

Corporations Act 2001

A Proprietary Company Limited by Shares

THE CONSTITUTION

OF

GROUP COLLEGES AUSTRALIA PTY LTD

ACN: 085 429 732

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COMPANY CONSTITUTION OF GROUP COLLEGES AUSTRALIA PTY LTD

This is the constitution of GROUP COLLEGES AUSTRALIA PTY LTD (ACN 085 429 732) (**Company**).

PART A TECHNICAL MATTERS

1 Definitions and interpretation

1.1 Definitions

The following definitions apply in this constitution:

- (a) **Act** means the *Corporations Act 2001* (Cth).
- (b) **Approved Fees** for a Director means fees, salary, bonuses, fringe benefits and superannuation contributions provided by the Company, but does not include:
 - (i) a payment as compensation for loss of office or in connection with retirement from office (which includes resignation from office and death while in office);
 - (ii) an insurance premium paid by the Company or indemnity under rule 14; or
 - (iii) any issue or acquisition of securities.
- (c) **Board** means the Directors acting collectively under this constitution.
- (d) **Called Amount** in relation to a share means:
 - (i) the amount of a call on that share that is due and unpaid; and
 - (ii) any amount the Board requires a Member to pay under rule 23.6.
- (e) **Company** means the company named at the beginning of this constitution, as amended from time to time.
- (f) **Director** means a person who is at any time, a director of the Company.
- (g) **Dividend** includes bonus.
- (h) **Ex-Officio Director** means a person who holds the office of Director by virtue of holding another office or position.
- (i) **Independent Director** means a person appointed (or to be appointed) as a Director of the Company who:
 - (i) is not an employee or Member of the Company;
 - (ii) is not an Officer of the Company (other than when undertaking the role of an independent director of the Company);
 - (iii) is not an enrolled student of the Company;
 - (iv) has not entered or does not intend to enter into a material or significant agreement with the Company (or an associated entity) either as vendor, purchaser or otherwise (excluding the terms and conditions of engagement of Directors) that could interfere with their exercise of independent judgement as a Director; and
 - (v) satisfies the characteristics that are seen to be indicative of the independence of a director that are published by the Tertiary Education Quality and Standards Agency (or such other entity which replaces it) of the Australian Government from time to time.

- (j) **Interest Rate** means, in relation to each rule in which that term is used:
 - (i) the rate for the time being prescribed by the Board in respect of that rule; or
 - (ii) if no rate is prescribed, 8% each year.
- (k) **Member** means a person whose name is entered in the Register.
- (l) **Officer** has the meaning given by section 9 of the Act.
- (m) **Ordinary Resolution** means a resolution passed at a meeting of Members by a majority of the votes cast by Members entitled to vote on the resolution.
- (n) **Register** means the register of Members kept as required by sections 168 and 169 of the Act.
- (o) **Secretary** means, during the term of that appointment, a person appointed as a secretary of the Company in accordance with this constitution.
- (p) **Special Resolution** has the meaning given by section 9 of the Act.

1.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation. The following rules also apply in interpreting this constitution, except where the context makes it clear that a rule is not intended to apply.
- (b) An expression in a rule has the same meaning as in a provision of the Act that deals with the same matter as the rule, unless the contrary intention appears in these rules.
- (c) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, modified in relation to the Company, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (iv) anything (including a right, obligation or concept) includes each part of it.
- (d) A singular word includes the plural and vice versa.
- (e) A word that suggests one gender includes the other genders.
- (f) If a word is defined, another part of speech has a corresponding meaning.
- (g) If an example is given of anything (including a right, obligation or concept) (eg. by use of the word “including”) the example does not limit the scope of that thing.
- (h) The word “agreement” includes an undertaking or other binding arrangement or understanding whether or not in writing.
- (i) A reference to something being written or in writing includes that thing being represented or reproduced in any mode in a visible form.

- (j) A word (other than a word defined in rule 1.1) that is defined by the Act has the same meaning in this constitution where it relates to the same matters as the matters for which it is defined in the Act.
- (k) A reference to a chapter, part, division, or section is a reference to a chapter, part, division or section of the Act.
- (l) A reference to a rule is to a rule of this constitution.

1.3 Replaceable rules

Unless otherwise specified in this constitution, the provisions of the Act that apply as replaceable rules are displaced by this constitution and accordingly do not apply to the Company.

2 Notices

2.1 Notices by Company

A notice is properly given by the Company to a person if it is:

- (a) in writing signed on behalf of the Company (by original or printed signature);
- (b) addressed to the person to whom it is to be given; and
- (c) delivered:
 - (i) personally;
 - (ii) by prepaid mail (by airmail or fax, if the addressee is overseas) to that person's address; or
 - (iii) by email to the email address (if any) nominated by that person.

2.2 Overseas Members

A Member whose registered address is not in Australia may notify the Company in writing of an address in Australia to which notices may be sent.

2.3 When notice is given

- (a) A notice to a person by the Company is regarded as given and received:
 - (i) if it is delivered personally or sent by email:
 - (A) by 5:00 pm (local time in the place of receipt) on a business day - on that day; or
 - (B) after 5:00 pm (local time in the place of receipt) on a business day, or on a day that is not a business day – on the next business day; and
 - (ii) if it is sent by mail:
 - (A) within Australia – three business day after posting; or
 - (B) to a place outside Australia – five business days after posting.
- (b) A certificate in writing signed by a Director or Secretary stating that a notice was sent is conclusive evidence of service.

2.4 Business days

For the purposes of rule 2.3, a business day is a day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent.

