after receipt of the Board's decision.
- (b) The appeal must be considered at a General Meeting of the Company which shall be convened by the Board and held two (2) months after the date of the Board's

resolution made in accordance with Rule 4.13.

- (c) The Member must be afforded a reasonable opportunity to be heard at the General Meeting or to make representations in writing prior to the General Meeting for circulation amongst Members.
- (d) The Members present at the General Meeting, by Special Resolution, shall have the power to set aside the decision of the Board to expel the Member.
- (e) The power conferred on the Members under Rule 4.14(d), must include the satisfaction of conditions which the Members must resolve to impose at the General Meeting.
- (f) The Member who appeals the decision of the Board pursuant to Rule 4.14(a) does not cease to be Member until the decision of the Board to expel him or her is confirmed by resolution of the Members.

4.15 Expiry of Parent Membership

A Parent Member's membership shall expire:

- (a) on the 31st day of December of the calendar year in which payment of the Membership Fee was made;
- (b) upon the failure of the Parent Member to pay Fees within sixty (60) days of the Fees becoming due and payable to the Company, unless the Board resolves in its unfettered discretion to extend the date on which payment is due for the Parent Member's Fees;
- (c) immediately upon failure of the Parent Member to make payment of the Membership Fee required as a condition of their membership in accordance with Rule 4.7(b); or
- (d) immediately upon the Parent Member no longer having a student or students currently enrolled at the School.

4.16 Variation of classes and class rights

- (a) Subject to the Corporations Act and the terms of a particular class of Members, the Company may vary or cancel rights of Members of that class by Special Resolution of the Company and:
 - (i) a Special Resolution passed at a meeting of the Members included in that class; or
 - (ii) the written consent of Members who are entitled to at least seventy-five (75%) of the votes that may be cast in respect of Members of that class.
- (b) The provisions in this Constitution concerning meetings of Members (with the necessary changes) apply to a meeting held under rule 4.16(a)(i).

4.17 Register of Members

The Secretary must keep and maintain the Register of Members in accordance with the Corporations Act.

5. Fees and other payments

5.1 Exercise of powers

The powers of the Company under this Rule 5 may only be exercised by the Board.

5.2 Payment of Fees

- (a) The Company may require the payment of Fees by Parent Members in the amounts and at the times as the Directors resolve, including payments by instalments.
- (b) The Company may revoke or postpone Fees or extend the time for payment of Fees.
- (c) The Company must give Parent Members at least fourteen (14) days notice of Fees.
- (d) A notice of Fees must be in writing and specify the amount of the Fee, the due date for payment of the Fee and the manner in which payment of the Fee must be made.
- (e) A Fee is not invalid if either or both a Parent Member does not receive notice of the Fee or the Company inadvertently does not give notice of the Fee to a Parent Member.
- (f) A Parent Member must pay to the Company the amount of each Fee payable by the Member on the date and in the manner specified in the notice of the Fee.
- (g) If a Fee is payable in one or more fixed amounts on one or more fixed dates, the relevant Parent Member must pay to the Company those amounts on those dates.
- (h) A Parent Member must pay to the Company expenses incurred by the Company including legal fees on a solicitor and own client basis and other collection fees because of the failure by the Parent Member to pay or late payment of that amount.
- (i) The Directors may waive payment of all or any part of an amount payable under Rule 5.2(h).

5.3 Company payments on behalf of a Member

- (a) A Member or, if the Member is deceased, the Member's Personal Representative, must indemnify the Company against any liability which the Company has under any law to make a payment (including payment of a tax) in respect of that Member.
- (b) A Member or, if the Member is deceased, the Member's Personal Representative, must pay to the Company immediately on demand:
- (c) the amount required to reimburse the Company for a payment referred to in Rule 5.3(a). The powers and rights of the Company under this Rule 5.3 are in addition to any right or remedy that the Company may have under the law which requires the Company to make a payment referred to in Rule 5.3.
- (d) The Company may waive any or all of its rights under Rule 5.3.

6. Proceedings of Members

6.1 Who can call General Meetings

- (a) Subject to Rule 6.3 and the Corporations Act, the Board may call a General Meeting at a time and place as the Directors resolve.
- (b) The Board must call and arrange to hold a General Meeting on the request of not less than five per cent (5%) of Members entitled to vote at a General Meeting made in accordance with the Corporations Act.
- (c) The Members may call and arrange to hold a General Meeting as provided by the Corporations Act.

6.2 Annual General Meeting

- (a) The Company must hold the Annual General Meeting each Financial Year and in accordance with, the Corporations Act.
- (b) The Annual General Meeting shall be held no later than the thirtieth day of April in each year and on such day at such hour and place as may be determined by the Board.
- (c) The business of an Annual General Meeting will only include any of the following, even if not referred to in the notice of the meeting:
 - (i) the election of Life Members;
 - (ii) the election of Directors;
 - (iii) the consideration of the annual financial report, Directors report and Auditor's report for the Company; and
 - (iv) the appointment of the auditor of the Company.

6.3 How to call General Meetings

- (a) The Company must give not less than the Prescribed Notice of a General Meeting.
- (b) Notice of a General Meeting must be given to each Member entitled to vote, each Director and any auditor of the Company entitled to attend a General Meeting of the Company as outlined in Rule 6.4.
- (c) Subject to Rule 6.10(h), a notice of a General Meeting must:
 - (i) set out the place, date and time for the meeting (and if the meeting is to be held in two (2) or more places, the technology that will be used to facilitate this);
 - (ii) state the general nature of the business of the meeting; and
 - (iii) set out or include any other information or documents specified by the Corporations Act.
- (d) A person may waive notice of any General Meeting by notice in writing to the Company to that effect.
- (e) Subject to the Corporations Act, anything done (including the passing of a resolution) at a General Meeting is not invalid because:
 - (i) not more than twenty per cent (20%) of Members do not receive notice of the General Meeting; and/or
 - (ii) the Company inadvertently does not give notice of the General Meeting to not more than twenty per cent (20%) of Members.

6.4 Right to attend General Meetings

- (a) The following Members are entitled to attend any General Meeting:
 - (i) Life Members; and
 - (ii) Parent Members.
- (b) Any auditor of the Company is entitled to attend any General Meeting.

- (c) Subject to this Constitution, each Director is entitled to attend and speak at all General Meetings.
- (d) The Board may resolve to invite any person to attend and speak at any General Meeting.

