

CONSTITUTION

OF

SOMERVILLE HOUSE FOUNDATION LTD

History of Document

Adopted by special resolution (if relevant) on:

or

Signed by original members (if relevant) on:

Amended (if relevant) on:

Date

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CONSTITUTION OF SOMERVILLE HOUSE FOUNDATION LTD

1. REPLACEABLE RULES EXCLUDED

The replaceable rules contained in the Act do not apply to Somerville House Foundation Ltd (**Company**).

2. DEFINITIONS AND INTERPRETATION

2.1 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) **Alternate Director or Alternate Directors** means a director appointed in accordance with clause 9.
- (3) **Appointed Directors** means two Directors being:
 - (a) one Director approved by the School Council from nominated persons selected by the P&F; and
 - (b) one Director approved by the School Council from nominated persons selected by the OGA,and to the extent that the P&F and OGA do not nominate persons or the persons nominated are not approved by the School Council, then the School Council may request Appropriately Qualified persons be submitted for consideration. If the P&F and/or the OGA are unable to provide a candidate who is, in the opinion of the School Council, Appropriately Qualified, a casual vacancy occurs and the Board will take steps to appoint a Director under rule 8.3(2).
- (4) **Appropriately Qualified** means a person who satisfies:
 - (a) the Australian Institute of Company Directors general criteria recommended for Directors, as published from time-to-time; and
 - (b) the published or unpublished criteria of the Board, as determined from time-to-time.
- (5) **ATO** means the Australian Taxation Office.
- (6) **Benefactor or Benefactors** means:
 - (a) persons who are Patrons, Directors, Associate Directors or Members on the date of adoption of this constitution, who will transition to new categories outlined in rule 2.1(6)(b); and
 - (b) persons who are Patrons, Senior Associates, Associates or Donors who have made a Qualifying Gift to the Company or to the trusts or funds which may be established for the benefit of the School.

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- (7) **Board** means the Directors acting collectively under this document.
- (8) **Business Day** means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in the place where the Company has its registered office.
- (9) **Business Manager/CFO** means the Business Manager and Chief Finance Officer of the School or any future job description concerning this role.
- (10) **Chairman** means the person appointed under rule 19.6.
- (11) **Claim** means:
- (a) any writ, summons, cross-claim, counterclaim, application or other originating legal or arbitral process against an officer as an officer of the Company;
 - (b) any hearing, complaint, inquiry, investigation, proceeding or application commenced or originating against an officer as an officer of the Company; or
 - (c) any written or oral demand or threat that might result in the officer reasonably believing that any such process, hearing, complaint, inquiry, investigation, proceeding or application that may be initiated.
- (12) **Director or Directors** means the Permanent Directors, the Elected Directors and the Appointed Directors or directors appointed by the Members under rules 8.3 and 8.4(2).
- (13) **Elected Director or Elected Directors** means Directors nominated by the Benefactors and appointed by the Benefactors pursuant to rule 8.7.
- (14) **Member or Members** means a person who is a member of the Company under rule 7.
- (15) **Objects** means the objects of the Company, as set out in rule 3.
- (16) **OGA** means the Somerville House Old Girls' Association ABN 70 962 541 101, and its successors
- (17) **Officer or Officers** means a Director or the Directors and the Secretary of the Company.
- (18) **Permanent Directors** means two Directors being:
- (a) a person appointed by the PMSA, being the Chairman of the School Council, whoever that may be from time-to-time; and
 - (b) a person appointed by the PMSA, as the Principal of the School, whoever that may be from time-to-time.
- (19) **P&F** means the Somerville House Parents & Friends Association ABN 47 642 120 829, and its successors
- (20) **PMSA** means The Presbyterian & Methodist Schools Association a body incorporated by letters patent issued under *The Religious Education & Charitable Institutions Act 1861*.

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- (21) **PMSA's Reserved Powers** means those powers reserved to the PMSA under rule 22.2.
 - (22) **Qualifying Gift** means a gift of any property, real or personal, made to the Company equal to or in excess of amounts set by the Board.
 - (23) **School** means Somerville House (Brisbane High School for Girls) ABN 72 347 198 980.
 - (24) **School Council** means the council of the School, or such other body appointed by the PMSA to be responsible for the governance of the School.
 - (25) **Secretary** means any person appointed to perform the duties of secretary of the Company.
 - (26) **Tax Act** means the *Income Tax Assessment Act 1997* (Cth).

2.2 Interpretation

- (1) Reference to:
 - (a) one gender includes the other;
 - (b) the singular includes the plural and the plural includes the singular; and
 - (c) a person includes a body corporate.
- (2) Except so far as the contrary intention appears in this constitution:
 - (a) an expression has in this constitution the same meaning as in the Act; and
 - (b) if an expression is given different meanings for the purposes of different provisions 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 any table of contents or index are for convenience only and do not form part of this constitution or affect its interpretation.

3. OBJECTS

- (1) The objects for which the Company is established are:
 - (a) to support and assist the School Council to preserve, improve and develop the standards, services, property and facilities of the School; and
 - (b) without limiting the generality of rule 3(1)(a):
 - (A) to provide financial support for the educational purposes of the School in all possible ways;
 - (B) to create opportunities for the School to attract and retain the continuing interest and financial support of past students, parents of students or past students and friends;

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- (C) to solicit donations and gifts for the benefit of the School or any of its funds or accounts from past students, parents or friends and others;
 - (D) to raise finance for the acquisition of land or the acquisition, construction or maintenance of buildings to be used by the School;
 - (E) to acquire land and to construct and maintain buildings for the School;
 - (F) to promote or assist in educational, sporting, cultural and extracurricular activities of all kinds of the School and to disseminate information concerning the School and its activities;
 - (G) to provide financial assistance for the acquisition by the School of library books, works of art and educational plant and equipment of all kinds for any of the purposes of the School;
 - (H) to promote financial assistance for the carrying out of research, the provision of scholarships and bursaries, the funding of visits from people with qualifications which enable them to contribute to the education of the students and teaching staff of the School;
 - (I) to attract and encourage gifts, bequests and all forms of deferred gifts to enable the fulfilment of these Objects;
 - (J) to act as trustee of trusts and funds which may be established for the benefit of the School; and
 - (K) to undertake other types of fundraising activities to enable the fulfilment of these Objects.
- (2) The Company may only exercise its powers to carry out its charitable purposes and to do all things reasonably necessary, incidental or convenient to carry out its charitable purposes and must apply its income in promoting those purposes.