2.5 Notice to joint holders

- (a) Notice to joint holders of shares must be given to the joint Member named first in the Register.
- (b) Every person who becomes entitled to a share is bound by every notice in relation to that share that was properly given to a person registered as the holder of the share before the transfer or transmission of the share was entered in the Register.

2.6 Counting days

If a specified period must pass after a notice is given before an action may be taken, neither the day on which the notice is given nor the day on which the action is to be taken may be counted in reckoning the period.

PART B GOVERNANCE

3 Objects

3.1 Primary object

The primary object of the Company is to develop, operate, maintain and promote the delivery of higher education programs in Australia and elsewhere (**Object**).

3.2 Activities in support of the primary object

The Object will be achieved by:

- (a) supporting and furthering academic and ethical integrity, free intellectual inquiry, scholarly activities and innovation among students and staff;
- (b) actively pursuing collaboration and connections with relevant industries, institutions and professions, nationally and internationally, for the benefit of its students and staff; and
- (c) engaging in any business to the extent that the Directors consider it necessary or expedient for the purposes of the objects for which the Company is established contained in rules (a)3.2(a) and 3.2(b).

4 Directors

4.1 Number of Directors

The Company must have:

- (a) at least three but no more than 10 Directors; and
- (b) at least two Independent Directors at all times; and
- (c) at least one Director who is an Australian Resident.

4.2 Eligibility of Directors

The be eligible for the office of Director a person must:

- (a) be a 'fit and proper person' for the purposes of the *Tertiary Education Quality and Standards Agency Act 2011* (Cth); and
- (b) consent in writing to act as a Director.

4.3 Appointment of Directors

- (a) Subject to rule 4.1, the Company may, by Ordinary Resolution, appoint a person to be a Director, either to fill a casual vacancy or as an addition to the Board.
- (b) The Directors must include persons who have:
 - (i) an appreciation of the values of a higher education provider;
 - (ii) a clear understanding of the need for the Company to maintain independence and academic freedom in accordance with Australian academic standards; and
 - (iii) significant experience in higher education governance.

4.4 Ex-Officio Directors

- (a) The person who is appointed to the position of chair of the Academic Board will by virtue of that position also be appointed as an Ex-Officio Director.
- (b) Ex-Officio Directors have the same rights as all Directors and are counted as Directors for all purposes.

4.5 Cessation of Director's appointment

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

- (a) is not permitted by the Act (or by an order made under the Act) to be a Director;
- (b) becomes disqualified from managing corporations under part 2D.6 of the Act and is not given permission or leave to manage the Company under section 206GAB or 206G of the Act;
- (c) is, or becomes, of unsound mind, or becomes physically or mentally incapable of performing the functions of that office, or that person's estate is liable to be dealt with in any way under the law relating to mental health;
- (d) fails to attend three consecutive Board meetings (not including meetings of a committee of the Board) without leave of absence from the Board;
- (e) resigns by notice in writing to the Company;
- (f) is removed from office under rule 4.6;
- (g) ceases to meet the eligibility requirements set out in rule 4.2;
- (h) is an Ex-Officio Director and ceases to hold the relevant office or position; or
- (i) was appointed to the office for a specified period and that period expires.

4.6 Removal from office

Whether or not a Director's appointment was expressed to be for a specified period:

- (a) the Company by Ordinary Resolution; or
- (b) Members holding a majority of the issued shares of the Company conferring the right to vote, by writing delivered to the Company,

may remove a Director from office.

4.7 Too few Directors

If the number of Directors is reduced below the minimum required by each of rules 4.1(a), 4.1(b), and 4.1(c), the continuing Directors may act as the Board only:

- (a) to convene a meeting of Members in order to appoint Directors or Independent Directors, as the case may be, required to meet the minimum number, which the Board must do as soon as practicable; and
- (b) in emergencies.

5 Powers of the Board

5.1 Powers generally

Except as otherwise required by the Act, any other applicable law, or this constitution, the Board:

- (a) has power to manage the business of the Company; and
- (b) may exercise every right, power or capacity of the Company to the exclusion of the Members and the Company in general meeting.

5.2 Exercise of powers

A power of the Board can be exercised only:

- (a) by resolution passed at a meeting of the Board or otherwise in accordance with rule 11; or
- (b) in accordance with a delegation of the power under rule 10.

6 Executing negotiable instruments

- (a) The Board must decide the manner (including the use of copies of signatures if thought appropriate) in which negotiable instruments can be executed, accepted or endorsed for and on behalf of the Company.
- (b) The Company may execute, accept, or endorse negotiable instruments only in the manner decided by the Board under rule 6(a).

7 Chief Executive Officer

7.1 Appointment of Chief Executive Officer

- (a) The Board may appoint a Chief Executive Officer to manage the operations of the Company, for such period and on such terms as they think fit, and, subject to the terms of any agreement entered into in a particular case, may revoke any such appointment.
- (b) If appointed, the Chief Executive Officer:
 - (i) holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, delegated by the Board with the exercise of those powers and authorities, and the performance of those duties, by the Chief Executive Officer subject at all times to the control of the Board; and
 - (ii) must report to the Board at such times and on such matters as the Board directs.

7.2 Chief Executive Officer right to attend meetings

- (a) Subject to rule 7.2(b), the Chief Executive Officer is entitled to attend all meetings of the Company, the Board, and any committees.
- (b) The Board may exclude the Chief Executive Officer from any meetings of the Company, the Board, or any committee, where the Board determines such exclusion is in the best interest of the Company or where the Chief Executive Officer has declared a personal interest which may conflict with the content of such meeting.

8 Secretary

8.1 Appointment of Secretary

The Board may appoint one or more individuals to be a Secretary, either for a specified term or without specifying a term.