6.5 General Meeting at more than one place

- (a) A General Meeting may be held in two (2) or more places linked together by any technology that:
 - (i) gives the Members entitled to attend as a whole in those places a reasonable opportunity to participate in proceedings;
 - (ii) enables the Chairperson to be aware of proceedings in each place; and
 - (iii) enables the Members entitled to attend and to vote in each place to vote on a show of hands and on a poll.
- (b) If a General Meeting is held in two (2) or more places under Rule 6.5(a):
 - (i) a Member present at one of the places is taken to be present at the General Meeting; and
 - (ii) the Chairperson of that General Meeting may determine at which place the General Meeting is taken to have been held.

6.6 Quorum

- (a) A quorum for a General Meeting is five per cent (5%) of the Members entitled to vote including any proxy, attorney or representative at the time of the General Meeting.
- (b) In determining whether a quorum for a General Meeting is present:
 - (i) where more than one (1) proxy, attorney or representative of a Member entitled to vote is present, only one of those persons is counted;
 - (ii) where a person is present as a Member entitled to vote and as a proxy, attorney or representative of another Member entitled to vote, that person is counted only once; and
 - (iii) where a person is present as a proxy, attorney or representative for more than one (1) Member entitled to vote, that person is counted separately for each appointment provided that there is at least one (1) other Member entitled to vote present.
- (c) A quorum for a General Meeting must be present at all times during the General Meeting.
- (d) If a quorum is not present within fifteen (15) minutes after the time appointed for a General Meeting:
 - (i) if the meeting was called under Rule 6.1(b) or Rule 6.1(c), the meeting is dissolved; and
 - (ii) any other General Meeting is adjourned to the date, time and place as the Directors may by notice to the Members entitled to attend appoint, or failing any appointment, to the same day in the next week at the same time and place as the General Meeting adjourned.
- (e) If a quorum is not present within fifteen (15) minutes after the time appointed for an

adjourned General Meeting, the meeting is dissolved.

6.7 Chairperson

- (a) The Chairperson must (if present within fifteen (15) minutes after the time appointed for the holding of the General Meeting and willing to act) chair each General Meeting.
- (b) If at a General Meeting:
 - (i) there is no Chairperson;
 - (ii) the Chairperson is not present within fifteen (15) minutes after the time appointed for the holding of a General Meeting; or
 - (iii) the Chairperson is present within that time but is not willing to chair all or part of that General Meeting,

the Directors present may, by majority vote, elect an individual present to chair all or part of the General Meeting.

- (c) Subject to Rule 6.7(a), if at a General Meeting:
 - (i) a Chairperson of that General Meeting has not been elected by the Directors under Rule 6.7(b); or
 - (ii) the Chairperson elected by the Directors is not willing to chair all or part of a meeting of Members,

the Members present must elect another person present and willing to act to chair all or part of the General Meeting.

6.8 General conduct of General Meetings

- (a) Subject to the Corporations Act, the Chairperson is responsible for the general conduct of that General Meeting and for the procedures to be adopted at that General Meeting.
- (b) The Chairperson of a General Meeting may delegate any power conferred by this Rule 6.8 to any person.
- (c) The powers conferred on the Chairperson of a General Meeting under this Rule 6.8 do not limit the powers conferred by law.

6.9 Resolutions of Members

- (a) Subject to the Corporations Act, a resolution at a General Meeting is passed if the number of votes cast in favour of the resolution by Members entitled to vote on the resolution exceeds the number of votes cast against the resolution by Members entitled to vote on the resolution.
- (b) A resolution put to the vote at a General Meeting may be decided on by a show of hands or a secret ballot, as determined by the Chairperson.
- (c) A declaration by the Chairperson of a General Meeting that a resolution on a secret ballot is passed, passed by a particular majority, or not passed, and an entry to that effect in the minutes of the General Meeting, are sufficient evidence of that fact, unless proved incorrect.

6.10 Adjourned, cancelled and postponed General Meetings

- (a) Subject to the Corporations Act, the Chairperson:

- (i) may adjourn a General Meeting to any day, time and place; and
 - (ii) must adjourn a General Meeting if the Members present with a majority of votes that may be cast at that meeting agree or direct the Chairperson to do so. The Chairperson may adjourn that General Meeting to any day, time and place.
- (b) No person other than the Chairperson of General Meeting may adjourn that General Meeting.
 - (c) The Company is only required to give notice of a General Meeting resumed from an adjourned meeting if the period of adjournment exceeds fourteen (14) days.
 - (d) Only business left unfinished is to be transacted at a General Meeting resumed after an adjournment.
 - (e) Subject to the Corporations Act and this Rule 6.10, the Directors may at any time postpone or cancel a meeting of Members by giving notice not less than five (5) Business Days before the time at which the meeting was to be held to each person who is, at the date of the notice:
 - (i) a Member entitled to attend;
 - (ii) a Director; or
 - (iii) auditor of the Company.
 - (f) A General Meeting called under Rule 6.1(b) must not be cancelled by the Directors without the consent of the Members who requested the General Meeting.
 - (g) A General Meeting called under Rule 6.1(c) must not be cancelled or postponed by the Directors without the consent of the Members who called the General Meeting.
 - (h) A notice under this Rule 6.10(c) for a General Meeting resumed from an adjourned General Meeting and a notice postponing a General Meeting must set out the place, date and time for the revised General Meeting (and if the revised meeting is to be held in two (2) or more places, the technology that will be used to facilitate this).

6.11 Number of votes

- (a) Subject to this Constitution and any rights or restrictions attached to a class of Members, on a secret ballot at a General Meeting, every Member present has one (1) vote.
- (b) In the case of an equality of votes on a resolution at a General Meeting, the Chairperson of that General Meeting has a casting vote on that resolution, in addition to any vote the Chairperson of that General Meeting has in respect of that resolution.
- (c) A Member present at a General Meeting is not entitled to vote:
 - (i) on any resolution if any amount due and payable to the Company by that person in their capacity as a Member has not been paid; or
 - (ii) on a resolution at that meeting where that vote is prohibited by the Corporations Act or an order of a court of competent jurisdiction.
- (d) The Company must disregard any vote on a resolution purported to be cast by a Member present at a General Meeting where that person is not entitled to vote on that resolution.