4. POWERS OF THE COMPANY

- (1) The Company has all the powers of an individual and a body corporate but does not have the power to issue shares.
- (2) Despite rule 4(1), the powers of the Company are ancillary to and exercisable only to pursue the Objects.

5. INCOME AND PROPERTY

5.1 Application of income and property

The income and property of the Company, from wherever it is derived, must be applied solely towards the promotion of the Objects.

5.2 No distribution to Members

- (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 except as a bona-fide compensation for services rendered or expenses incurred on behalf of the Company and authorised to be paid under rule 5.2(2)(a).

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- (2) Rule 5.2(1) does not prevent:
 - (a) the payment in good faith of remuneration to any officer, servant or Member in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual way of business;
 - (b) the payment of reasonable and proper rent by the Company to a Member for premises leased by the Member to the Company; or
 - (c) the reimbursement of expenses incurred by any Member on behalf of the Company.

6. PUBLIC COMPANY, LIMITED LIABILITY & GUARANTEE

- (1) The Company is a public company limited by guarantee.
- (2) The liability of each ordinary Member is limited to \$10.
- (3) Every ordinary Member of the Company undertakes to contribute an amount not exceeding \$10 to the property of the Company in the event of its being wound up while the ordinary Member is an ordinary Member or within one year after the ordinary Member ceases to be an ordinary Member, if required for payment:
 - (a) of the debts and liabilities of the Company (contracted before the ordinary Member ceases to be an ordinary Member);
 - (b) of the costs, charges and expenses of winding up; and
 - (c) for the adjustment of the rights of the contributories among themselves.

7. MEMBERSHIP

7.1 Number of Members

The number of Members for which the Company proposes to be registered is unlimited.

7.2 Membership

The Members of the Company are:

- (1) the PMSA as the sole ordinary member;
- (2) the Benefactors; and
- (3) any other persons the Directors admit to membership in accordance with this constitution.

7.3 Categories of membership

- (1) The categories of membership are:
 - (a) a single ordinary member; namely, the PMSA;
 - (b) the Benefactors.
- (2) Additional categories of Members, if recommended by the Directors, may be created from time to time by the Members in a general meeting of the Company.

7.4 Application for membership as a Benefactor

- (1) An application for membership as a Benefactor must:
 - (a) meet the criteria for membership to become a Benefactor;
 - (b) be in writing in a form approved by the Directors; and
 - (c) be accompanied by any other documents as the Directors may require.
- (2) If the applicant is a body corporate it must nominate one person (**Nominated Representative**) to represent the applicant in the Company. The application must:
 - (a) state the name and address of the Nominated Representative; and
 - (b) be signed by the Nominated Representative by way of consent.

7.5 Admission to membership

- (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 applicant.
- (2) The Directors need give no reason for the rejection of an application.
- (3) If an applicant is accepted for membership:
 - (a) the secretary must notify the applicant of admission in the form the Directors determine; and
 - (b) the name and details of the member must be entered in the register of members.
- (4) If an application for membership is rejected the Secretary must notify the applicant in writing.

7.6 Register of Members

- (1) A register of Members must be kept in accordance with the Act.
- (2) Each Member and nominated representative must notify the Secretary in writing of any change in that person's name, address, facsimile number or electronic mail address within one month after the change.

7.7 Resignation of a Member

- (1) A Member may resign from membership of the Company by giving written notice to the Secretary.
- (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.

7.8 Cessation of membership

- (1) An individual Benefactor ceases to be a Member:
 - (a) on the death of the Member; or

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- (b) if the Member is expelled under rule 7.9.
 - (2) A corporate Benefactor ceases to be a Member:
 - (a) if it is wound up or is otherwise dissolved or deregistered; or
 - (b) if it is expelled under rule 7.9.
 - (c) if the Directors, for any reason, request in writing the resignation of the Member and the Member does not resign within two months after the request is sent.

7.9 Disciplining Members

- (1) If any Member:
 - (a) wilfully refuses or neglects to comply with the provisions of this constitution; or
 - (b) is guilty of any conduct which, in the opinion of the directors, is unbecoming of a Member or prejudicial to the interest of the Company,

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

- (2) In exercising their powers under rule 7.9(1), the Directors must not fine a Member an amount exceeding the annual subscription of an ordinary member, being an individual (whether or not the Member is an individual or a body corporate, or is liable to pay an annual subscription).
- (3) At least one week before the meeting of the Directors at which a resolution of the nature referred to in rule 7.9(1) is passed the Directors must give to the Member notice of:
 - (a) the meeting;
 - (b) what is alleged against the Member; and
 - (c) the intended resolution.
- (4) 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 the Member sees fit.
- (5) A Member may, by notice in writing lodged with the Secretary at least 24 hours before the time for holding the general meeting at which the resolution is to be considered by the Directors, elect to have the question dealt with by the Company in general meeting and in that event, a general meeting of the Company must be called for that purpose.
- (6) 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 concerned must be addressed 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.

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- (7) If any Member ceases to be a Member under rule 7.9(6), 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.

7.10 Effect of cessation of membership

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 \$10 for which the Member is liable under this constitution.

8. DIRECTORS

8.1 Number of Directors

- (1) The number of the Directors must be not less than three but not more than nine (subject to rule 8.1(3)).
- (2) The Directors may resolve to decrease the number of Directors but the number of Directors may not be reduced below three. Any change in the director numbers will affect the number of Elected Directors to the extent that there will be no change in the number of Appointed Directors and Permanent Directors, upon firstly seeking endorsement of the Members to do so.
- (3) The Members may, by resolution, increase the number of Directors. Where the Members have resolved to increase the number of Directors, the Board may appoint a person as a Director to fill that vacant position on the Board.
- (4) The Directors will comprise:
- (a) the Permanent Directors;
 - (b) the Appointed Directors;
 - (c) five Elected Directors (subject to rules 8.1(1) and 8.1(2));
 - (d) any other Director, as appointed by the Board under rule 8.1(3).

8.2 Vacation of office of Director

In addition to any other circumstances 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 (either personally or by an Alternate Director) at three consecutive meetings of Directors without special leave of absence from the Directors and the Directors declare his or her seat to be vacant;
- (4) becomes disqualified from being a Director under the Act or any order made under the Act;
- (5) is removed from office; or
- (6) resigns from office.