8.2 Terms and conditions of office

- (a) A Secretary holds office on the terms (including as to remuneration) that the Board decides.
- (b) The Board may vary any decision previously made by it about a Secretary.

8.3 Cessation of Secretary's appointment

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

- (a) is not permitted by the Act (or an order made under the Act) to be a secretary of a company;
- (b) becomes disqualified from managing corporations under part 2D.6 of the Act and is not given permission or leave to manage the Company under section 206GAB or 206G of the Act;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) resigns by notice in writing to the Company; or
- (e) is removed from office under rule 8.4.

8.4 Removal from office

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

9 Committees

9.1 Standing Committees

- (a) The Board must establish or maintain:
 - (i) an Academic Board in accordance with, subject to rule 9.1(d), such charter or terms of reference as the Board may determine;
 - (ii) an Audit and Risk Committee in accordance with such charter or terms of reference as the Board may determine, provided such charter requires at least one member of the committee to have relevant accounting qualifications and

experience and for that member to not be an employee of the Company, Director, or Officer of the Company.

- (b) The Academic Board and Audit and Risk Committee must report to the Board at such times and on such matters as the Board directs.
- (c) The Academic Board:
 - (i) will be delegated certain responsibilities by the Board relating to the effective academic oversight of the education services provided by the Company, including strategic, management and operational aspects of the academic functions of the Company, with such membership and terms of reference as set from time to time by the Board;
 - (ii) will have responsibility for the provision of competent advice to the Directors and management on academic matters including advice on academic outcomes, policies and practices; and
 - (iii) with the approval of the Directors, establish subcommittees with such membership and terms of reference as set from time to time.
- (d) The Board is solely responsible for the appointment of the chair of the Academic Board and the Audit and Risk Committee.

9.2 Power to create committees

- (a) The Board may from time to time establish committees:
 - (i) consisting of such persons as they think fit;
 - (ii) for any purpose they think fit; and
 - (iii) with powers delegated under rule 10.
- (b) The committee must operate and exercise any delegated powers in accordance with the directions of the Directors, which may be varied from time to time at the Board's discretion.
- (c) A power exercised by a committee in accordance with rule 9.2(b) is taken to have been exercised by the Board.

9.3 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 constitution that regulate the meetings and proceedings of the Board.

10 Board delegation

10.1 Power to delegate

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

10.2 Power to revoke delegation

Subject to rule 9.1, the Board may revoke a delegation previously made, whether or not the delegation is expressed to be for a specified period.

10.3 Terms of delegation

- (a) A delegation of powers under rule 10.1 may be made:
 - (i) for a specified period or without specifying a period; and
 - (ii) on the terms (including power to further delegate) and subject to any restrictions the Board decides.
- (b) 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.

11 Board meetings

11.1 Convening Board meetings

A Director may at any time, and a Secretary must on request from a Director, convene a Board meeting.

11.2 Notice of Board meeting

- (a) The convener of each Board meeting:
 - (i) must give reasonable notice of the meeting (and, if it is adjourned, of its resumption) individually to each Director; and
 - (ii) may give that notice orally (including by telephone) or in writing.
- (b) Failure to give notice to, or non-receipt of notice by, a Director does not result in a Board meeting being invalid.

11.3 Virtual meetings

- (a) A Board meeting may be held using virtual meeting technology as defined by the Act and in accordance with section 248D of the Act.
- (b) A Board meeting held solely or partly by virtual meeting technology will be treated as being held at the place where the chair of the meeting is located.
- (c) A Director attending a Board meeting using virtual meeting technology in accordance with section 248D of the Act will be considered present at the meeting for all purposes.

11.4 Chairing Board meetings

- (a) The Board may elect a Director to chair its meetings and decide the period for which that Director holds that office.
- (b) If there is no chair of Directors or the chair is not present at the time for which a Board meeting is called or is unwilling to act, the Directors present must elect a Director present to chair the meeting.

11.5 Quorum

- (a) Unless the Board decides otherwise, the quorum for a Board meeting is two Directors, with at least one Director present being an Independent Director. A quorum must be present for the whole meeting.
- (b) A Director is treated as present at a meeting held by audio, audio visual communication, or virtual meeting technology, if the Director is able to hear and be heard by all others attending.

- (c) If a meeting is held in another way permitted by section 248D of the Act, the Board must resolve the basis on which Directors are treated as present.

11.6 Majority decisions

- (a) A resolution of the Board must be passed by a majority of the votes cast by Directors entitled to vote on the resolution.
- (b) The chair of a Board meeting does not have a second or casting vote.
- (c) If an equal number of votes are cast for and against a resolution, the matter is decided in the negative.

11.7 Procedural rules

The Board may adjourn and, subject to this constitution, otherwise regulate its meetings as it decides.

11.8 Circular resolution

- (a) The Board may decide matters without a meeting by passing a circular resolution if all the Directors entitled to receive notice of a Board meeting and to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) A circular Board resolution in those terms is passed at the time when the last Director signs.

11.9 Additional provisions concerning circular resolutions

For the purpose of rule 11.8:

- (a) two or more separate documents in identical terms, each of which is signed by one or more Directors, are treated as one document; and
- (b) an email containing the text of the document and which is expressed to have been agreed to by a Director and sent to the Company, is considered a document signed by that Director at the time of its receipt by the Company.

11.10 Valid proceedings

Each resolution passed or thing done by, or with the participation of, a person acting as a Director or Member of a committee is valid, even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or doing the thing.

12 Directors' duties and interests

12.1 Compliance with duties under the Act

Each Director must comply with sections 180 to 183 of the Act.