- (e) The authority of a proxy for a Member to speak or vote at a General Meeting is suspended while the Member is present in person at that General Meeting.

6.12 Objections to qualification to vote

- (a) An objection to the qualification of any person to vote at a General Meeting may only be made:
 - (i) before that meeting, to the Directors; or
 - (ii) at that General Meeting (or any resumed meeting if that General Meeting is adjourned), to the Chairperson of that General Meeting.
- (b) Any objection under Rule 6.12(a) must be decided by the Directors or the Chairperson of the General Meeting (as the case may be), whose decision, made in good faith, is final and conclusive.

6.13 Proxies

- (a) A Member, who is entitled to attend and cast a vote at a General Meeting, may vote:
 - (i) in person; or
 - (ii) by not more than one (1) proxy.
- (b) A proxy of a Member must be a Member.
- (c) A Member may appoint a proxy for a particular General Meeting.
- (d) An instrument appointing a proxy is valid if it is signed by the Member making the appointment and contains:
 - (i) the name and address of that Member;
 - (ii) the name of the proxy or the name of the office of the proxy; and
 - (iii) the General Meeting at which the proxy may be used.
- (e) The Chairperson of a General Meeting may determine that an instrument appointing a proxy is valid even if it contains only some of the information specified in Rule 6.13(d).
- (f) Subject to the Corporations Act, the decision of the Chairperson of a General Meeting as to the validity of an instrument appointing a proxy is final and conclusive.
- (g) Unless otherwise provided in the Corporations Act or in the instrument appointing a proxy, a proxy may:
 - (i) agree to a General Meeting being called by shorter notice than is required by the Corporations Act or this Constitution;
 - (ii) agree to a resolution being either or both proposed and passed at a General Meeting of which notice of less than twenty (21) days is given;
 - (iii) speak on any resolution at a General Meeting on which the proxy may vote;
 - (iv) vote at a General Meeting (but only to the extent allowed by the appointment);

- (v) demand or join in demanding a poll on any resolution at a General Meeting on which the proxy may vote; and
 - (vi) attend and vote at any General Meeting which is rescheduled or adjourned.
- (h) Unless otherwise provided in the Corporations Act or in the instrument appointing a proxy, a proxy may vote on:
- (i) any amendment to a resolution on which the proxy may vote;
 - (ii) any motion not to put that resolution or any similar motion; and
 - (iii) any procedural motion relating to that resolution, including a motion to elect the Chairperson of a General Meeting, vacate the chair or adjourn that meeting,
- even if the appointment directs the proxy how to vote on that resolution.
- (i) If the name of the proxy or the name of the office of the proxy in a proxy form of a Member is not filled in, the proxy of that Member is:
- (i) the person specified by the Company in the form of proxy in the case the Member does not choose; or
 - (ii) if no person is so specified, the Chairperson of that General Meeting.
- (j) A Member may specify the manner in which a proxy is to vote on a particular resolution at a General Meeting.
- (k) An appointment of proxy for a meeting of Members is effective only if the Company receives the appointment (and any authority under which the appointment was signed or a certified copy of the authority) not less than:
- (i) forty-eight (48) hours before the time scheduled for commencement of that General Meeting; or
 - (ii) in the case of a General Meeting which has been adjourned, forty-eight (48) hours before the time scheduled for resumption of the General Meeting.
- (l) Unless the Company has received notice in writing of the matter not less than forty-eight (48) hours before the time scheduled for the commencement of a General Meeting, a vote cast at that General Meeting by a person appointed by a Member as a proxy is, subject to this Constitution, valid even if, before the person votes:
- (i) a Cessation Event occurs in respect of that Member;
 - (ii) that Member revokes the appointment of that person; or
 - (iii) that Member revokes the authority under which the person was appointed by a third party.

7. The Board

7.1 Number of Directors

- (a) The Company must have not less than eight (8) Directors.
- (b) The Company may by Special Resolution of the Members alter the minimum number of Directors provided that the minimum is not less than five (5).

- (c) Subject to this Rule 7.1, the Directors must determine the number of Directors provided that the Directors cannot reduce the number of Directors below the number in office at the time that determination takes effect.
- (d) If the number of Directors is below the minimum fixed by this Constitution, the Directors must not act except in emergencies, for appointing one or more directors in order to make up a quorum for a Board Meeting, or to call and arrange to hold a meeting of Members.

7.2 Appointment of Directors

- (a) The Board shall consist of the following appointments:
 - (i) the Principal/CEO who shall be appointed by the Board in accordance with this Rule 7.2;
 - (ii) four (4) Directors who shall be appointed by the Board in accordance with this Rule 7.2; and
 - (iii) eight (8) Directors who shall be nominated from the Parent Members and appointed by the Members in accordance with the procedures set out in Rule 7.2(c). Any Parent Member nominated under this Rule 7.2(a) (iii) must not:
 - A. be a staff member of the School or an immediate family member of a staff member of the School; or
 - B. have an immediate family member nominated to hold office contemporaneously.
- (b) Subject to Rule 7.2(a)(iii), a Director need not be a Member.
- (c) Subject to Rule 7.1(a), the appointment of Directors under Rule 7.2(a)(iii) shall be undertaken in the following manner:
 - (i) nominations from Members must be provided to the Board within fourteen (14) days of the Annual General Meeting; and
 - (ii) the Members must be appointed by ordinary resolution at an Annual General Meeting.
- (d) Subject to Rule 7.1(a), the appointment of Directors under Rule 7.2(a)(ii) shall be undertaken in the following manner:
 - (i) the Board shall determine a list of candidates for appointment to the office of Director;
 - (ii) the Board shall directly appoint the Directors from the candidates at a Board Meeting in accordance with Rule 7.8(c); and
 - (iii) the Board shall notify the Members of the appointments under this Rule 7.2(d) as soon as is reasonably practicable.
- (e) In the event that the minimum number of Directors prescribed under Rule 7.1(a) is not met, the Board may appoint a Director or Directors in accordance with this Rule 7.2 to fill the remaining position being no more than the minimum number of Directors under Rule 7.1(a). Any Director appointed under this Rule 7.2(e) shall hold office until the next Annual General Meeting.
- (f) An appointment of a person as a Director is not effective unless that person signs consent to the appointment and the appointment shall be effective from the later of the date of the appointment and the date the Company receives the signed

consent.