8.3 Replacement Directors

- (1) In the event that the office of Director is vacant as a result of circumstances described in rule 8.2, the Board may appoint a replacement Director. Any Director so appointed is appointed to this position until the next annual general meeting of the Company.
- (2) If a casual vacancy has occurred in respect of an Appointed Director, the Board may appoint a person to fill the vacant position on the Board. The person appointed will be an Appointed Director. Any Appointed Director appointed under this rule 8.3(2) will hold office until the next annual general meeting of the Company.
- (3) Despite rule 8.3(2), at the next annual general meeting, the P&F and/or the OGA may appoint to fill the vacancy on the Board with a person who is Appropriately Qualified and approved by the School Council.

8.4 Qualification for Elected Directors and Appointed Directors

- (1) An Appointed Director must be Appropriately Qualified.
- (2) An Elected Director must be:
 - (a) a Benefactor; and
 - (b) Appropriately Qualified.

8.5 Rotation of Appointed Directors

- (1) An Appointed Director holds office for three years.
- (2) At each annual general meeting of the Company, each Appointed Director who:
 - (a) has served on the Board for three years; or
 - (b) will have served on the Board for three years during the period prior to the next annual general meeting of the Company,will resign or is automatically removed from office and a new person will be appointed as an Appointed Director.

8.6 Nomination for election for Appointed Directors

- (1) Each candidate for election as an Appointed Director must:
 - (a) be proposed by either the P&F or the OGA;
 - (b) be approved by the Board; and
 - (c) approved by the School Council.
- (2) A nomination of a candidate for election must:
 - (a) be in writing;
 - (b) be signed by the candidate; and

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- (c) be signed by the proposer and approved by the Board and the School Council.
 - (3) A nomination of a candidate for election must be received at the registered office of the Company not later than 5pm on the day which is 30 days prior to the annual general meeting at which the candidate seeks election.
 - (4) A list of the candidates' names in alphabetical order must be sent to the Members with the notice of the annual general meeting.

8.7 Rotation of Elected Directors

- (1) An Elected Director holds office for three years.
- (2) An Elected Director must be nominated and appointed by the Benefactors at an annual general meeting.
- (3) At each annual general meeting of the Company:
 - (a) 1/3 of the Elected Directors; or
 - (b) if their number is not three or a multiple of three, then the number nearest to but not exceeding 1/3,must retire from office.
- (4) No Elected Director may retain office for more than three years without submitting himself or herself for re-election even though the submission results in more than 1/3 of the Elected Directors retiring from office.
- (5) The Elected Directors to retire at an annual general meeting are those who have been longest in office since their election.
- (6) As between or among two or more Elected Directors who became Directors on the same day, the Elected Director or Elected Directors to retire are determined by lot unless they otherwise agree between or among themselves.
- (7) Unless the Board decides to reduce the number of Elected Directors in office, the Members, at any annual general meeting at which any Elected Director retires, may fill the vacated office by re-electing the retiring Elected Director or electing some other qualified person.
- (8) If at the annual general meeting the vacated office is not filled, the retiring Elected Director, if willing and not disqualified, must be treated as re-elected unless the Company decides to reduce the number of Elected Directors in office or a resolution for the re-election of that Elected Director is put and lost.

8.8 Nomination for election for Elected Directors

- (1) An Elected Director must:
 - (a) be proposed by a Benefactor; and
 - (b) be seconded by another Benefactor.
- (2) No Benefactor or Nominated Representative may propose more than one person as a candidate but may second more than one nomination.

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- (3) A nomination of a candidate for election must:
 - (a) be in writing;
 - (b) be signed by the candidate; and
 - (c) be signed by the proposer and seconder.
 - (4) A nomination of a candidate for election must be received at the registered office of the Company not later than 5pm on the day which is 30 days prior to the annual general meeting.
 - (5) A list of the candidates' names in alphabetical order together with the proposers' and seconders' names must be sent to the Members with the notice of annual general meeting.

8.9 Election procedure for Elected Directors

- (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 Chairman must declare those candidates to be duly elected as Directors.
- (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.
- (3) If a ballot is required, balloting lists must be prepared listing the names of the candidates only in alphabetical order.
- (4) The candidates receiving the greatest number of votes cast in their favour must be declared by the Chairman to be elected as Elected Directors.
- (5) If an equality of votes would otherwise prevent the successful candidate for a vacancy from being determined, the Chairman, 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 Chairman:
 - (a) does not exercise a casting vote; or
 - (b) 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.

8.10 Insufficient Directors

- (1) In the event of a vacancy in the office of an Elected Director, the remaining Directors may act, but if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum or convening a general meeting of the Company.
- (2) This appointment will be confirmed by the Members.

8.11 Time appointment or retirement takes effect

- (1) Directors who are elected at a meeting of Members take office immediately after the end of the general meeting.

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- (2) Directors who retire at a meeting of members continue to hold office until the end of the general meeting.

9. ALTERNATE DIRECTORS

9.1 Appointment

- (1) A Director may appoint any person who is qualified to be a Director and who is approved by a majority of the other Directors to act as an Alternate Director in place of the appointing Director for a meeting or for a specified period.
- (2) An Alternate Director is not taken into account for the purpose of rule 8.1.
- (3) An Alternate Director must be approved by the Board prior to any appointment.

9.2 Rights and powers of Alternate Director

- (1) An Alternate Director is entitled to notice of meetings of the Directors and, if the appointor is not present at a meeting, is entitled to attend and vote in his or her stead.
- (2) When an Alternate Director exercises the Director's powers, the exercise of the power is just as effective as if the powers were exercised by the Director.

9.3 Suspension or revocation of appointment

- (1) A Director may revoke or suspend the appointment of an Alternate Director appointed by him or her.
- (2) The Directors may suspend or remove an Alternate Director by resolution after giving the appointor reasonable notice of their intention to do so.

9.4 Form of appointment, suspension or revocation

Every notice of appointment, revocation or suspension under rules 9.1 or 9.3 must be in writing and a copy must be given to the Company. The notice may be given by facsimile.

9.5 Termination of appointment

The appointment of an Alternate Director automatically terminates:

- (1) if the appointor ceases to hold office as Director;
- (2) on any event which causes a Director to vacate the office of Director; or
- (3) if the Alternate Director resigns from the appointment by written notice left at the registered office of the Company.

9.6 Power to act as alternate for more than one Director

A Director or any other person may act as Alternate Director to represent more than one Director.

10. POWERS OF DIRECTORS

10.1 Validation of acts of Directors and secretaries

- (1) The acts of a Director or Secretary of the Company are valid despite any defect that may afterwards be discovered in his or her appointment or qualification.
- (2) Where a person whose office as Director is vacated under a provision of the Act purports to do an act as a Director, 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.