12.2 Director can hold other offices etc

A Director may:

- (a) hold any office or place of profit or employment other than that of the Company's auditor or as any director or employee of the Company's auditor;
- (b) be a member of any corporation (including the Company) or partnership other than the Company's auditor;
- (c) be a creditor of any corporation (including the Company) or partnership; and
- (d) enter into any agreement with the Company.

12.3 Disclosure of interests

Each Director must comply with section 191 of the Act.

12.4 Director interested in a matter

- (a) If a Director has an interest in a matter that relates to the affairs of the Company, and either the Director discloses the interest under section 191 of the Act, or it is not required to be disclosed under section 191 of the Act:
 - (i) the Director may be counted in a quorum at a Board meeting that considers, and may vote on, any matter that relates to the interest;
 - (ii) the Company may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the Company;
 - (iii) the Director may retain benefits under the transaction even though the Director has the interest; and
 - (iv) the Company cannot avoid the transaction merely because of the existence of the interest.
- (b) If the interest is required to be disclosed under section 191 of the Act, rule 12.4(a)(iii) applies only if the interest is disclosed before the transaction is entered into.

12.5 Agreements with third parties

The Company cannot avoid an agreement with a third party merely because a Director:

- (a) fails to make a disclosure of an interest; or
- (b) is present at, or counted in the quorum for, a Board meeting that considers, votes on, or participates in the execution of, that agreement.

12.6 Directors acting in the best interests of the holding company

If the Company is a wholly owned subsidiary of a body corporate, a Director is authorised to act in the best interests of that body corporate if:

- (a) the Director acts in good faith in the best interests of the body corporate; and
- (b) the Company is not insolvent at the time the Director acts and does not become insolvent because of the Director's act.

13 Directors' remuneration

13.1 Remuneration of Directors

- (a) The Directors, subject to an Ordinary Resolution of the Company, may be paid out of the funds of the Company an amount of Approved Fees that:
 - (i) does not in any year exceed in aggregate the amount last fixed by Ordinary Resolution;
 - (ii) is allocated among them as decided by the Board; and
 - (iii) is provided in the manner the Board decides, which may include provision of non-cash benefits.
- (b) If the Board decides to include non-cash benefits in the Approved Fees of a Director, the Board must also decide the manner in which the value of those benefits is to be calculated for the purposes of this rule.

13.2 Additional remuneration for extra services

- (a) If a Director, at the request of the Board and for the purposes of the Company, performs extra services or makes special exertions (including going or living away from the Director's usual residential address), the Company may remunerate that Director for doing so.
- (b) Remuneration under this rule 13.2 may be either in addition to or in substitution for any remuneration to which that Director is entitled under rule 13.1.

13.3 Expenses of Directors

The Company may pay a Director (in addition to any remuneration) all reasonable expenses (including travelling and accommodation expenses) incurred by the Director:

- (a) in attending meetings of the Company, the Board, or a committee of the Board;
- (b) on the business of the Company; or
- (c) in carrying out duties as a Director.

14 Officers' indemnity and insurance

14.1 Indemnity

- (a) Subject to, and so far as permitted by the Act and any other applicable law, the Company must, to the extent the person is not otherwise indemnified, indemnify every Officer of the Company and of any related body corporate (and may indemnify its auditor) against a Liability incurred as such an Officer (or auditor) to a person (other than the Company or a related body corporate). The Liability includes Liability incurred as a result of appointment or nomination by the Company or related body corporate as a trustee or as an Officer of another corporation, unless the Liability arises out of conduct involving a lack of good faith.
- (b) Subject to, and so far as permitted by the Act and any other applicable law, the Company may make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by an Officer or employee or auditor in defending an action for a Liability incurred as such an Officer, employee or auditor or in resisting or responding to actions taken by the Australian Securities and Investments Commission (**ASIC**) or a liquidator.

- (c) In this rule, **Liability** means a liability or loss of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages, charges and expenses, including costs and expenses incurred in connection with any investigation or inquiry by the ASIC or a liquidator.

14.2 Insurance

Subject to the Act and any other applicable law, the Company may purchase and maintain, pay or agree to pay, a premium on a contract of insurance for any person.

14.3 Former Officers

The indemnity in favour of Officers under rule 14.1 is a continuing indemnity. It applies to all acts done by a person while an Officer of the Company or a related body corporate, even though the person is not an Officer at the time the claim is made.

14.4 Deed

- (a) The Company may, without limiting a person's rights under this rule 14, enter into an agreement with a person who is, or has been, an Officer of the Company or any related body corporate, to give effect to the rights of the person under this rule 14 on any terms and conditions that the Board thinks fit.
- (b) Rule 14.4(a) is subject to the Act and any other applicable law.

15 Minutes

15.1 Minutes must be kept

The Board must ensure that minutes of:

- (a) proceedings and resolutions of meetings of the Company's Members;
- (b) the names of Directors present at each Board meeting or committee meeting;
- (c) proceedings and resolutions of Board meetings (including meetings of a committee to which Board powers are delegated under rule 10);
- (d) resolutions passed by Members without a meeting;
- (e) resolutions passed by Directors, and declarations made by a single Director, without a meeting; and
- (f) disclosures and notices of Directors' interests,

are to be kept in accordance with sections 191, 192, 251A and 251AA of the Act.

15.2 Minutes as evidence

Any minutes recorded and signed in accordance with section 251A of the Act is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

15.3 Inspection of minute books

The Company must allow Members to inspect, and must provide copies of, the minute books for the meetings of Members and for resolutions of Members passed without meetings in accordance with section 251B of the Act.

16 Company seal

16.1 Common seal

The Board:

- (a) may decide whether or not the Company has a common seal; and
- (b) is responsible for the safe custody of that seal (if any) and any duplicate seal the Company decides to adopt under section 123(2) of the Act.

16.2 Use of common seal

- (a) The common seal and duplicate seal (if any) may only be used with the authority of the Board.
- (b) The Board must not authorise the use of a seal that does not comply with section 123 of the Act.

16.3 Fixing seal to documents

- (a) The fixing of the common seal, or any duplicate seal, to a document must be witnessed by two Directors or one Director and one Secretary and by any other signatories or in any other way (including the use of copies of signatures) authorised by the Board.
- (b) If the fixing of the seal is witnessed in accordance with rule 16.3(a), a statement by the witness that the witness is the sole Director and sole Secretary of the Company should appear next to the signature, but the absence of that statement does not affect the validity of the execution.

17 Financial reports and audit

17.1 Company to keep financial records

The Board must cause the Company to keep written financial records that:

- (a) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited, and must allow a Director to inspect those records at all reasonable times.

17.2 Financial reporting and audits

The Board must cause the Company to comply with all reporting and audit requirements of the Act that apply to the Company (if any).

17.3 Inspection of financial records and books

Subject to rule 15.3 and section 247A of the Act, a Member who is not a Director does not have any right to inspect any document of the Company except as authorised by the Board or by a resolution of Members.

PART C MEMBERS AND SHARES

18 Meetings of Members

The following provisions of the Corporations Act that apply as replaceable rules relating to meetings of Members apply to the Company: section 249C; 249J(2); 249J(4); 249(5); 249M; 249T; 249U; 249W(2); 249X; 250C(2); 250E; 250F; 250G; 250J; 250M.

19 Resolutions without minutes

19.1 Written resolutions

Subject to section 249A(1) of the Act, the Company may pass a resolution without a general meeting being called or held if the resolution is set out in a document:

- (a) if the Company has only one Member, signed in the manner set out in section 249B of the Act; or
- (b) if the Company has more than one Member, signed in the manner set out in section 249A of the Act.

19.2 Signature of resolutions

The Company may treat a document on which an electronic signature appears, or which is otherwise acknowledged by a Member in a manner satisfactory to the Board, as being signed by that Member.

20 Shares

20.1 Issue at discretion of Board

Subject to section 259C of the Act, the Board may, on behalf of the Company, issue, grant options over or otherwise dispose of unissued shares to any person on the terms, with the rights, and at the times that the Board decides.

20.2 Preference and redeemable preference shares

- (a) The Company may issue preference shares (including preference shares that are liable to be redeemed).
- (b) The rights attached to preference shares are:
 - (i) unless other rights have been approved by Special Resolution of the Company, the rights set out in Schedule 1 of this Constitution; or
 - (ii) the rights approved by Special Resolution of the Company as applicable to those shares.

20.3 Brokerage and commissions

The Company may pay brokerage or commissions to a person for that person or another person agreeing to take up shares in the Company.

20.4 Surrender of shares

- (a) The Board may accept a surrender of shares:
 - (i) to compromise a question as to whether those shares have been validly issued; or
 - (ii) if surrender is otherwise within the Company's powers.

- (b) The Company may sell or re-issue surrendered shares in the same way as forfeited shares.

21 Certificates

21.1 Issue of share certificate

The Company must issue a certificate of title to shares that complies with section 1070C of the Act, and deliver it to the holder of those shares in accordance with section 1071H.

21.2 Multiple certificates and joint holders

- (a) If a Member requests the Company to issue several certificates each for a part of the shares registered in the Member's name, the Company must do so.
- (b) For the purpose of rule 21.2(a), joint holders of shares are a single Member. The Company may issue only one certificate that relates to each share registered in the names of two or more joint holders and may deliver the certificate to any of those joint holders.

21.3 Lost and worn out certificates

If a certificate:

- (a) is lost or destroyed and the owner of the relevant securities applies in accordance with section 1070D(5) of the Act, the Company must; or
- (b) is defaced or worn out and is produced to the Company, the Company may, issue a new certificate in its place.

22 Register

22.1 Joint holders

If the Register names two or more joint holders of a share, the Company must treat the person named first in the Register for that share as the sole owner of it for all purposes (including the giving of notice) except in relation to:

- (a) delivery of certificates (to which rule 21.2 applies);
- (b) the power to give directions as to payment of, or a receipt for, dividends (to which rules 25.5 and 25.6 apply);
- (c) liability for instalments or calls (which, subject to section 1072E(8) of the Act, is joint and several); and
- (d) transfer.

22.2 Nominee holders

A registered holder of shares who holds them as trustee for, or otherwise on behalf of or on account of, a body corporate, must give the Company written notice of that fact in accordance with section 1072E(11) of the Act.

22.3 Non-beneficial holders

Subject to sections 169(5A) and 1072E of the Act, unless otherwise ordered by a court of competent jurisdiction or required by statute, the Company:

- (a) may treat the registered holder of any share as the absolute owner of it; and
- (b) need not recognise any equitable or other claim to or interest in a share by any person except a registered holder.

23 Partly paid shares

23.1 Fixed instalments

If a share is issued on terms that some, or all, of the issue price is payable by instalments, the registered holder of the share must pay every instalment to the Company when due. If the registered holder does not do so, rules 23.6 to 23.14 apply as if the registered holder had failed to pay a call.

23.2 Prepayment of calls

The Board may:

- (a) accept prepayment of some or all of the amount unpaid on a share above the sums actually called as a payment in advance of calls;
- (b) agree:
 - (i) to payment by the Company of interest at a rate no higher than the Interest Rate on that part of the advance payment which for the time being exceeds the aggregate amount of the calls then made on the shares in respect of which it was paid; or
 - (ii) that the amount paid in advance will be taken into account in calculating participation in profit or ascertaining entitlement to surplus on a winding up or other distributions attributable to that share; and
- (c) unless otherwise agreed between the Member and the Company, repay the sum.

23.3 Calls made by Board

Subject to the terms of issue of a share, and to any Special Resolution passed under section 254N of the Act, the Board may:

- (a) make calls on a Member for some or all of the money unpaid on a share held by that Member;
- (b) make a call payable by instalments; and
- (c) revoke or postpone a call,

and must give the relevant Member written notice of the call specifying to whom the call must be paid and the time for payment (which must be at least 14 days after the notice is given).

23.4 Classes of shares

- (a) The Board may issue shares on terms as to the amount of calls to be paid and the time for payment of those calls, which are different as between the holders of those shares.
- (b) The Board may make different calls on different classes of shares.

23.5 Obligation to pay calls

- (a) Subject to section 1072E(8) of the Act, a Member subject to a call must pay the amount of the call to the payee named in the notice of call no later than the time specified in the notice.
- (b) Joint holders of a share are jointly and severally liable for calls.

23.6 Called Amounts

If a call is not paid on or before the day specified for payment, the Board may require the Member liable for the call to pay:

- (a) interest on the amount of the call at the Interest Rate from that day until payment is made; and
- (b) all costs and expenses incurred by the Company because payment was not made on that day.

23.7 Proof of call

If, on the hearing of an action for recovery of a Called Amount, it is proved that:

- (a) the minute books of the Company record the Board's resolution making the call;
- (b) notice of the call was given under rule 23.3; and
- (c) the person sued appears in the Register as a holder of the share in respect of which the call was made,

proof of those matters is conclusive proof of the debt.

23.8 Forfeiture notice

At any time until a Called Amount is paid, the Board may give the relevant Member a notice which:

- (a) requires the Member to pay the Called Amount;
- (b) specifies a date at least 14 days after the date of the notice by which and a place at which payment must be made; and
- (c) states that if payment is not made at that place on or before that date, the share to which the call relates is liable to be forfeited.

23.9 Forfeiture

If the requirements of a notice given under rule 23.8 are not satisfied, the Board may forfeit the share for which that notice was given (and all dividends, interest and other money payable for that share and not actually paid before the forfeiture) by resolution passed before the Called Amount is paid.

23.10 Disposal and re-issue of forfeited shares

- (a) A share forfeited under rule 23.9 immediately becomes the property of the Company.
- (b) In relation to a share forfeited under rule 23.9, the Board, on behalf of the Company, may:
 - (i) re-issue the share with or without any money paid on it by any former holder credited as paid; or

- (ii) sell or otherwise dispose of the share, and execute and register a transfer of it, to the person and on the terms it decides.
- (c) The title of the new holder of the share referred to in rule 23.10(b) is not affected by any irregularity in the forfeiture or the re-issue, sale or disposal and the sole remedy of any person previously interested in the share is damages that may be recovered only from the Company. The new holder is not liable for the Called Amount.

23.11 Notice of forfeiture

- (a) The Company must promptly:
 - (i) give notice of the forfeiture of a share to the Member who held the share immediately before the resolution for forfeiture was passed; and
 - (ii) enter the forfeiture and its date in the Register.
- (b) A written declaration that a share was forfeited on a specified date and notice of forfeiture was given in accordance with this Constitution signed by a Director or Secretary is, in the absence of proof to the contrary, evidence of those facts and of the Company's right to dispose of the share.

23.12 Cancellation of forfeiture

The Board may cancel the forfeiture of a share on any terms at any time before it disposes of that share under rule 23.10.

23.13 Effect of forfeiture

- (a) A person who held a share that has been forfeited under rule 23.9 ceases to be a Member in relation to that share, but remains liable to pay the Called Amount until it is paid in full.
- (b) The Board may elect not to enforce payment of an amount due to the Company under this rule.

23.14 Application of proceeds

The Company must:

- (a) apply the net proceeds of any re-issue, sale or disposal of a forfeited share under rule 23.10 (after payment of all costs and expenses) to satisfy the Called Amount; and
- (b) pay any surplus to the person who held the share immediately before forfeiture.

24 Company liens

24.1 Existence of liens

- (a) Unless the terms of issue provide otherwise, the Company has a first and paramount lien on each share for:
 - (i) all money called or payable at a fixed time in respect of that share (including money payable under rule 23.6) whether or not payment is due;
 - (ii) all money owed to the Company by a registered holder; and
 - (iii) amounts for which the Company is indemnified under rule 24.3.

- (b) The lien in rule 24.1(a) extends to all dividends payable in relation to the share and to proceeds of sale of the share.

24.2 Sale under lien

If:

- (a) the Company has a lien on a share;
- (b) an amount secured by the lien is due and payable;
- (c) the Company has given notice to the Member registered as the holder of the share requiring payment of the amount which is due and payable and secured by the lien and specifying a date (at least 14 days after the date of the notice) by which and a place at which payment of that amount must be made; and
- (d) the requirements of the notice given under 24.2(c) are not fulfilled,

the Company may sell the share as if it had been forfeited under rule 23.9 and rules 23.10 and 23.14 apply, to the extent practical and modified as necessary, as if the amount referred to in rule 24.2(b) were the Called Amount in respect of that share.

24.3 Indemnity for payments required to be made by the Company

- (a) If the law of any jurisdiction imposes, or purports to impose, any immediate, future or possible liability on the Company, or empowers or purports to empower any person to require the Company to make any payment, on account of a Member or referable to a share held by that Member (whether alone or jointly) or a dividend or other amount payable in respect of a share held by that Member, the Company:
 - (i) is fully indemnified by that Member from that liability;
 - (ii) may recover as a debt due from the Member the amount of that liability together with interest at the Interest Rate from the date of payment by the Company to the date of repayment by the Member; and
 - (iii) may refuse to register a transfer of any share by that Member until the debt has been paid to the Company.
- (b) Nothing in this constitution in any way prejudices or affects any right or remedy that the Company has (including any right of set off) and, as between the Company and the Member, any such right or remedy is enforceable by the Company.

25 Dividends

25.1 Reserves

Before paying any dividend to Members, the Board may do either or both of:

- (a) setting aside out of profits of the Company reserves to be applied for any purpose it decides and use any sum so set aside in the business of the Company or invest it in investments selected by the Board and vary and deal with those investments as it decides; or
- (b) carrying forward any amount out of profits that the Board decides not to distribute without transferring that amount to a reserve.

25.2 Dividends

- (a) The Board may pay any interim and final dividends as it sees fit, subject to the rights set out in Schedule 1 to this Constitution in relation to redeemable preference shares.
- (b) The decision to pay a dividend may be rescinded by the Board if it decides before the date for payment of the dividend that the Company's financial position no longer justifies the payment.
- (c) A resolution of the Board as to the financial position of the Company and the amount available for the payment of dividends is conclusive.

25.3 Payment of dividends

Subject to the Act, rules 25.2, 25.4 and 25.7, and the terms of issue of shares, the Board may resolve to pay any dividend it thinks appropriate and fix the time for payment.

25.4 Amount of dividend and payments

Subject to any rights or restrictions attached to any shares or classes of shares:

- (a) all dividends must be paid equally on all shares, except that a partly paid share confers an entitlement only to the proportion of the dividend that the amount paid (not credited) on the share is of the total amounts paid and payable (excluding amounts credited);
- (b) for the purpose of rule 25.4(a), unless the Board decides otherwise, an amount paid on a share in advance of a call is not to have been taken as having been paid until it becomes payable.

25.5 Method of payment

The Company may pay any cash dividend, interest or other money payable for shares by cheque sent, and may distribute assets by sending the certificates or other evidence of title to them, through the post directed to:

- (a) the address of the Member (or in the case of a jointly held share, the address of the joint holder named first in the Register); or
- (b) to any other address the Member (or in the case of a jointly held share, all the joint holders) directs in writing.

25.6 Joint holders' receipt

Any one of the joint holders of a share may give an effective receipt for any dividend, interest or other money payable in relation to that share.

25.7 Retention of dividends by Company

The Company may retain the dividend payable on a share:

- (a) of which a person seeks to be registered as the holder under rule 27.2 or rule 27.3, until that person is registered as the holder of that share or transfers it; or
- (b) on which the Company has a lien, to satisfy the liabilities in relation to which the lien exists.

25.8 No interest on dividends

No Member may claim, and the Company must not pay, interest on a dividend (either in money or kind).

26 Transfer of shares

26.1 Instrument of transfer

- (a) Subject to rule 26.2, a Member may transfer a share by a document the form of which is permitted by law and which is signed by or on behalf of both the transferor and the transferee.
- (b) The Company must not register a transfer that does not comply with this rule.

26.2 Delivery of transfer and certificate

- (a) A document of transfer must be:
 - (i) delivered to the registered office of the Company or the address of the Register last notified to Members by the Company;
 - (ii) accompanied by the certificate for the shares to be transferred or evidence satisfactory to the Board of its loss or destruction; and
 - (iii) marked with payment of any stamp duty payable.
- (b) Property in, and title to, a document of transfer that is delivered to the Company (but not the shares to which it relates) passes to the Company on delivery.

26.3 Refusal to register transfer

- (a) The Board, without giving any reason, may refuse to register a transfer of shares and, subject to section 259C of the Act, must not register a transfer to a subsidiary of the Company.
- (b) If the Board refuses to register a transfer, the Company must give the transferee notice of the refusal within 2 months after the date on which the transfer was delivered to it.

26.4 Transferor remains holder until transfer registered

The transferor of a share remains the holder of it until the transfer is registered and the name of the transferee is entered in the Register for that share.

26.5 Powers of attorney

- (a) The Company may assume that a power of attorney granted by a Member, that is lodged with or produced or exhibited to the Company, remains in force.
- (b) The Company may rely on such a power of attorney, until the Company receives express notice in writing at its registered office of:
 - (i) the revocation of the power of attorney; or
 - (ii) the death, dissolution or insolvency of the Member.

27 Transmission of shares

27.1 Death of joint holder

The Company must recognise only the surviving joint holders as being entitled to shares registered jointly in the names of a deceased Member and others. The estate of the deceased joint holder is not released from any liability in respect of the shares.

27.2 Death of single holder

- (a) The Company must not recognise anyone except the legal personal representative of the deceased Member as having any title to shares registered in the sole name of a deceased Member.
- (b) If the personal representative gives the Board the documents described in section 1071B(9) or 1071B(13) of the Act, or other information that satisfies the Board of the representative's entitlement to be registered as holder of the shares:
 - (i) subject to rules 26.3 and 27.4, the Company must register the personal representative as the holder of the shares as soon as practical after receiving written and signed notice to the Company from the representative requiring it to do so; and
 - (ii) whether or not registered as the holder of the shares, the personal representative:
 - (A) may, subject to rule 26, transfer the shares to another person; and
 - (B) has the same rights as the deceased Member.

27.3 Transmission of shares on insolvency or mental incapacity

- (a) Subject to the Bankruptcy Act 1966 (Cth), if a person entitled to shares because of the insolvency or mental incapacity of a Member gives the Board the information it reasonably requires to establish the person's entitlement to be registered as holder of the shares:
 - (i) subject to rules 26.3 and 27.4, the Company must register that person as the holder of the shares as soon as practical after receiving a written and signed notice to the Company from that person requiring it to do so; and
 - (ii) whether or not registered as the holder of the shares, that person:
 - (A) may, subject to rule 26, transfer the shares to another person; and
 - (B) has the same rights as the insolvent or incapable Member.
- (b) If section 1072C of the Act applies, this rule is supplemental to it.

27.4 Refusal to register holder

The Company has the same right to refuse to register a personal representative or person entitled to shares on the insolvency or mental incapacity of a Member as it would have if that person was the transferee named in a transfer signed by a living, solvent, competent Member.

28 Share capital

28.1 Capitalisation of profits

- (a) The Company may capitalise profits, reserves or other amounts available for distribution to Members.
- (b) Subject to the terms of issue of shares, Members are entitled to participate in a capital distribution in the same proportions in which they are entitled to participate in dividends.

28.2 Adjustment of capitalised amounts

The Board may settle any difficulty that arises in relation to a capitalisation of profits as it thinks appropriate and necessary to adjust the rights of Members among themselves including:

- (a) fixing the value of specific assets;
- (b) issuing fractional certificates;
- (c) making cash payments to Members on the basis of the value fixed or on the basis that fractional entitlements are disregarded so as to adjust the rights of Members between themselves; and
- (d) vesting cash or specific assets in trustees.

28.3 Conversion of shares

Subject to Part 2H.1 of the Act and rules 20.2 and 28.5, the Company may convert:

- (a) an ordinary share into a preference share;
- (b) a preference share into an ordinary share; and
- (c) all or any of its shares into a larger or smaller number of shares by Ordinary Resolution.

28.4 Reduction of capital

The Company may reduce its share capital:

- (a) by reduction of capital in accordance with Division 1 of Part 2J.1 of the Act;
- (b) by buying back shares in accordance with Division 2 of Part 2J.1 of the Act;
- (c) in the ways permitted by sections 258E and 258F of the Act; or
- (d) in any other way for the time being permitted by the Act.

28.5 Variation of rights

- (a) If the Company issues different classes of shares, or divides issued shares into different classes, the rights attached to shares in any class may (subject to sections 246C and 246D of the Act) be varied or cancelled only:
 - (i) with the written consent of the holders of 75% of the issued shares of the affected class; or
 - (ii) by special resolution passed at a separate meeting of the holders of the issued shares of the affected class.
- (b) Subject to the terms of issue of shares, the rights attached to a class of shares are not treated as varied by the issue of further shares of that class.

29 Winding up

29.1 Entitlement of Members

Subject to the terms of issue of shares and this rule 29, the surplus assets of the Company remaining after payment of its debts are divisible among the Members in proportion to the number of fully paid shares held by them. For this purpose, a partly paid share is counted as a fraction of a fully paid share, equal to the proportion paid on it.

29.2 Distribution of assets generally

If the Company is wound up, the liquidator may, with the sanction of a Special Resolution:

- (a) divide the assets of the Company among the Members in kind;
- (b) for that purpose fix the value of assets and decide how the division is to be carried out as between the Members; and
- (c) vest assets of the Company in trustees on any trusts for the benefit of the Members the liquidator thinks appropriate.

29.3 No distribution of liabilities

The liquidator cannot compel a Member to accept marketable securities in respect of which there is a liability as part of a distribution of assets of the Company.

29.4 Distribution not in accordance with legal rights

If the liquidator decides on a division or vesting of assets of the Company under rule 29.3, that is not in accordance with the legal rights of the contributories, any contributory who would be prejudiced by it has a right to dissent and ancillary rights, as if that decision were a Special Resolution passed under section 507 of the Act.

30 Unclaimed money

The Company must deal with unclaimed dividends and distributions in accordance with the law relating to unclaimed money in the Company's jurisdiction of registration.

SCHEDULE 1 - SHARE RIGHTS AND CONDITIONS

1. The holder of a "K" class redeemable preference share holds that share subject to the following rights, privileges and conditions:
 - (a) no right whatsoever to vote at any meeting of the Company;
 - (b) upon giving seven days notice in writing of its intention so to do, delivered or posted to the last known address of the registered holder of any redeemable preference share together with the amount paid up in respect of the shares to be redeemed, the Company may at any time redeem all or from time to time redeem any one or more of the said redeemable preference shares and such redemption shall take place immediately upon the expiry of seven days from the delivery or posting of the said notice of redemption and cheque or payment;
 - (c) the right to participate in the dividends (if any) declared on that share.
2. In a winding up of the Company:
 - (a) if there are holders of ordinary shares in the Company, holders of a "K" class redeemable preference share do not participate in the division surplus assets or profits of the Company in respect of those shares; or
 - (b) if there are no holders of ordinary shares in the Company, holders of a "K" class redeemable preference share participate in the division surplus assets or profits of the Company in respect of those shares:
 - (i) if the available funds are between \$25,000 and \$30,000 (the "sixth \$5,000), in priority to and to the exclusion of all others, equally with the holders of "K" class redeemable preference shares; and
 - (ii) equally with all other shares in any funds available above the first \$30,000.
3. Nothing in this schedule limits the rights of a person holding more than one type or class of shares.