- (g) The Directors shall hold office, subject to the pleasure of the Company for the periods hereinafter set out:
 - (i) Director's an initial term of two (2) years with eligibility for reappointment for further periods of two (2) years each; or
 - (ii) where a Director is appointed under Rule 7.2(a)(iii), the Director shall cease to hold office at the Annual General Meeting immediately after they cease to be Parent Member.

7.3 Vacation of office

- (a) A Director may resign from office by giving the Company notice in writing.
- (b) A Director who is absent without the consent of the Board for three (3) consecutive meetings held may by resolution be removed by the Board.
- (c) The classes of Members may remove any Director appointed by it and replace any Director appointed by it who dies, resigns, is removed from or otherwise vacates office.
- (d) A Director ceases to be a Director if:
 - (i) the Director becomes of unsound mind or a person whose property is liable to be dealt with under a law about mental health;
 - (ii) the Director resigns or is removed under this Constitution;
 - (iii) the Director dies; or
 - (iv) the Corporations Act so provides.

7.4 Expulsion of Directors

- (a) If the Board objectively considers that a Director should be expelled because his or her conduct fails to meet performance standards of a Director, as determined from time to time by the Board, and the Director holding office is detrimental to the interests of the Company, the Board must give notice of the proposed expulsion to the Director.
- (b) The notice must:
 - (i) be in writing and include:
 - A. the time, date and place of the Board Meeting at which the question of that expulsion will be decided; and
 - B. the particulars of the conduct; and
 - (ii) be given to the Director not less than five (5) Business Days before the date of the Board Meeting referred to in Rule 7.4(b)(i)A.
- (c) At the Board Meeting, the Board must afford the Director a reasonable opportunity to be heard or to make representations in writing.
- (d) The Board may expel or decline to expel the Director from the Board and must give written notice of the decision and the reason for it to the Director.
- (e) Subject to Rule 7.5, the decision to suspend or expel a Director takes effect five (5) Business Days after the day on which written notice outlining the reasons for the

decision is given to the Director.

7.5 Appeals against Expulsion

- (a) A Director who is expelled under Rule 7.4 may appeal against that expulsion by giving notice to the Secretary within five (5) Business Days after receipt of the Board's decision.
- (b) The appeal must be considered at a General Meeting of the Company which shall be convened by the Board and held two (2) months after the date of the Board's resolution made in accordance with Rule 7.4.
- (c) The Director must be afforded a reasonable opportunity to be heard at the General Meeting or to make representations in writing prior to the General Meeting for circulation amongst Members.
- (d) The Members present at the General Meeting, by Special Resolution, shall have the power to set aside the decision of the Board to expel the Director. The power conferred on the Members under this Rule 7.5(d), must include the satisfaction of conditions which the Members must resolve to impose at the General Meeting.
- (e) In the event that a Director appeals their expulsion under this Rule 7.5, the Director does not cease to be Director until the decision of the Board to expel him or her is confirmed by resolution of the Members.

7.6 Remuneration of Directors

- (a) The Company must not pay any amount to a Director under this Rule 7.6 unless that payment has been approved by the Board.
- (b) Subject to Rules 7.6(a), the Company may pay to its Directors any remuneration that the Company determines by an ordinary resolution of Members.
- (c) The Company may pay all reasonable travelling, accommodation and other expenses that a Director properly incurs:
 - (i) in attending meetings of Directors or any meetings of committees of Directors;
 - (ii) in attending any General Meetings; and
 - (iii) in connection with the business of the Company.
- (d) Subject to the Corporations Act, any Director may participate in any fund, trust or scheme for the benefit of:
 - (i) past or present employees or Directors of the Company or a related body corporate of the Company; or
 - (ii) the dependants of, or persons connected with, any person referred to in Rule 7.6(d)(i).
- (e) No payment made under this Rule 7.6 may be a distribution by the Company to any Director.

7.7 Interests of Directors

- (a) A Director may:
 - (i) hold an office or place of profit (except as auditor) in the Company, on any terms as the Directors resolve;

- (ii) hold an office or otherwise be interested in any related body corporate of the Company or other body corporate in which the Company is interested; or
 - (iii) act, or the Director's firm, company or business may act, in any professional capacity for the Company (except as auditor) or any related body corporate of the Company or other body corporate in which the Company is interested; and
 - (iv) retain the benefits of doing so provided the Director discloses in accordance with the Corporations Act the interest giving rise to those benefits.
- (b) If a Director discloses the interest of the Director in accordance with the Corporations Act:
- (i) the Director may contract or make an arrangement with the Company, or a related body corporate of the Company or a body corporate in which the Company is interested, in any matter in any capacity;
 - (ii) the Director may, subject to the Corporations Act, be counted in a quorum for a Board Meeting considering the contract or arrangement;
 - (iii) the Director may, subject to the Corporations Act, vote on whether the Company enters into the contract or arrangement, and on any matter that relates to the contract or arrangement;
 - (iv) the Director may sign on behalf of the Company, or witness the affixing of the Common Seal to, any document in respect of the contract or arrangement;
 - (v) the Director may retain the benefits under the contract or arrangement; and
 - (vi) the Company cannot avoid the contract or arrangement merely because of the existence of the Director's interest.

7.8 Board Meetings

- (a) The Board shall meet at least once in each school term for the transaction of the business of the School and may adjourn and otherwise regulate its meetings as it considers fit.
- (b) The Board shall manage and control the affairs of the Company and may exercise all such powers of the Company as are not by law or these Rules required to be exercised by the Company in General Meeting.
- (c) The function of decision making and exercise of power by the Board shall be determined as follows:
 - (i) Questions arising at any Board Meeting shall be decided by a majority of the votes of the Members of the Board then present and voting and a determination by such a majority of the Board shall for all purposes be deemed a determination of the Board;
 - (ii) In the case of an equality of votes the Chairman of the Board Meeting shall have a casting vote provided that they exercise their deliberate vote. If the Chairman does not exercise a deliberate vote they shall be removed of their casting vote.
 - (iii) The quorum at Board Meetings shall be a majority of the total membership of the Board from time to time.