10.2 General business management

- (1) The business of the Company is to be managed by or under the direction of the Directors.
- (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.
- (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.
- (4) The Directors may pay all expenses incurred in promoting and forming the Company.

10.3 Borrowing powers

Without limiting the generality of rule 10.2, but subject to rule 5.2, 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.

10.4 Appointment of attorney

- (1) The Directors may appoint any person or persons to be the attorney or attorneys of the Company for the purposes, with the powers and discretions (being powers and discretions vested in or exercisable by the Directors), for the period and subject to any conditions they see fit.
- (2) A power of attorney may contain the provisions for the protection and convenience of persons dealing with the attorney that the Directors see fit and may also authorise the attorney to delegate all or any of the powers and discretions vested in the attorney.

11. RULES

- (1) The Directors may make, amend or repeal rules and laws or policies, not inconsistent with these rules, for the internal management of the Company.
- (2) The Directors will specifically endorse rules from time-to-time for the operation of a scholarship fund and a building fund of which the Company will act as trustee and which will be endorsed under Division 30 of the Tax Act as deductible gift recipients.

12. COMMITTEES OF OFFICERS

- (1) The Officers may delegate any of their powers to a committee of Officers.
- (2) A committee must exercise the powers delegated to it in accordance with any directions of the Officers. The effect of the committee exercising a power in this way is the same as if the Officers exercised it.
- (3) The meetings and proceedings of any committee consisting of two or more Officers are governed by the provisions in this constitution regulating the meetings and proceedings of the Officers.

13. DELEGATION OF BOARD POWERS

13.1 Power to Delegate

The Board may delegate any of its own powers as permitted by section 198D.

13.2 Power to Revoke Delegation

The Board may revoke a delegation previously made whether or not the delegation is expressed to be for a specified period.

13.3 Terms of Delegation

A delegation of powers under rule 13.1 may be made:

- (1) for a specified period or without specifying a period; and
- (2) on the terms (including power to further delegate) and subject to any restrictions the Board decides.

A document of delegation may contain the provisions for the protection and convenience of those who deal with the delegate that the Board thinks appropriate.

13.4 Proceedings of Committees

Subject to the terms on which a power of the Board is delegated to a committee, the meetings and proceedings of committees are, to the greatest extent practical, governed by the rules of this document which regulate the meetings and proceedings of the Board.

14. DIRECTORS' INTERESTS AND DISCLOSURE OBLIGATIONS

14.1 Prohibition on being present or voting

- (1) Except where permitted by the Act, a Director who has a material personal interest in a matter that is being considered at a meeting of Directors:
 - (a) must not be counted in a quorum;
 - (b) must not vote on the matter; and
 - (c) must not be present while the matter is being considered at the meeting.
- (2) If a Director who has a material personal interest in a matter that is being considered at a meeting of the Directors is not prohibited by the Act from being present at the meeting and voting, the Director may be present, be counted in the quorum and may be heard but may not vote on the matter.

14.2 Director to disclose interests

- (1) A Director who is in any way, whether directly 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 of the Company.
- (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 his or her duties or interests as Director must declare at a meeting of the Directors or by written notice to the Secretary the fact and the nature, character and extent of the conflict.
- (3) For the purposes of rules 14.2(1) and 14.2(2), a Director's interest or any conflict must be disregarded if it arises from or relates solely to:
 - (a) a guarantee to be given by the Director (or by persons including the Director or by a body corporate of which the Director is a Member or Officer) in respect of a loan to the Company; or
 - (b) the position of the Director as a Director of a related body corporate.

14.3 Effect of interest in contract

- (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 of the Company:
 - (a) the contract may be entered into; and
 - (b) if the disclosure is made before the contract is entered into:
 - (A) the Director may retain benefits under the contract even though the Director has an interest in the contract;
 - (B) the Company cannot avoid the contract merely because of the existence of the interest; and
 - (C) the Director is not disqualified from the office of Director.
- (2) For the purposes of rule 14.3(1), contract includes an arrangement, dealing or other transaction.

14.4 Other interests

Without limiting rule 14.2 or rule 14.3 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) be interested in any operation, undertaking or business undertaken or assisted by the Company or in which the Company is or may be interested.

15. REMUNERATION OF DIRECTORS

15.1 No Directors' remuneration

Despite rule 5.2(2) no Director may receive any remuneration for his or her services in his or her capacity as a Director of the Company.

15.2 Directors' expenses

- (1) Despite rule 15.1 the Company may pay the Directors' travelling and other expenses that they properly incur:
 - (a) in attending Directors' meetings or any meetings of committees of Directors;
 - (b) in attending any general meetings of the Company; and
 - (c) in connection with the Company's business.
- (2) The Directors must approve all payments the Company makes to its Directors.

15.3 Financial benefit

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.

16. SECRETARY

16.1 Requirement for Secretary

The Company must have at least one Secretary.

16.2 Appointment of Secretary

The Secretary must be appointed by the Board.

16.3 Terms and Conditions of Office

- (1) A Secretary holds office on the terms that the Board decides. The Board may vary any decision previously made by it in respect of a Secretary.
- (2) Unless otherwise determined by the Directors, the person appointed to the position of Business Manager/CFO of the School will be appointed as the Secretary.

16.4 Cessation of Secretary's Appointment

A person automatically ceases to be a Secretary if the person:

- (1) is not permitted by the Act (or an order made under the Act) to be a Secretary of a company;
- (2) becomes disqualified from managing corporations under Part 2D.6 and is not given permission or leave to manage the Company under section 206F or 206G;
- (3) becomes of unsound mind or is physically or mentally incapable of performing the functions of that office;
- (4) resigns by notice in writing to the Company; or

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- (5) is removed from office under rule 16.5.

16.5 Removal from Office

The Board may remove a Secretary from that office whether or not the appointment was expressed to be for a specific term.

17. INDEMNITY AND INSURANCE

17.1 Indemnity

- (1) To the extent permitted by the Act, the Company indemnifies:
- (a) every person who is or has been an officer of the Company; and
 - (b) where the board of Directors considers it appropriate to do so, any person who is or has been an officer of a related body corporate of the Company;
- against any liability incurred by that person in his or her capacity as an officer of the Company or of the related body corporate (as the case may be).
- (2) In accordance with section 199A of the Act, the Company must not indemnify a person against:
- (a) any of the following liabilities incurred as an officer of the Company:
 - (A) a liability owed to the Company or a related body corporate;
 - (B) a liability for a pecuniary penalty order under section 1317G of the Act or a compensation order under section 1317H of the Act; or
 - (C) a liability that is owed to someone other than the Company or a related body corporate and did not arise out of conduct in good faith; or
 - (b) legal costs incurred in defending an action for a liability incurred as an officer of the Company if the costs are incurred:
 - (A) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under rule 17.1(2)(a);
 - (B) in defending or resisting criminal proceedings in which the person is found guilty;
 - (C) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the Court to have been established; or
 - (D) in connection with proceedings for relief to the person under the Act in which the Court denies the relief.
- (3) Rule 17.1(2)(b)(C) does not apply to costs incurred in responding to actions taken by the Australian Securities and Investments Commission or a liquidator as part of an investigation before commencing proceedings for a court order.