- (d) If a Director appointed under Rule 7.27.2(a)(iii) fails to pay Fees within sixty (60) days of the Fees becoming due and payable to the Company and the Board resolves in its unfettered discretion to extend the date on which payment is due for the Parent Member's Fees in accordance with Rule 4.15(b), that Director shall not be entitled to vote at a Board Meeting until such time as the Fees due and payable by the Director are no longer in arrears.
- (e) If a Director appointed under Rule 7.27.2(a)(iii) allows their Parent Member membership to expire in accordance with Rules 4.15(b) or 4.15(c), the Board shall have the power to expel that Director by giving written notice of their immediate expulsion.

8. Officers

8.1 Chairperson

- (a) The Directors must appoint one or more of themselves as a Chairperson, for any period and on any terms (including, subject to Rule 7.6, as to remuneration) as the Directors resolve.
- (b) Subject to any agreement between the Company and a Chairperson, the Directors may remove or dismiss a Chairperson at any time.
- (c) The Directors may delegate any of their powers (including the power to delegate) to a Chairperson.
- (d) The Directors may revoke or vary:
 - (i) the appointment of a Chairperson; or
 - (ii) any power delegated to a Chairperson.
- (e) A Chairperson must exercise the powers delegated to him or her in accordance with any directions of the Directors.
- (f) The exercise of a delegated power by a Chairperson is as effective as if the Directors exercised the power.
- (g) A person ceases to be a Chairperson if the person ceases to be a Director.

8.2 Chief Executive Officer

- (a) The Directors must appoint one (1) or more persons to the role of Principal/CEO, either for a specified term or without a specified term. Subject to this document, the Principal/CEO has all duties, and can exercise all the powers and rights of a Director.
- (b) The Principal/CEO shall be appointed on terms and conditions agreed between the Principal/CEO and the Company, which may vary the extent to which the Principal/CEO may exercise their powers and rights as a Director.
- (c) The performance of the Principal/CEO will be subject to regular appraisal and evaluation as determined by the Board.
- (d) The Board may delegate any of the powers of the Board to a Principal/CEO:
 - (i) on the terms and subject to any restrictions the Board sees fit from time to time; and
 - (ii) so as to be concurrent with, or to the exclusion, of the powers of the Board,

- (iii) and may revoke the delegation at any time.
- (e) The appointment of a Principal/CEO shall be a skills based appointment and the Directors, in making their appointment shall have regard to the proposed appointee's:
 - (i) experience and expertise in the business of the Company;
 - (ii) tertiary education qualifications;
 - (iii) general business acumen;
 - (iv) local professional connections;
 - (v) experience and expertise in matters of or incidental to the objects of the Company; and
 - (vi) remuneration demands.
- (f) The appointment of the Principal/CEO terminates if:
 - (i) The Principal/CEO ceases for any reason to be a Director; or
 - (ii) the Board removes the Principal/CEO from the office of Principal/CEO (which, without affecting the rights of the Principal/CEO under any contract between the Company and the Principal/CEO, the Board has the power to do),

whether or not the appointment was expressed to be for a specified term.

8.3 Chief Financial Officer

- (a) The Board may appoint a Chief Financial Officer for the Company, who may also hold the office of Secretary.
- (b) The Chief Financial Officer shall report directly to the Chief Executive Officer and shall be responsible for the day to day administration of the School including but not limited to:
 - (i) the control of books and stationery;
 - (ii) accounts (collecting and rendering thereof);
 - (iii) financial reports;
 - (iv) any reports required by the Board from to time;
 - (v) general correspondence to and from the School; and
 - (vi) generally to attend to all such matters as the Principal/CEO directs.

8.4 Secretary

- (a) The Company must have at least one (1) Secretary at all times. The Board shall have the power to appoint a natural person to act as secretary on the terms and for such period as the Board may determine.
- (b) Subject to any agreement between the Company and a Secretary, the Board may remove or dismiss a Secretary at any time, with or without cause.
- (c) The Board may revoke or vary the appointment of a Secretary.

- (d) The Secretary shall control and record the Company records including but not limited to:
- (i) maintain records of all proceedings and resolutions of General Meetings, as they consider necessary and appropriate for the accuracy of the company minute books;
 - (ii) maintain records of all correspondence between the Board and any other person or entity;
 - (iii) maintain and prepare minutes of Board Meetings including all resolutions and proceedings;
 - (iv) maintain and preserve the papers and documents of the Company;
 - (v) notify the Board of those Members admitted to membership of the Company at all Board Meetings and make available the Register for inspection by the Board;
 - (vi) shall give notice of General Meetings and Board Meetings in accordance with the Corporations Act;
 - (vii) hold safe the Common Seal; and
 - (viii) perform all other duties of the office of Secretary as may from time to time be required by the Board or the Corporations Act.

8.5 Sub-committees

The Board may appoint such sub-committees comprising Directors and Members from time to time as it deems necessary and may define their functions, powers and duration as the Board sees fit.

8.6 Indemnity and insurance

- (a) To the extent permitted by law, the Company must indemnify each Relevant Officer against:
- (i) a Liability of that person; and
 - (ii) Legal Costs of that person.
- (b) To the extent permitted by law, the Company must make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.
- (c) To the extent permitted by law, the Company must pay, or agree to pay, a premium for a contract insuring a Relevant Officer against:
- (i) a Liability of that person; and
 - (ii) Legal Costs of that person.
- (d) To the extent permitted by law, the Company must enter into an agreement or deed with:
- (i) a Relevant Officer; or
 - (ii) a person who is, or has been an officer of the Company or a subsidiary of the Company,
 - (iii) under which the Company must do all or any of the following:

- (iv) keep books of the Company and allow either or both that person and that person's advisers access to those books on the terms agreed;
- (v) indemnify that person against any Liability of that person;
- (vi) make a payment (whether by way of advance, loan or otherwise) to that person in respect of Legal Costs of that person; and
- (vii) keep that person insured in respect of any act or omission by that person while a Relevant Officer or an officer of the Company or a subsidiary of the Company, on the terms agreed (including as to payment of all or part of the premium for the contract of insurance).

9. Powers of the Company and Directors

9.1 General powers

- (a) The Company may exercise in any manner permitted by the Corporations Act any power which a public company limited by guarantee may exercise under the Corporations Act.
- (b) The business of the Company is managed by or under the direction of the Board.
- (c) The Directors may exercise all the powers of the Company except any powers that the Corporations Act or this Constitution requires the Company to exercise in general meeting and, without affecting the generality of the foregoing, the Board shall have the power:
 - (i) To ensure the Company operates in accordance with its objects;
 - (ii) To control and manage all the assets and property from time to time belonging to the Company whether relating to the purchase, sale lease of or alteration, addition to, construction, demolition or repair of any property real or personal belonging to or used by, or to be used by, the Company;
 - (iii) To exercise the Company powers outlined under Rule 3;
 - (iv) To determine the number of staff, officers and servants of the School, their remuneration, and other terms and conditions of engagement. In circumstances where the Board sees fit, the Board may delegate to the Principal/CEO the power to determine the number of staff, officers and servants of the School, their remuneration, and terms and conditions of engagement.
 - (v) To determine the fees to be paid for students attending the School. The Board if it so chooses may modify, defer, reduce, waive or accept by instalments (whether secured or not) any fee otherwise payable for students where the Board is of the opinion that it is in the best interests of the School to do so;
 - (vi) To determine the policies of the School to give effect to the objects of the Company;
 - (vii) To determine the curriculum of the School;
 - (viii) To fund and endow scholarships, bursaries and exhibitions within the School and to provide payments or assistance to pupils of the School where considered desirable, which shall not be limited to the students of the School but open to the wider community;
 - (ix) To accept on behalf of the Company subscriptions, guarantees,

donations, gifts, legacies and bequests for all or any of the purposes aforesaid. The Board shall have the power to establish a trust fund for these purposes;

- (x) To ensure that all statements and reports prepared by or for the Company comply with all relevant statutory requirements;
- (xi) To open on behalf of the Company any account or accounts of any bank or other financial institutions as may be considered necessary and to authorise not less than two (2) persons jointly to operate upon them on behalf of the Company;
- (xii) To appoint and discharge any sub-committee which the Board thinks fit and to determine the terms of reference, method of operation, composition and any other matter related to any sub-committee as it thinks fit;
- (xiii) To invest the money of the Company in accordance with the Constitution and from time to time vary those investments; and
- (xiv) To determine from time to time the matters in respect of which the Visitor shall assist the Board and the manner in which such assistance shall be provided.

9.2 Common Seal

- (a) The Company shall at times have a Common Seal which must remain at all times in the custody of the Secretary and shall not be affixed to any document except by the authority of the Board.
- (b) Unless and until the Board shall otherwise determine, the affixing of the Common Seal shall be attested by at least two (2) Directors and by the Secretary or by some other person appointed by the Board for that purpose.
- (c) The Board shall establish and maintain a register of documents on which the Common Seal has been affixed.

9.3 Execution of documents

- (a) If the Company has a Common Seal, the Company may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by:
 - (i) two (2) Directors;
 - (ii) a Director and a Secretary; or
 - (iii) a Director and another person appointed by the Directors for that purpose.
- (b) The Company may execute a document without a Common Seal if the document is signed by:
 - (i) two (2) Directors;
 - (ii) a Director and a Secretary; or
 - (iii) a Director and another person appointed by the Directors for that purpose.
- (c) 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 Rule 9.3(a) or 9.3(b).

- (d) The Directors may resolve, generally or in a particular case, that any signature on certificates for Members may be affixed by mechanical or other means.
- (e) Negotiable instruments may be signed, drawn, accepted, endorsed or otherwise executed by or on behalf of the Company in the manner and by the persons as the Directors resolve.

9.4 Committees and delegates

- (a) The Directors may delegate any of their powers (including this power to delegate) to a committee of Directors, a Director, an employee of the Company or any other person.
- (b) The Directors may revoke or vary any power delegated under Rule 9.4(a).
- (c) A committee or delegate must exercise the powers delegated in accordance with any directions of the Directors.
- (d) The exercise of a delegated power by the committee or delegate is as effective as if the Directors exercised the power.
- (e) Rule 10 applies with the necessary changes to meetings of a committee of Directors.

9.5 Attorney or agent

- (a) The Directors may appoint any person to be attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) as the Directors resolve.
- (b) The Directors may delegate any of their powers (including the power to delegate) to an attorney or agent.
- (c) The Directors may revoke or vary:
 - (i) an appointment under Rule 9.5(a); or
 - (ii) any power delegated to an attorney or agent.

10. Proceedings of Directors

10.1 Written resolutions of Directors

- (a) The Directors may pass a resolution without a meeting of the Directors being held if all the Directors entitled to vote on the resolution assent to a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of the document referred to in Rule 10.1(a) may be used for assenting to by Directors if the wording of the resolution and the statement is identical in each copy.
- (c) A Director may signify assent to a document under this Rule 10.1 by signing the document or by notifying the Company of the assent of the Director:
 - (i) in a manner permitted by Rule 11.3; or
 - (ii) by any technology (including but not limited to telephone).
- (d) Where a Director signifies assent to a document under Rule 10.1(c) other than by signing the document, the Director must by way of confirmation sign the document before or at the next Board Meeting attended by that Director.

- (e) The resolution the subject of a document under Rule 10.1(b) is not invalid if a Director does not comply with Rule 10.1(d).

10.2 Board Meetings

- (a) The Directors may meet, adjourn and otherwise regulate their meetings as they think fit.
- (b) A Board Meeting may be held using any technology consented to by all the Directors.
- (c) If a Board Meeting is held in two (2) or more places linked together by any technology:
 - (i) a Director present at one of the places is taken to be present at the meeting unless and until the Director states to the Chairperson of the meeting that the Director is discontinuing her or her participation in the meeting; and
 - (ii) the Chairperson of that meeting may determine at which place the meeting will be taken to have been held.
- (d) The Board shall cause to be kept minutes of each of the following:
 - (i) all appointments and resignations of Directors and of officers of the Board;
 - (ii) the names of the Directors present at each meeting of the Board or a committee thereof and accepted apologies; and
 - (iii) all resolutions and proceedings of each meeting of the Board.

The Board shall cause such minutes to be signed by the Chairperson of the next Board Meeting. The Secretary shall send copies of all such minutes to each Director immediately after the Board Meeting.

10.3 Who can call meetings of Directors

- (a) The Chairperson or any four (4) or more Directors may call a Board Meeting at any time.
- (b) On request of the Chairperson or any four (4) or more Directors, a Secretary of the Company must call a Board Meeting.