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- (4) For the purposes of rule 17.1(2)(b), the outcome of proceedings includes the outcome of any originating process and any appeal in relation to those proceedings.
 - (5) An officer must:
 - (a) give notice to the Company promptly on becoming aware of any Claim against the officer that may give rise to a right to be indemnified under rule 17.1(1);
 - (b) take such action as the Company reasonably requests to avoid, dispute, resist, appeal against, compromise or defend any Claim or any adjudication of a Claim;
 - (c) not make any admission of liability in respect of or settle any Claim without the prior written consent of the Company;
 - (d) allow the Company or its insurers to assume the conduct, negotiation or defence of any Claim and, on request by the Company, render all reasonable assistance and co-operation to the Company or its insurers in the conduct of any Claim, including giving the Company or its insurers any document, authority or direction that the Company or its insurers may reasonably require for the prosecution or advancement of any counterclaim or cross-claim;
 - (e) on request by the Company or its insurers, do everything necessary or desirable which the Company reasonably requests to enable the Company or its insurers (so far as it is possible) to be subrogated to and enjoy the benefits of the officer's rights in relation to any counterclaim or cross-claim or any claims against any third party and render such assistance as may be reasonably requested by the Company or its insurers for that purpose; and
 - (f) notify any Claim to an insurer or any other person who may be liable to indemnify the officer in respect of that Claim and promptly take all reasonable steps to enforce all the officer's rights against the insurer or other person.

17.2 Insurance

- (1) The Company may pay or agree to pay a premium in respect of a contract insuring a person who is or has been an officer of the Company or a related body corporate of the Company against any liability incurred by the person as an officer of the Company or a related body corporate except a liability (other than one for legal costs) arising out of:
 - (a) conduct involving a wilful breach of duty in relation to the Company; or
 - (b) a contravention of section 182 or 183 of the Act.
- (2) In the case of a Director, any premium paid under this rule is not remuneration for the purpose of rule 15.1.

17.3 Director voting on contract of insurance

Despite anything in this constitution, a Director is not precluded from voting in respect of any contract or proposed contract of insurance, merely because the contract insures or would insure the Director against a liability incurred by the Director as an officer of the Company or of a related body corporate.

17.4 Liability

An officer of the Company is not liable for the act, neglect or default of any other officer or for joining in any act or for any other loss, expense or damage which arises in the execution of the duties of his or her office unless it arises through his or her own negligence, default, breach of duty or breach of trust.

18. INSPECTION OF RECORDS

18.1 Rights of inspection

- (1) The Directors of the Company, or the Company by a resolution passed at a general meeting, may authorise a Member to inspect books of the Company.
- (2) A Member, other than a Director, does not have the right to inspect any document of the Company, other than the minute books for the meetings of its Members and for resolution of Members passed without meetings, except as provided by law or authorised by the Directors or by the Company in general meeting.
- (3) Directors have the rights of inspection and access provided by section 198F of the Act.

18.2 Confidential information

Except as provided by the Act, no Member (not being a Director) is entitled to require or receive any information concerning the business, trading or customers of the Company or any trade secret, secret process or other confidential information of or used by the Company.

19. DIRECTORS' MEETINGS

19.1 Circulating resolutions

- (1) The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the resolution (except a Director absent from Australia who has not left a facsimile number at which he or she may be given notice) sign a document containing a statement that he or she is in favour of the resolution set out in the document.
- (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.
- (3) The resolution is passed when the last Director signs.
- (4) A facsimile addressed to or received by the Company and purporting to be signed or sent by a Director for the purpose of this rule 19.1 must be treated as a document in writing signed by that Director.

19.2 Meetings of Directors

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

19.3 Calling Directors' meetings

A Director may at any time, and a Secretary must on the requisition of a Director, call a meeting of the Directors.

19.4 Notice of meeting

- (1) Reasonable notice of every Directors' meeting must be given to each Director and Alternate Director except that it is not necessary to give notice of a meeting of Directors to any Director who:
 - (a) has been given special leave of absence; or
 - (b) is absent from Australia and has not left a facsimile number at which he or she may be given notice.
- (2) Any notice of a meeting of Directors may be given in writing or orally, and whether by facsimile, telephone, electronic mail or any other means of communication.

19.5 Technology meeting of Directors

- (1) A Directors' meeting may be held using telephone or, if consented to by all Directors, other technology. The consent may be a standing one. A Director may only withdraw the consent within a reasonable period before the meeting.
- (2) If a Directors' meeting is held using any technology and all the Directors take part in the meeting, they must be treated as having consented to the use of the technology for that meeting.
- (3) The following provisions apply to a technology meeting:
 - (a) 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
 - (b) at the commencement of the meeting each Director must announce his or her presence to all the other Directors taking part in the meeting.
- (4) If the Secretary is not present at a technology meeting, one of the Directors present must take minutes of the meeting.
- (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.
- (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.

19.6 Appointment of the Chairman and chairing Directors' meetings

- (1) The Directors may elect one of the Elected Directors to chair their meetings, being the Chairman.
- (2) The term of the appointment is until the end of the next annual general meeting.
- (3) At the annual general meeting, the Directors may elect one of the Elected Directors as Chairman.
- (4) If the Chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act for the meeting or the part of the meeting, then the Board may elect a Director to act as Chairman for the meeting.

19.7 Quorum

- (1) The quorum for a Directors' meeting is five Directors entitled to vote or a greater number determined by the Directors, except for the initial set up period for the Company from registration till compliance with rule 8.1(4) is achieved, the quorum for a Directors' meeting will be three Directors entitled to vote. The quorum must be present at all times during the meeting.
- (2) An Alternate Director is counted in a quorum at a meeting at which the Director who appointed the alternate is not present (so long as the alternate is, under the Act relating to Directors' interests, entitled to vote).

19.8 Circulating resolutions

- (1) The Directors may pass a resolution without a meeting being held if all the Directors vote on the resolution and sign a document or otherwise confirm their agreement with the resolution (through the use of any form of electronic communication, email, phone messaging, or internet messaging acceptable to the Board) containing a statement that they are in favour of the resolution set out in the document.
- (2) The resolution is passed when the last Member confirms acceptance of the resolution.

19.9 Passing of Directors' resolutions

- (1) A resolution of the Directors must be passed by a majority of the votes cast by Directors entitled to vote on the resolution.
- (2) The Chairman has a casting vote, if necessary, in addition to any vote he or she has as a Director. The Chairman has discretion both as to whether or not to use the casting vote and as to the way in which it is used.
- (3) A person who is an Alternate Director is entitled (in addition to his or her own vote if he or she is a Director) to one vote on behalf of each Director whom he or she represents as an Alternate Director at the meeting and who is not present at the meeting.

20. MEETINGS OF MEMBERS**20.1 Circulating resolutions**

- (1) This rule 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.
- (2) The Members may pass a resolution without a general meeting being held if all the 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.
- (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.
- (4) The resolution is passed when the last Member signs.
- (5) If the Company receives by facsimile transmission a copy of a document referred to in this rule 20 it is entitled to assume that the copy is a true copy.

20.2 Calling of general meeting

- (1) A majority of Directors may call a general meeting whenever they see fit.
- (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.
- (3) Except as provided in the Act, no Member or Members may call a general meeting.

20.3 Amount of notice of meeting

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.

20.4 Persons entitled to notice of general meeting

- (1) Written notice of a meeting of the Company's Members must be given individually to:
 - (a) each Member entitled to vote at the meeting;
 - (b) each Director; and
 - (c) the Company's auditor.
- (2) Unless the Company otherwise determines, no other person is entitled to receive notice of general meetings.

20.5 How notice is given

- (1) The Company may give the notice of meeting:
 - (a) personally;
 - (b) by sending it by post to the address for the person or the alternative address (if any) nominated by the person;
 - (c) by sending it to the facsimile number or electronic address (if any) nominated by the Member;
 - (d) by sending it by other electronic means (if any) nominated by the person; or
 - (e) by notifying the person in accordance with rule 20.5(2).
- (2) If the Member nominates:
 - (a) an electronic means (nominated notification means) by which the person may be notified that notices of meeting are available; and
 - (b) an electronic means (nominated access means) the person may use to access notices of meeting.
- (3) The Company may give the person notice of the meeting by notifying the person (using the nominated notification means):
 - (a) that the notice of meeting is available; and

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- (b) how the Member may use the nominated access means to access the notice of meeting.

20.6 When notice is given

- (1) A notice of meeting sent by post is taken to be given three days after it is posted.
- (2) Except as provided by rule 20.6(3), a notice of meeting given to a person under rule 20.5(1)(c) is taken to be given on the Business Day after it is sent.
- (3) A notice of meeting given to a Member under rule 20.5(1)(c) is not effective if:
 - (a) in the case of service by facsimile, the Company's facsimile machine issues a transmission report that the transmission was unsuccessful;
 - (b) in the case of service by electronic mail, the Company's computer reports that delivery has failed; or
 - (c) in either case the addressee notifies the Company immediately that the notice was not fully received in a legible form.
- (4) A notice of meeting given to a person under rule 20.5(1)(e) is taken to be given on the Business Day after the day on which the person is notified that the notice of meeting is available.
- (5) A certificate signed by a manager, secretary or other officer of the Company that the notice was posted or given in accordance with this rule 20.6 is conclusive evidence of the matter.

20.7 Period of notice

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.

20.8 Contents of notice

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 two or more places, the technology that will be used);
- (2) state the general nature of 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:
 - (a) that the Member has a right to appoint a proxy; and
 - (b) that the proxy need not be a Member of the Company.

20.9 Notice of adjourned meeting

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for one month or more.

20.10 Accidental omission to give notice

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.

20.11 Postponement of general meeting

- (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.
- (2) Whenever any meeting is postponed (as distinct from being adjourned under rule 20.13(3) or rule 20.14(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.

20.12 Technology

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

20.13 Quorum for Members

- (1) The quorum for a meeting of the Members is five Members, one of which must be the PMSA, and four of which must be Benefactors, and the quorum must be present at all times during the meeting.
- (2) In determining whether a quorum is present, individuals attending as proxies, attorneys or body corporate representatives are counted. If an individual is attending both as a Member and as a proxy, attorney or body corporate representative, the individual is counted only once.
- (3) If a quorum is not present within 30 minutes after the time for the meeting set out in the notice of meeting:
 - (a) where the meeting was called by the Members or upon the requisition of Members, the meeting is dissolved; or
 - (b) in any other case, the meeting is adjourned to the date, time and place the Directors specify. If the Directors do not specify one or more of those things, the meeting is adjourned to:
 - (A) if the date is not specified – the same day in the next week;
 - (B) if the time is not specified – the same time; and
 - (C) if the place is not specified – the same place.
- (4) If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

20.14 Chairman at general meetings of Members

- (1) If the Directors have appointed one of their number as Chairman of their meetings, the person appointed presides as Chairman at every meeting of the Members.
- (2) Where a meeting of the Members is held and:
 - (a) a Chairman has not been appointed as referred to in rule 20.14(1); or
 - (b) the Chairman is not present within 30 minutes after the time appointed for the holding of the meeting or is unwilling to act,

the Directors present may appoint one of their number to be the Chairman of the meeting (who must be an Elected Director if there is one present) and in default of their doing so the Members present must appoint another Director or if no Director is present or willing to act then the Members present may appoint any one of their number to be the Chairman of the meeting.

- (3) The Chairman must adjourn a meeting of the Members if the Members present with a majority of votes at the meeting agree or direct that the Chairman must do so.

20.15 Business at adjourned meetings

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

21. PROXIES AND BODY CORPORATE REPRESENTATIVES

21.1 Who can appoint a proxy

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.

21.2 Rights of proxies

- (1) A proxy appointed to attend and vote for a Member has the same rights as the Member:
 - (a) to speak at the meeting;
 - (b) to vote (but only to the extent allowed by the appointment); and
 - (c) to join in a demand for a poll.
- (2) If a proxy is only for a single meeting it may be used at any postponement or adjournment of that meeting, unless the proxy states otherwise.
- (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.
- (4) A proxy may be revoked at any time by notice in writing to the Company.

21.3 When proxy form must be sent to all Members

If the Company sends a Member a proxy appointment form for a meeting or a list of persons willing to act as proxies at a meeting:

- (1) if the Member requested the form or list – the Company must send the form or list to all Members who ask for it and who are entitled to appoint a proxy to attend and vote at the meeting; or
- (2) otherwise – the Company must send the form or list to all its Members entitled to appoint a proxy to attend and vote at the meeting.

21.4 Appointing a proxy

- (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 21.4(2) and 21.4(3)) by the Member making the appointment and contains the following information:
 - (a) the Member's name and address;
 - (b) the Company's name;
 - (c) the proxy's name or the name of the office held by the proxy; and
 - (d) the meetings at which the appointment may be used. An appointment may be a standing one.
- (2) An electronically authenticated appointment of a proxy must in addition to rule 21.8(1):
 - (a) include a method of identifying the Member; and
 - (b) include an indication of the Member's approval of the information communicated.
- (3) If the electronically authenticated appointment of a proxy is done through either email or internet-based voting:
 - (a) the Member must be identified by personal details such as the Member's name, personal address and date of birth; and
 - (b) the Member's approval must be communicated by a form of security protection (for example, the entering of a confidential identification number such as a shareholder registration number or holder identification number).
- (4) An undated appointment is taken to have been dated on the day it is given to the Company.
- (5) An appointment may specify the way the proxy is to vote on a particular resolution. If it does:
 - (a) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
 - (b) if the proxy has two or more appointments that specify different ways to vote on the resolution – the proxy must not vote on a show of hands;

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- (c) if the proxy is the Chairman – the proxy must vote on a poll, and must vote that way; and
 - (d) if the proxy is not the Chairman – 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 21.4(5) does not affect the way that the person can cast any votes the person holds as a Member.

- (6) An appointment does not have to be witnessed.
- (7) A later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting.

21.5 Form of proxy sent out by Company

- (1) A form of proxy sent out by the Company may be in a form determined by the Directors but must:
 - (a) enable the Member to specify the manner in which the proxy must vote in respect of a particular resolution; and
 - (b) leave a blank for the Member to fill in the name of the person primarily appointed as proxy.
- (2) The form may provide that if the Member leaves it blank as to the person primarily appointed as proxy or if the person or persons named as proxy fails or fail to attend, the Chairman of the meeting is appointed proxy.
- (3) Despite rule 21.5(1) an instrument appointing a proxy may be in a form that is as similar to the form contained in Schedule 1.

21.6 Receipt of proxy documents

- (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:
 - (a) the proxy's appointment; and
 - (b) if the appointment is signed or otherwise authenticated by the appointor's attorney – the authority under which the appointment was signed or authenticated or a certified copy of the authority.
- (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.
- (3) The Company receives an appointment or authority:
 - (a) when it is received at any of the following:
 - (A) the Company's registered office;
 - (B) a facsimile number at the Company's registered office; or
 - (C) a place, facsimile number or electronic mail address specified for the purpose in the notice of meeting; or

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- (b) if the notice of meeting specifies other electronic means by which a Member may give the document – when the document given by those means is received by the Company and complies with rules 21.4(2) and 21.4(3).
 - (4) An appointment of a proxy is ineffective if:
 - (a) the Company receives either or both the appointment or authority at a fax number or electronic address; and
 - (b) a requirement (if any) in the notice of meeting that:
 - (A) the transmission be verified in a way specified in the notice; or
 - (B) the proxy produce the appointment and authority (if any) at the meeting;is not complied with.

21.7 Validity of proxy vote

- (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.
- (2) A vote cast by a proxy is valid although, before the proxy votes:
 - (a) the appointing Member dies;
 - (b) the Member is mentally incapacitated;
 - (c) the Member revokes the proxy's appointment; or
 - (d) 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.

21.8 Body corporate representative

- (1) A body corporate may appoint an individual as a representative to exercise all or any of the powers the body corporate may exercise:
 - (a) at meetings of the Members;
 - (b) at meetings of creditors or debenture holders;
 - (c) relating to resolutions to be passed without meetings; or
 - (d) in the capacity of a Member's proxy appointed under rule 21.1.

The appointment may be a standing one.

- (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.

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- (3) A body corporate may appoint more than one representative but only one representative may exercise the body's powers at any one time.
 - (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.

21.9 Attorney of Member

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.

22. VOTING AT MEETINGS OF MEMBERS

22.1 How vote may be exercised

- (1) Subject to rules 22.2 and 22.3, at any general meeting of Members and each Member present has one vote on a show of hands and on a poll.
- (2) The vote may be exercised in person or by proxy, body corporate representative or attorney.

22.2 Reserve powers to the PMSA

Despite any other provision in this constitution:

- (1) this constitution may not be varied without the approval of the PMSA;
- (2) the PMSA may pass a resolution at any time amending this constitution as it may think fit without any vote being cast on the resolution by the Benefactors; and
- (3) the PMSA may remove any Director (other than an Elected Director) at any time it chooses and appoint someone in his or her stead.

22.3 Objections to right to vote

- (1) A challenge to a right to vote at a meeting of Members:
 - (a) may only be made at the meeting; and
 - (b) must be determined by the Chairman, whose decision is final.
- (2) A vote not disallowed following the challenge is valid for all purposes.

22.4 How voting is carried out

- (1) A resolution put to the vote at a meeting of the Members must be decided on a show of hands unless a poll is demanded.
- (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 recorded in favour or against.
- (3) Unless otherwise required by this constitution or the Act, all resolutions of the Members are ordinary resolutions which are resolutions passed by more than 50% of the votes cast by Members entitled to vote on the resolutions.

22.5 Matters on which a poll may be demanded

- (1) A poll may be demanded on any resolution.
- (2) A demand for a poll may be withdrawn.

22.6 When a poll is effectively demanded

- (1) At a meeting of the Members, a poll may be demanded by:
 - (a) at least two Members entitled to vote on the resolution; or
 - (b) the Chairman.
- (2) The poll may be demanded:
 - (a) before a vote is taken;
 - (b) before the voting results on a show of hands are declared; or
 - (c) immediately after the voting results on a show of hands are declared.

22.7 When and how polls must be taken

- (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.
- (2) A poll on the election of a Chairman or on the question of an adjournment must be taken immediately.
- (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.
- (4) The result of the poll is the resolution of the meeting at which the poll was demanded.

22.8 Chairman's casting vote

- (1) In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting has a casting vote in addition to any vote he or she may have in his or her capacity as a Member or proxy.
- (2) The Chairman has discretion both as to use of the casting vote and as to the way in which it is used.

23. ANNUAL GENERAL MEETING

23.1 Business of an annual general meeting

- (1) The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:
 - (a) the consideration of the annual financial report, directors' report and auditor's report;
 - (b) the appointment of the auditor; and

-
- (c) 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.

- (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.
- (3) The Chairman of the annual general meeting must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Company.
- (4) If the Company's auditor or the auditor's representative is at the meeting, the Chairman 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.

23.2 Resolutions proposed by Members

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

- (1) Members with at least five percent 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 two months notice has elapsed since the notice was given; or
- (2) the resolution has previously been approved by the Directors.

24. MINUTES TO BE KEPT

- (1) The Directors must keep minute books in which they record within one month:
 - (a) proceedings and resolutions of meetings of the Members;
 - (b) proceedings and resolutions of Directors' meetings (including meetings of a committee of Directors);
 - (c) resolutions passed by Members without a meeting; and
 - (d) resolutions passed by Directors without a meeting.
- (2) The Directors must ensure that minutes of a meeting are signed within a reasonable time after the meeting by one of the following:
 - (a) the Chairman of the meeting; or
 - (b) the Chairman of the next meeting.
- (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.
- (4) Without limiting rule 24(1) the Directors must record in the minute books:
 - (a) all appointments of officers;

-
- (b) the names of the Directors and Alternate Directors present at all meetings of Directors and the Company;
 - (c) in the case of a technology meeting, the nature of the technology; and
 - (d) 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.

25. FINANCIAL YEAR, ACCOUNTS, AUDIT AND FINANCIAL RECORDS

25.1 Financial year

The financial year of the Company will be 1 January to 31 December each year.

25.2 Accounts

- (1) The Directors must cause proper accounting and other records to be kept in accordance with the Act.
- (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.

25.3 Audit

- (1) A registered company auditor must be appointed.
- (2) The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Act.

25.4 Financial records

The Company must:

- (1) keep written records and allow access to such financial records; and
- (2) prepare, disclose, report and lodge financial reports (as required).

26. EXECUTION OF DOCUMENTS

26.1 Common seal

The Company may, but need not, have a common seal.

26.2 Use of common seal

- (1) If the Company has a common seal the Directors must provide for its safe custody.
- (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.
- (3) The Company executes a document with its common seal if the fixing of the seal is witnessed by:
 - (a) two Directors of the Company; or

-
- (b) a Director and a company secretary of the Company.

26.3 Execution of documents without common seal

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

- (1) two Directors of the Company; or
- (2) a Director and a company secretary of the Company.

26.4 Execution of document as a deed

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 26.2 or rule 26.3.

26.5 Execution – general

- (1) The same person may not sign in the dual capacities of Director and secretary.
- (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.
- (3) Rules 26.2 and 26.3 do not limit the ways in which the Directors may authorise documents (including deeds) to be executed on behalf of the Company.

27. CERTIFICATE

27.1 Issue of Certificates

The Company may issue a certificate of membership to Members in such form upon payment of such fees as it may prescribe from time-to-time.

27.2 Title to the Certificates

Certificates of membership remain the property of the Company and must be promptly returned to the Company if requested by the Company or if the holder ceases to be a Member.

27.3 Lost and Worn Out Certificates

If a certificate:

- (1) is lost or destroyed and the Member applies in accordance with section 1070D(5);
or
- (2) is defaced or worn out and is produced to the Company, the Company may,

the Company must issue a new certificate in its place.

28. INADVERTENT OMISSIONS

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.

29. ALTERATIONS

- (1) If the Company is approved as a tax concession charity by the ATO, the ATO must be notified in writing of any alterations to this constitution.
- (2) No alteration can be made to this constitution without the express approval of all of the Members.

30. WINDING UP

- (1) If upon the 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 but must be given or transferred to some other institution or institutions determined by the Board in consultation with PMSA 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 institution for the purposes of any Tax Act.
- (2) If the Board does not make the necessary determination under rule 30(1), the Company may apply to the Supreme Court to determine the institution or institutions.

31. REVOCATION

If the endorsement of the Company as a deductible gift recipient is revoked, any surplus of the following assets shall be transferred to another organisation whose principal purpose is similar to the Company's and for which income tax deductible gifts can be made:

- (1) gifts of money or property;
- (2) contributions made in relation to an eligible fundraising event; and
- (3) money received by the organisation because of such gifts and contributions.

32. AMENDING THE CONSTITUTION

32.1 Variation to constitution

Amendments to the Constitution shall only be by special resolution of the Members.

32.2 Effective Date

A resolution modifying or repealing this document takes effect:

- (1) if no later date is specified in the resolution, on the date on which the resolution is passed; or
- (2) on a later date specified in or determined in accordance with the resolution.

Schedule 1

Proxy Form

(rule 21.5)

I/We

[Insert full name]

Being a Member of SOMERVILLE HOUSE FOUNDATION LTD ACN 168 804 199 (**Company**) entitled to attend and vote at the meeting, hereby

Appoints

or failing the person so named or, if no person is named, the Chairman of the meeting or the chairman's nominee, to vote in accordance with the following directions or, if no directions have been given, as the proxy sees fit at the [annual] general meeting to be held at **[INSERT TIME]** on **[INSERT DATE]** at the **[INSERT VENUE]**, **[INSERT PLACE]** and at any adjournment thereof. If no directions are given, the Chairman will vote in favour of all of the resolutions.

Voting on Business of the [annual] general meeting

		FOR	AGAINST	ABSTAIN
Resolution 1	[INSERT]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If the Chairman of the meeting is appointed as your proxy, or may be appointed by default and you do not wish to direct your proxy how to vote as your proxy in respect of a resolution, please place a mark in this box

(By marking this box, you acknowledge that the Chairman of the meeting may exercise your proxy even though he/she has an interest in the outcome of the resolution. The Chairman will vote in favour of all of the resolutions if no directions are given).

YOU MUST EITHER MARK THE BOXES DIRECTING YOUR PROXY HOW TO VOTE OR MARK THE BOX INDICATION THAT YOU DO NOT WISH TO DIRECT YOUR PROXY HOW TO VOTE, OTHERWISE THIS APPOINTMENT OF PROXY FORM WILL BE DISREGARDED.

If you mark the abstain box for a particular item, you are directing your proxy not to vote on that item on a show of hands or on a poll and that your shares are not to be counted in computing the required majority on a poll.

Signed this _____ day of _____

INDIVIDUAL

SIGNED by Name of Party:

Signature of Member

Name of Member (BLOCK LETTERS)

COMPANY

SIGNED by Name of Party:

Signature of Director

Signature of Director/Company Secretary

Sole Director and Sole Company Secretary