10.4 How to call meetings of Directors

- (a) Notice of a Board Meeting must be given to each Director.
- (b) A notice of Board Meeting must:
 - (i) set out the place, date and time for the Board Meeting (and, if the meeting is to be held in two (2) or more places, the technology that will be used to facilitate this); and
 - (ii) state the general nature of the business of the Board Meeting.
- (c) The Company must give not less than five (5) Business Days notice of a Board Meeting, unless all Directors agree otherwise.
- (d) A Director may waive notice of a Board Meeting by notice in writing to the Company to that effect.

- (e) The Chairperson shall have the power to dispense with notice period required under this Rule 10.4 when dealings with matters of extreme urgency.

10.5 Quorum

- (a) Subject to the Corporations Act, a quorum for a Board Meeting is:
 - (i) if the Directors have fixed a number for the quorum, that number of Directors; and
 - (ii) in any other case, not less than half of the Directors entitled to vote on a resolution that may be proposed at that Board Meeting.
- (b) A quorum for a Board Meeting must be present at all times during the meeting.
- (c) If there are not enough persons to form a quorum for a Board Meeting, one (1) or more of the Directors (including those who have an interest in a matter being considered at that meeting) may call a general meeting of the Company and the general meeting may pass a resolution to deal with the matter.

10.6 Chairperson

- (a) The Chairperson must (if present within fifteen (15) minutes after the time appointed for the holding of the meeting and willing to act) chair each Board Meeting.
- (b) If:
 - (i) there is no Chairperson; or
 - (ii) the Chairperson is not present within fifteen (15) minutes after the time appointed for the holding of a Board Meeting; or
 - (iii) the Chairperson is present within that time but is not willing to chair all or part of that meeting,
 - (iv) then if the Directors have elected a deputy Chairperson, the deputy Chairperson must (if present within fifteen (15) minutes after the time appointed for the holding of the meeting and willing to act) chair all or part of the Board Meeting.
- (c) Subject to Rules 10.6(a) and 10.6(b), if:
 - (i) there is no deputy Chairperson; or
 - (ii) the deputy Chairperson is not present within fifteen (15) minutes after the time appointed for the holding of a Board Meeting; or
 - (iii) the deputy Chairperson is present within that time but is not willing to chair all or part of that meeting,the Directors present must elect one (1) of themselves to chair all or part of the Board Meeting.
- (d) A person does not cease to be a Chairperson or deputy Chairperson if that person retires as a Director at a General Meeting and is re-elected as a Director at that General Meeting.

10.7 Resolutions of Directors

- (a) A resolution of Directors is passed if more votes are cast in favour of the resolution than against it.

- (b) Subject to Rule 7.7 and this Rule 10.7, each Director has one (1) vote on a matter arising at a meeting of the Directors.
- (c) Subject to the Corporations Act, in case of an equality of votes on a resolution at a Board Meeting, the Chairperson of that Board Meeting has a casting vote on that resolution in addition to any vote the Chairperson has in his or her capacity as a Director in respect of that resolution.

11. Notices

11.1 Notice to Members

- (a) The Company may give Notice to a Member:
 - (i) in person;
 - (ii) by sending it by post to the address of the Member in the Register or the alternative address (if any) nominated by that Member;
 - (iii) by sending it to the fax number or electronic address (if any) nominated by that Member;
 - (iv) if permitted by the Corporations Act, by sending it by other electronic means (if any) nominated by that Member; or
 - (v) by any other means permitted by the Corporations Act.
- (b) If the address of a Member in the Register is not within Australia, the Company must send all documents to that Member by air-mail, air courier or by fax.
- (c) Subject to the Corporations Act, a Notice to a Member is sufficient, even if a Cessation Event occurs in respect of that Member regardless of whether or not the Company has notice of that event.
- (d) Any Notice required or allowed to be given by the Company to one or more Members by advertisement is, unless otherwise stipulated, sufficiently advertised if advertised once in a daily newspaper circulating in the states and territories of Australia.

11.2 Notice to Directors

The Company may give Notice to a Director:

- (a) in person;
- (b) by sending it by post to the usual residential address of that person or the alternative address (if any) nominated by that person;
- (c) by sending it to the fax number or electronic address (if any) nominated by that person; or
- (d) by any other means agreed between the Company and that person.

11.3 Notice to the Company

A person may give Notice to the Company:

- (a) by leaving it at the registered office of the Company;
- (b) by sending it by post to the registered office of the Company;
- (c) by sending it to the fax number at the registered office of the Company nominated

by the Company for that purpose;

- (d) by sending it to the electronic address (if any) nominated by the Company for that purpose; or
- (e) by any other means permitted by the Corporations Act.

11.4 Time of service

- (a) A notice sent by post to an address within Australia is taken to be given:
 - (i) in the case of a notice of meeting, one (1) Business Day after it is posted; or
 - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (b) A notice sent by post or air-mail to an address outside Australia is taken to be given:
 - (i) in the case of a notice of meeting, five (5) Business Days after it is posted; or
 - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (c) A notice sent by air courier to a place outside Australia is taken to be given five (5) Business Days after delivery to the air courier.
- (d) A notice sent by fax is taken to be given on the Business Day it is sent, provided that the sender's transmission report shows that the whole notice was sent to the correct fax number.
- (e) If the Corporations Act permits a notice of meeting to be given to a Member by notifying the Member (using the nominated notification means of that Member):
 - (i) that the notice of meeting is available; and
 - (ii) how the Member may use the nominated access means of that Member to access the notice of meeting,
 - (iii) the notice of meeting is taken to be given on the Business Day after the day on which the Member is notified that the notice of meeting is available.
- (f) The giving of a notice by post, air-mail or air courier is sufficiently proved by evidence that the notice:
 - (i) was addressed to the correct address of the recipient; and
 - (ii) was placed in the post or delivered to the air courier.
- (g) A certificate by a Director or Secretary of a matter referred to in Rule 11.4(f) is sufficient evidence of the matter, unless it is proved to the contrary.

11.5 Signatures

The Directors may decide, generally or in a particular case, that a notice given by the Company be signed by mechanical or other means.

12. Accounts

- (a) The Board shall cause true accounts to be kept of the sums of money received and expended by and of the income and expenditure of the Company and of the assets and liabilities of the Company.
- (b) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions and regulations the accounts of the Company or any of them shall be open to the inspection of the Members.
- (c) A Member, not being a Director, shall have no right to inspect any account or book or paper of the Company except as conferred by statute or authorised by the Board or resolved by the Members at a General Meeting.
- (d) At the Annual General Meeting the Board shall lay before the Members an audited financial report of income and expenditure and balance sheets made up to the thirty-first (31st) of December preceding the meeting.
- (e) Every such balance sheet shall be accompanied by a directors' report as to the affairs of the Company signed by the Chairperson.
- (f) A copy of such financial report, directors' report and balance sheet together with any other statements required by law shall be provided not less than twenty-one (21) days prior to the General Meeting in the manner in which notices are hereinbefore directed to be served.

13. Company distributions

13.1 No distributions to Members

- (a) Subject to Rule 13.1(b), the Company must not make any distributions to any Members, whether by way of dividend, surplus on winding up or otherwise.
- (b) Subject to Rule 7.6, the Company may make the following payments to a Member of:
 - (i) reasonable remuneration to any Member in consideration for services rendered or goods supplied by that Member to the Company in the ordinary course of business;
 - (ii) interest at a reasonable rate on money borrowed by the Company from any Member;
 - (iii) reasonable rent for premises leased to the Company by any Member; or
 - (iv) any other reasonable amount of a similar character to those described in this Rule 13.1(b).

13.2 Winding up

On a winding up of the Company, the Members must determine one or more companies, associations or institutions whose constituent documents satisfy the following requirements to whom the liquidator must give or transfer any surplus on winding up:

- (a) requires it to pursue only objects similar to those in Rule 1.5 and to apply its income in promoting those objects;
- (b) prohibits it from making distributions to its members to at least the same extent as in Rule 13.1; and
- (c) if a company, prohibits it from paying fees to its directors and requires its directors to approve all other payments the company makes to its directors.

Schedule 1 Definitions

Definitions

In this Constitution:

Annual General Meeting means an Annual General Meeting convened in accordance with Rule 6.2.

Authority means a government, government department, instrumentality, agency and local or other authority.

Board means the Directors acting collectively under this document.

Board Meetings means the allocated times on which the Directors of the Company meet to determine Company affairs.

Business Day means a day except a Saturday, Sunday or public holiday in Darwin in the Northern Territory of Australia.

Cessation Event means one of the following events:

- (i) death or bankruptcy of a Member; or
- (ii) that Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health;

Chairperson means the Director appointed in accordance with Rule 8.1.

Chief Financial Officer means the individual appointed in accordance with Rule 8.3.

Common Seal means the official seal of the Company to be prepared and maintained in accordance with the Constitution and the Corporations Act.

Company means The Essington School Darwin Limited (ACN 082 486 904).

Corporations Act means the *Corporations Act 2001* (Cth), except to the extent of any exemption, modification, declaration or order made in respect of that legislation which applies to the Company.

Director means the director of the Company for the time being.

Expulsion Event means, in respect of a Member:

- (a) the Member has intentionally, recklessly or negligently breached a provision of this Constitution;
- (b) the conduct of the Member, in the opinion of the Directors or prejudicial to the interests or reputation of the Company; or
- (c) the Member is, or any step is taken for the Member to become, either an insolvent under administration or an externally administered body corporate.

Fees means any fee, levy or other payment determined by the Board from time to time in accordance with Rule 5.

Financial Year means the period commencing on 1 July and expiring on 30 June of the following year.

General Meeting means any meeting of Members other than the Annual General Meeting convened in accordance with Rule 6.1.

Legal Costs of a person means legal costs incurred by that person in defending an action for a Liability of that person.

Liability of a person means any liability incurred by that person as an officer of the Company or a subsidiary of the Company.

Member means a person who is, or who is registered as, a member of the Company.

Membership Fee means the amount determined by the Board from time to time in accordance with Rule 4.7.

Life Members means those Members outlined elected in accordance with Rule 4.6.

Notice means a notice given pursuant to, or for the purposes of, this Constitution or the Corporations Act.

Office means the Company's registered office with the Australian Securities and Investments Commission for the time being.

Parent Members means those Members appointed in accordance with in Rule 4.5.

Personal Representative means the legal personal representative, executor or administrator of the estate of a deceased person.

Prescribed Notice means twenty-one (21) days or any shorter period of notice for a meeting allowed under the Corporations Act.

Principal/CEO means the individual appointed in accordance with Rule 8.1(g).

Register means the register of Members kept under in accordance with section 169 of the Corporations Act.

Relevant Officer means a person who is, or has been, a Director or Secretary.

School means The Essington School Darwin located at Chapman Road, Rapid Creek in the Northern Territory of Australia or such other location or locations as the Company may determine from time to time and such other school or educational institutions as the Company may from time to time conduct whether it be alone or jointly with others.

Secretary means a company secretary of the Company for the time being.

Special Resolution has the same meaning given under section 9 the *Corporations Act 2001* (Cth).

Schedule 2 Interpretation

Interpretation

(d) In this Constitution:

(i) a reference to a meeting of Members includes a meeting of any class of Members;

(ii) a Member is taken to be present at a meeting of Members if the Member is present in person or by proxy;

(iii) a reference to something being "**written**" or "**in writing**" includes that thing being represented or reproduced in any mode in a visible form; and

(iv) where a notice or document is required by this Constitution to be signed, that notice or document may be authenticated by any other manner permitted by the Corporations Act or any other law, instead of being signed.

(e) In this Constitution, headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:

(i) words importing the singular include the plural (and vice versa);

(ii) words indicating a gender include every other gender;

(iii) the word "**person**" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;

(iv) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and

(v) the word "**includes**" in any form is not a word of limitation.

(f) Unless the context indicates a contrary intention, in this Constitution:

(i) a reference to an Rule or a schedule is to an rule or a schedule of this Constitution;

(ii) a reference in a schedule to a rule is to a rule of that schedule;

(iii) a schedule is part of this Constitution; and

(iv) a reference to this Constitution is to this Constitution (and where applicable any of its provisions) as modified or repealed from time to time.

(g) Unless the context indicates a contrary intention, in this Constitution, a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it.

(h) Unless the context indicates a contrary intention:

(i) an expression in a provision of this Constitution that deals with a matter dealt with by a provision of the Applicable Law has the same meaning as in that provision of the Applicable Law; and

(ii) an expression in a provision of this Constitution that is defined in section 9 of the Corporations Act has the same meaning as in that section.

Schedule 3 Exercise of powers

Where this Constitution confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.

Schedule 4 Severing invalid provisions

If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that does not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution.