



ST PHILIP'S COLLEGE

St Philip's College Alice Springs

A company limited by guarantee

Constitution

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A company limited by guarantee

Constitution of St Philip's College Alice Springs

1. Name of the Company

The name of the company is St Philip's College Alice Springs Limited, which is hereinafter referred to as the College.

2. Definitions and Interpretations

2.1 Definitions

In the Constitution:

Annual Accounts mean the accounts prescribed in clause 23.

Auditor means the auditor for the time being of the College appointed pursuant to clause 18.

Board means the board of directors of the College.

Business Manager means the individual appointed pursuant to clause 17.

Chair and Deputy Chair means the individuals elected pursuant to clause 10.10.

Church means the Uniting Church in Australia.

College means St Philip's College Alice Springs Limited.

Company Secretary means the individual(s) appointed pursuant to clause 15.

Constitution means this constitution of the College.

Corporations Act means the *Corporations Act 2001* (Cth).

Director means a director of the College who shall be a member of the Board.

Email means an email or other electronic means of communication which the Board and/or Company Secretary has approved in writing.

Foundation Committee means the foundation committee appointed in accordance with clauses 12.8(a) and 12.9.

General Meeting means a meeting of the Members of the College.

Governance Committee means the governance committee appointed in accordance with clauses 12.8(a) and 12.10.

Guardian Member means an individual appointed as a guardian member pursuant to clause 6.5.

Life Governor means a person appointed as a life governor of the College in accordance with clause 19.2,

Member means a member of the College.

Northern Synod means the Northern Synod of the Church or the Standing Committee of the Northern Synod of the Church when acting on behalf of the Northern Synod of the Church between meetings of the Northern Synod of the Church.

Northern Synod Director means an individual appointed (from time to time) as a Director by the Northern Synod pursuant to clause 10.6.

Northern Synod Member means the individual appointed (from time to time) as a Member by the Northern Synod in accordance with clause 6.5.

Northern Synod Secretary means the general secretary of the Northern Synod.

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

Objects means the objects of the College as prescribed in clause 3.

Office means the registered office for the time being of the College.

Office Bearers mean the Chair and Deputy Chair of the College.

Principal means the Principal of the College appointed pursuant to clause 16 or the individual appointed by the Board to act temporarily as the Principal from time to time.

Register means the register of members kept under the Corporations Act.

Registered Office means the registered office of the College.

Special Resolution means a resolution that has been passed by at least a seventy five per cent (75%) majority.

Staff means any paid employee, whether full or part time and (without limitation) includes the Principal.

2.2 Interpretation

In this Constitution unless the context requires otherwise:

- (a) Part 1.2 Division 8 of the Corporations Act applies, so far as it can with such changes as are necessary, to this Constitution as if this Constitution was a provision of the Corporations Act;
- (b) an expression in a clause that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act;
- (c) words (including defined expressions) importing the singular include the plural and vice versa;
- (d) words (including defined expressions) importing any gender include the other gender;
- (e) words (including defined expressions) importing persons shall include corporations and bodies politic;
- (f) where any word or phrase is given a defined meaning, any other part of speech or grammatical form in respect of that word or phrase has a corresponding meaning;
- (g) where any person to whom reference is made ceases to exist or is reconstituted, renamed or replaced, or its functions or powers are transferred to another person, that reference shall (unless the context requires otherwise) be taken to be the person so established or constituted in its place or succeeding to its powers or functions;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements in any of them (whether of the same or any other legislative authority having jurisdiction);
- (i) references to writing include any mode of representing or reproducing words in tangible and permanently visible form and includes electronic mail and facsimile transmission;
- (j) any power, right, discretion or authority conferred upon any person or groups of persons under the Constitution may be exercised at any time and from time to time;
- (k) the word "includes" in any form is not a word of limitation;
- (l) a reference to an entity includes any successor entity;
- (m) reference to a month means a period commencing on any day of a calendar month and ending on the corresponding day in the next succeeding calendar month but if a corresponding day does not occur in the next succeeding calendar month the period shall end on the last day of the next succeeding calendar month; and
- (n) a reference to a clause is a reference to one of the clauses or sub-clauses.

2.3 Headings

Headings do not affect the interpretation of this Constitution.

2.4 Application of the Corporations Act

- (a) Each of the provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and do not apply to the College.

- (b) Section 46 of the Corporations Acts *Interpretation Act 1901* (Cth) (that deals amongst other things with severance of invalid provisions) applies in the interpretation and operation of this Constitution as if it were an instrument made under that statute.
- (c) An expression used in a particular Part or Division of the Corporations Act that is given by that Part or Division a special meaning for the purposes of that Part or Division has in any provision of this Constitution that deals with a matter dealt with by that Part or Division the same meaning as in that Part or Division.
- (d) Where the Corporations Act authorises or permits a company to do any matter or thing if so authorised by its constitution the College is and will be taken by this rule to be authorised or permitted to do that matter or thing, despite any other provisions of this Constitution.

3. Objects of the College

The College is established for the charitable objects of:

- (a) educating and preparing students to flourish, contribute and care in a rapidly changing world;
 - (b) providing high quality education for students, regardless of race, creed or religion;
 - (c) providing residential accommodation for students of the College, especially for geographically isolated children; and
 - (d) providing other educational programs as the need and demand arises,
- in a Christian environment within the ethos of the Uniting Church in Australia.

4. Powers of the College

Solely for the purpose of carrying out its Objects, the College has the legal capacity and powers of an individual and a body corporate.

5. Income and Property of the College

5.1 Real Property

- (a) All real property used by the College shall be vested in the College as trustee and held in accordance with the purposes of the trust.
- (b) The trust prescribed in clause 5.1(a) is a charitable trust established for the charitable objects of:
 - (i) educating and preparing students to flourish, contribute and care in a rapidly changing world;
 - (ii) providing high quality education for students, regardless of race, creed or religion;
 - (iii) providing residential accommodation for students of the College, especially for geographically isolated children; and
 - (iv) providing other educational programs as the need and demand arises,
 in a Christian environment within the ethos of the Uniting Church in Australia.

5.2 Application to Objects

All income and property of the College, irrespective of its source, must be applied solely towards the promotion of the Objects of the College.

5.3 No payments to Directors and Members

No part of the income or property of the College may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise to the Directors or Members.

5.4 No Payment of Fees to Directors and Members

The payment of fees to Directors or Members, as remuneration for their services as Directors or Members, in whatever form, by the College is prohibited.

5.5 Certain Payments Acceptable

Clauses 5.3 and clause 5.4 do not prevent the payment in good faith of:

- (a) payment to any Directors, Company Secretaries or Members of the College in return for property (both real and personal) supplied (by sale or hire) in the ordinary and usual way of business, where:
 - (i) the supply of property has the prior approval of the Board; and
 - (ii) the amount payable is not more than an amount that commercially would be reasonable payment for property;
- (b) for out-of-pocket expenses incurred on behalf of the College including, in the case of the Director or Member, in carrying out the duties of a Director or Member, where the payments do not exceed an amount previously approved by the Board; and
- (c) remuneration for any service rendered to the College by a Director in a professional or technical capacity, other than in the capacity as a Director of the College, where:
 - (i) the provision of the service has the prior approval of the Board; and
 - (ii) the amount payable is not more than an amount that commercially would be reasonable payment for the service.

6. Membership

6.1 Number of Members

The Members of the College shall consist of:

- (a) the Directors for so long as they remain Directors;
- (b) one individual who shall be appointed by the Northern Synod in accordance with clause 6.5, who shall be appointed for a 5 year term; and
- (c) two individuals as Guardian Members appointed in accordance with clause 6.6, each of whom shall be appointed for a 5 year term.

6.2 Membership

The rights of a Member are not transferrable.

6.3 Guarantee

The liability of the Members is limited.

6.4 Contribution by Members

Each Member undertakes to contribute to the property of the College in the event of it being wound up whilst the Member is a Member, or within one (1) year after the Member ceases to be a Member, for the payment of the debts and liabilities of the College (contracted before the Member ceases to be a Member) and the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding \$10.

6.5 Northern Synod Member

- (a) The Northern Synod shall, as and when a vacancy arises, appoint a Northern Synod Member by 28 days written notice from the Northern Synod Secretary to the College.
- (b) The Northern Synod may, at any time at its absolute discretion, remove the individual it appointed as the Northern Synod Member by 28 days written notice from the Northern Synod Secretary to the College.
- (c) Until otherwise decided by the Members by Special Resolution in General Meeting, there shall be no more than one Northern Synod Member at any given time.

6.6 Guardian Member

- (a) Any individual that meets the following criteria shall be eligible to become a Guardian Member:
 - (i) a person who has had a long and positive relationship with the College; and

- (ii) a person who has demonstrated empathy with the Objects of the College and a desire to assist the College promote its Objects.
- (b) No individual may appointed to be a Guardian Member unless he or she meets the requirements of clause 6.6(a).
- (c) The Members shall, as and when a vacancy arises, appoint each Guardian Member by Special Resolution.
- (d) Until otherwise decided by the Members by Special Resolution in General Meeting there shall be no more than two Guardian Members at any given time.

7. Cessation of Membership

7.1 Death, resignation and other events

A Member immediately ceases to be a Member if the individual:

- (a) dies;
- (b) resigns by giving notice in writing to the College;
- (c) being a person appointed as a Member pursuant to clause 6.1(a), ceases to be a Director;
- (d) being a Northern Synod Member:
 - (i) has served 5 years (or more), on the day of the fifth annual General Meeting after the individual's appointment; or
 - (ii) is removed by the Northern Synod pursuant to clause 6.5(b);
- (e) being a Guardian Member, has served 5 years (or more) on the day of the fifth annual General Meeting after the individual's appointment;
- (f) becomes of unsound mind or an individual whose estate is liable to be dealt with in any way under the law relating to mental health;
- (g) becomes bankrupt or suspends payment or liquidates by arrangement or compounds with or assigns the Member's joint and separate estate for the benefit of the Member's creditors;
- (h) is removed in accordance with clause 7.3; or
- (i) is convicted an offence and the Board does not within one (1) month after that conviction resolve to confirm the Member's membership of the College.

For the sake of clarity, in respect of Guardian Members and Northern Synod Members, there is no limit on the number of 5 year terms (whether consecutive or otherwise) that an individual can be appointed in those membership categories as a Member.

7.2 Resignation of a Member

An individual shall give one (1) month's notice of intention to resign that shall take effect upon the expiry of that notice or by earlier acceptance of the notice by the Board.

7.3 Removal of Member

The Board may by resolution, subject to clause 7.4, determine by a Special Resolution to censure, fine, suspend or expel a Member if in its opinion the Member fails to comply with any provision of the Constitution or is guilty of any conduct that the Board considers is unbecoming of a Member or is otherwise prejudicial to the interests of the College.

7.4 Notice to Member

The Board may not make a determination under clause 7.3 unless at least twenty one (21) days before the meeting of the Board at which the determination is to be considered, notice is given to the Member of the meeting, what is alleged against the Member and the possible determination, and unless a Member has had an opportunity of giving at the meeting orally or in writing, any explanation or defence the Member may think fit before the Special Resolution is considered by the Board.

8. General Meetings

8.1 Annual General Meeting

An annual General Meeting of the College must be held in accordance with the Corporations Act.

8.2 Power to Convene General Meeting

- (a) The Board may convene a General Meeting whenever it thinks fit and must convene a General Meeting of the College when requisitioned by Members in accordance with the Corporations Act.
- (b) No Member may call a General Meeting of the College except as provided by the Corporations Act.

8.3 Notice of General Meeting

- (a) Except where section 249H(2) of the Corporations Act applies, at least twenty one (21) days notice must be given of a meeting of the Members.
- (b) A notice of a meeting must be given in accordance with section 249J and the replaceable rule in section 249J(4) applies.
- (c) A notice convening a meeting of the College must:
 - (i) specify the place, date and time of the meeting and state the general nature of the business to be dealt with at the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner;
 - (ii) state that:
 - (A) a Member entitled to attend and vote is entitled to appoint a proxy; and
 - (B) a proxy must be a Member.
- (d) If a special resolution is to be proposed the notice of meeting must set out an intention to propose a special resolution and state the resolution.
- (e) The non-receipt of a notice of a General Meeting or advance notice pursuant to clause 8.3(a) by, or the accidental omission to give notice of a General Meeting or advance notice under clause 8.3(a) to a person entitled to receive notice, does not invalidate any resolution passed at the General Meeting.

8.4 Auditor Entitled to Notice

The College must give its Auditor:

- (a) notice of a General Meeting in the same way that a Member is entitled to receive notice; and
- (b) any other communications relating to the General Meeting that a Member is entitled to receive.

8.5 Cancellation or Postponement of General Meeting

- (a) Where a General Meeting (including an annual General Meeting) is convened by the Board, it may, whenever it thinks fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by it.
- (b) Written notice of cancellation or postponement of a General Meeting must be given to all persons entitled to receive notices of General Meetings from the College at least three (3) days before the date for which the meeting is convened and must specify the reason for cancellation or postponement.
- (c) A notice postponing the holding of a General Meeting must specify:
 - (i) a date and time for the holding of the meeting;
 - (ii) a place for the holding of the meeting, which may be either the same as or different from the place specified in the notice convening the meeting;

- (iii) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.
- (d) The number of clear days from the giving of a notice postponing the holding of a General Meeting to the date specified in that notice for the holding of the meeting may not be less than the number of clear day's notice of the meeting required to be given by this Constitution or the Corporations Act.
- (e) The only business that may be transacted at a General Meeting that is postponed is the business specified in the notice pursuant to clause 8.3 that convened the meeting.
- (f) The accidental omission to give notice of the cancellation or postponement of a meeting to, or the non-receipt of any such notice by, any person entitled to notice does not invalidate that cancellation or postponement or any resolution passed at a postponed meeting.
- (g) Where:
 - (i) by the terms of an instrument appointing a proxy, a proxy is authorised to attend and vote at a General Meeting to be held on a specified date or at a General Meeting or General Meetings to be held on or before a specified date; and
 - (ii) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy,
 then, by force of this clause, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy unless the Member appointing the proxy gives to the College at its Registered Office notice in writing to the contrary not less than forty-eight (48) hours before the time to which the holding of the meeting has been postponed.
- (h) Clauses 8.5(a) to (g) (both inclusive) do not apply to a General Meeting convened by the Members pursuant to section 249F of the Corporations Act or by the Board pursuant to a requisition of Members pursuant to the Corporations Act.

8.6 General Conduct of Meeting

A chair of a General Meeting will be responsible for the general conduct of General Meetings and for the procedures to be adopted at General Meetings. The chair of the General Meeting may make rulings, adjourn the meeting without putting the question (or any question) to the vote if such action is required to ensure the orderly conduct of the General Meeting. A chair of a General Meeting may determine conclusively any dispute concerning the admission, validity or rejection of a vote.

8.7 No Vote Contrary to the Corporations Act

Notwithstanding any other clause, a Member present in person or by proxy will not be entitled to vote and any vote purported to be cast by a Member present in person or by proxy, will be disregarded, on a particular resolution where such a vote is prohibited by the Corporations Act.

9. Proceedings at General Meetings

9.1 Business

The business of an annual General Meeting is to elect the Directors and to receive and consider the Annual Accounts, the balance sheet and the reports of the Board and the Auditor.

9.2 Attendance by Member

- (a) A Member may be present and vote in person or may be represented at any meeting of the College by proxy.
- (b) Unless the contrary intention appears, a reference to a Member in clause 9 means a person who is a Member, or is a proxy of that Member.

9.3 Quorum

- (a) Subject to clause 9.3(d) a number equating to one half of the total Members of the College (rounded up when there is not a whole number) present in person or by proxy are a quorum at a General Meeting.
- (b) An item of business may not be transacted at a General Meeting unless a quorum is present when the meeting proceeds to consider it, but if a quorum is present at the beginning of a meeting it is deemed to be present throughout the meeting unless the chair of the meeting on the chair's own motion or at the instance of a Member or proxy who is present, otherwise declares.
- (c) If within fifteen (15) minutes after the time appointed for a meeting a quorum is not present, the meeting:
 - (i) if convened on a requisition of Members is dissolved;
 - (ii) in any other case stands adjourned to the same day in the next week and the same time and place, or for such other day, time and place as the Board appoints by notice to the Members and others entitled to notice of the meeting.
- (d) At a meeting adjourned pursuant to clause 9.3(c)(ii), three (3) persons each being a Member or proxy present at the meeting are a quorum, and if a quorum is not present within fifteen (15) minutes after the time appointed for the adjourned meeting the meeting is dissolved.

9.4 Chair

- (a) The Chair is entitled to preside at General Meetings, but if the Chair is not present and able and willing to act within fifteen (15) minutes after the time appointed for a meeting or has signified an intention not to be present and able and willing to act, the following may preside (in order of entitlement) namely, the Deputy Chair, a Director chosen by the majority of the Directors present, a Member, chosen by a majority of the Members present in person or by proxy.
- (b) If there is an equality of votes, whether on a show of hands or on a poll, the chair of the meeting is entitled to a casting vote in addition to any votes to which the chair is entitled as a Member or proxy of a Member. The chair has discretion both as to whether or not to use the casting vote and as to the way in which it is used.

9.5 Determination of Questions

- (a) Every question submitted to a meeting is to be decided by a process chosen by the meeting Chair that is fair and reasonable in the circumstances, including a show of hands, unless a poll is demanded:
 - (i) before the vote is taken;
 - (ii) before the voting results and a show of hands are declared; or
 - (iii) immediately after the voting results on the show of hands are declared by:
 - (A) the chair of the meeting; or
 - (B) at least the number of Members prescribed in clause 9.3(a) present in person or by proxy and having the right to vote at the meetingand the demand for the poll is not withdrawn.
- (b) On a show of hands, a declaration by the chair is conclusive evidence of the result.

9.6 Majority

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

9.7 Poll

- (a) If a poll is properly demanded and the demand is not withdrawn, it must be taken in such manner and at such time and place and at once or after an interval or adjournment or otherwise as the chair of the meeting then or subsequently

determines. The result of the poll is to be deemed the resolution of the meeting at which the poll is demanded.

- (b) A poll demanded on the election of a chair of a meeting or on a question of adjournment must be taken immediately.
- (c) A demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.
- (d) A demand for a poll may be withdrawn.

9.8 Objection to Voting Qualification

- (a) Objection may not be raised to the right of a person to attend or vote at a meeting or adjourned meeting or to vote on a poll except at that meeting or adjourned meeting or where the poll is taken and every vote not disallowed at the meeting or adjourned meeting or when the poll is taken is valid for all purposes.
- (b) If there is a dispute as to the admission or rejection of a vote, the chair of the meeting must decide it and the chair's decision made in good faith is final and conclusive.

9.9 Adjournment

- (a) The chair of a meeting may, with the consent of any meeting at which a quorum is present and must if so directed by the meeting, adjourn the meeting to a new time, day or place, but the only business that may be transacted at an adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- (b) If the meeting is adjourned for thirty (30) days or more, notice of the adjournment must be given in accordance with clause 8.3(a).
- (c) Except as provided by clause 9.9(b), it is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.
- (d) A resolution passed at a meeting resumed after an adjournment is passed on the day it is passed.

9.10 Voting Rights

- (a) Subject to the rights and any restrictions attached to or affecting Members and to any other restrictions in this Constitution:
 - (i) on a show of hands, each Member present in person and each other present as proxy of a Member has one vote; and
 - (ii) on a poll, each Member present in person has one vote and each person present as proxy of a Member has one vote or each Member that the person represents.
- (b) A proxy's authority to speak and vote for a Member at a meeting is suspended while the Member is present at the meeting.

9.11 Appointment of Proxy

- (a) A Member entitled to attend and vote at a meeting of Members may appoint an individual as the Member's proxy to attend and vote for the Member at the meeting. A proxy must be a Member.
- (b) An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the following information:
 - (i) the Member's name and address;
 - (ii) the College's name;
 - (iii) the proxy's name or the name of the office held by the proxy; and
 - (iv) the meetings at which the appointment may be used. An appointment may be a standing one.
- (c) An undated appointment is to be taken to have been dated on the day it is given to the College.

- (d) An appointment may specify the way the proxy is to vote on a particular resolution. In that event:
 - (i) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
 - (ii) if the proxy has two (2) or more appointments that specify different ways to vote on the resolution, the proxy must not vote on a show of hands;
 - (iii) if the proxy is the chair, the proxy must vote on a poll and must vote that way; and
 - (iv) if the proxy is not the chair, the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.

This clause does not affect the way that person can cast any votes attached to that person's membership.

- (e) Except to the extent that the appointment of a proxy expressly limits the exercise by the proxy of the power to vote at a meeting, a proxy has the same rights to attend, vote and otherwise act at the meeting as a Member attending the meeting in person.
- (f) An appointment of a proxy does not need to be witnessed.
- (g) A later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting.
- (h) An instrument appointing a proxy is to be taken to confer authority to demand or join in demanding a poll.

9.12 Right to Appoint Attorney

A Member may by power of attorney duly executed in the presence of at least one (1) witness (if necessary) duly stamped, appoint an attorney to act on the Member's behalf at all or any meetings of the College. An attorney must be a Member.

9.13 Receipt of Proxy and Other Instruments

To be effective, an instrument appointing a proxy and any power of attorney under which it is executed or a copy (verified by statutory declaration as a true copy) of the power of attorney, or an instrument appointing the attorney pursuant to clause 9.12, in either case together with such evidence of due stamping (if necessary) and evidence of non-revocation of the power of attorney as the Board may require, must be received by the College at the Registered Office or at such other place as is specified for that purpose in the notice convening the meeting, not less than forty-eight (48) hours before the time appointed for the meeting or adjourned or postponed meeting or poll which the appointee proposes to attend or on which the appointee proposes to vote.

9.14 Validity of Vote in Certain Circumstances

A vote given in accordance with the terms of an instrument of proxy or of power of attorney is valid notwithstanding:

- (a) the previous death or unsoundness of mind of the appointer; or
- (b) the revocation of the instrument, or the authority under which the instrument was executed, or of the power,

if notice in writing of the death, unsoundness of mind or revocation has not been received by the College at the Registered Office before the commencement of the meeting or adjourned meeting of which the instrument is used or the power is exercised.

9.15 Electronic Meeting

- (a) Without limiting clause 8.3(c), for the purposes of this Constitution the contemporaneous linking together by telephone or other means of instantaneous communication ("**telephone**") of a number of the Members, being at least a quorum, whether or not any one or more of them is out of Australia, is to be deemed to constitute a General Meeting and all the provisions of this Constitution as to General Meetings of apply to such a General Meeting if the following conditions are met:

- (i) all the Members entitled to notice of a General Meeting receive notice of the meeting;
 - (ii) all the Members wanting to take part in the General Meeting are linked by telephone for the purposes of the General Meeting; and
 - (iii) at the commencement of the General Meeting each Member taking part acknowledges the respective Member's presence for the purposes of the General Meeting to all other Members taking part and acknowledges that the Member is able to hear each of the other Members taking part.
- (b) A Member may not leave a telephone General Meeting by disconnecting the telephone without the consent of the chair of the General Meeting and a Member is deemed to be present and form part of the quorum throughout the General Meeting unless the Member has obtained the consent of the chair of the meeting to leave the General Meeting.
 - (c) A minute of the proceedings of a telephone General Meeting is sufficient evidence of the proceedings and the observance of all necessary formalities if it is certified as a correct minute by the chair of the General Meeting.

10. Board

10.1 Nomenclature

The Board shall be termed the Board of the College and the Directors shall be described as Directors or Board members.

10.2 Composition of The Board

The Board shall comprise individuals with a diversity and balance of relevant skills, qualifications, experience and gender and shall consist of:

- (a) no fewer than six (6) and not more than nine (9) individuals including Office Bearers; and
- (b) no more than two (2) of whom shall be appointed by the Northern Synod in accordance with clause 10.6.

10.3 Initial Directors

The initial Directors are those persons named as directors in the application for registration of the College with ASIC.

10.4 Nominations for replacement Directors

- (a) This clause 10.4 applies only to those Directors that are not Northern Synod Directors.
- (b) If a Director is due to retire at the next annual general meeting or there is, or will otherwise be, a vacancy on the Board, then prior to the next annual general meeting or any other general meeting called for a purpose including to appoint a Director, the College will follow the procedure below to allow the Members to exercise their voting rights to appoint and/or replace Directors at the relevant general meeting:
 - (i) the College will, not later than 30 days before the relevant general meeting, call for nominations for persons to the vacant Director(s) position to be delivered to the College;
 - (ii) any two Directors may propose one or more individuals as a nominee for each vacant Director position, having regard to clause 10.4(b)(iii); and
 - (iii) where reasonably possible, the Members shall ensure that only nominees who possess qualifications and experience that will fill any gaps in the qualifications and experience of the existing Board are appointed, such that the Board comprises Directors with a diversity and balance of relevant skills, qualifications, experience and gender and collectively has the qualifications and experience to govern the College.
- (c) The name of each individual proposed by two Directors as a nominee for the position of a Director shall be provided to the College not later than 21 days before the relevant general meeting and be accompanied by a written outline of each individual's

qualifications, experience and other suitability for the vacancy which has arisen (having regard to clause 10.4(b)(iii)) and the Board shall provide a copy of the written outline provided for each individual to the Governance Committee not later than 14 days before the relevant general meeting. The Governance Committee shall thereafter resolve (in their sole discretion) by majority which such individual(s) should be nominee(s) and at all times when making such resolution pursuing the goal of the Board comprising members with varied experience and skill sets to give the Board a complete skills matrix. Not later than 5 days before the relevant general meeting, the Governance Committee shall notify the Board in writing of the names of the nominee(s) for the vacant Director(s) position that the Governance Committee have resolved to be nominee(s).

10.5 Election and appointment of Directors

- (a) This clause 10.5 applies only to those Directors that are not Northern Synod Directors.
- (b) Provided the procedures in clause 10.4 have been followed, the Members may by ordinary resolution at a general meeting of the Company, appoint an eligible person as a Director to fill a vacancy or to replace any Director removed by the Members.
- (c) A person is eligible for election as a Director of the College if he or she:
 - (i) is an individual proposed by two Directors as a nominee for the position of a Director in accordance with clause 10.4(b) that the Governance Committee resolves to be a nominee and notifies the Board as such in accordance with clause 10.4(c);;
 - (ii) gives the College his or her signed consent to act as a Director of the College; and
 - (iii) is not ineligible to be a Director under the Corporations Act or the Australian Charities and Not-for-profits Commission Act 2012 (Cth) (**ACNC Act**); and
 - (iv) is not a current member of Staff.
- (d) Each of the Directors shall be appointed by a separate resolution, unless:
 - (i) the number of nominations for Director positions equal the number of vacant Directors positions;
 - (ii) the Members present have first passed a resolution that the proposed appointments may be voted on together; and
 - (iii) no votes were cast against that resolution.
- (e) If the number of Directors is reduced to fewer than six the continuing Directors may act for the purpose of increasing the number of Directors to six or calling a General Meeting, but for no other purpose.

10.6 Northern Synod Directors

- (a) Subject to clause 10.6(b), the Northern Synod has the right to appoint two Directors.
- (b) The Northern Synod may appoint any person to serve as a Director provided that:
 - (i) the person is appointed by written notice from the Northern Synod Secretary to the College following consultation with the Board (through the Chair) and having regard for the desire for the Board to be comprised of Directors with a diversity and balance of relevant skills, qualifications, experience and gender that collectively has the qualifications and experience to govern the College; and
 - (ii) the person to be appointed:
 - (A) has given the College his or her signed consent to act as a Director;
 - (B) is not ineligible to be a Director under the Corporations Act or the Australian Charities and Not-for-profits Commission Act 2012 (Cth) (**ACNC Act**);
 - (C) is not a current member of Staff; and

- (D) has not served the maximum number of terms as allowed pursuant to clause 10.7.
- (c) A Northern Synod Director:
 - (i) may be removed by the Northern Synod by the Northern Synod Secretary giving the College 3 months written notice;
 - (ii) must retire in accordance with clause 10.7; and
 - (iii) may not be removed by a resolution of Members.
- (d) If a Northern Synod Director is due to retire in accordance with clause 10.7 or is removed by the Northern Synod in accordance with clause 10.6(c)(i), then the Northern Synod must, at least 2 months before the due date of retirement or effective date of removal, commence consultation with the Board as to a suitable replacement.
- (e) Until otherwise decided by the Members by Special Resolution in General Meeting there shall be no more than two Northern Synod Directors at any given time.

10.7 Term of office

- (a) Subject to clause 10.7(e) a Director may not retain office beyond the third annual General Meeting following the Director's appointment (whichever is the longer period) without being re-elected.
- (b) Subject to any transitional provisions for retirement of the initial Directors recorded in the governance manual for the College, at the annual General Meeting in each year, that number of the Directors in office shall retire as is necessary to ensure that each Director shall retire from office at least once every third annual General Meeting.
- (c) The Directors who must retire at each annual General Meeting under clause 10.7(b) will be the Directors who have been longest in office since last being elected.
- (d) Other than a Director appointed under clause 10.12 or a Northern Synod Director, a Director's term of office starts at the end of the General Meeting at which he or she is elected and ends at the end of the annual General Meeting at which he or she retires. A Northern Synod Directors term of office starts on the date he or she is appointed by the Northern Synod and ends at the end of the annual General Meeting at which he or she retires.
- (e) A Director who retires under clause 10.7(b) or any transitional provisions for retirement of the initial Directors recorded in the governance manual for the College may be re-appointed by the Northern Synod or nominated for election or re-election, subject to clause 10.7(e) and 10.7(g).
- (f) Subject to clause 10.7(g), a Director shall not be entitled to be appointed for more than three (3) consecutive terms.
- (g) The Members, excluding the Director concerned, may by Special Resolution vote to allow a Director who is not eligible for appointment pursuant to clause 10.7(f), to be appointed for one (1) further term of three (3) years provided that no more than two (2) Directors may have served for more than three (3) consecutive terms at any one time.

10.8 When a Director stops being a Director

A Director stops being a Director if he or she:

- (a) gives written notice of resignation as a Director to the College;
- (b) becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the law relating to mental health;
- (c) dies;
- (d) is, in the case of any Director that is not a Northern Synod Director, removed as a Director by a resolution of the Members;
- (e) is, in the case of any Director that is a Northern Synod Director, removed as a Director by the Northern Synod;
- (f) is absent for 3 consecutive Directors' meetings without prior approval from the Chair;
or

- (g) becomes ineligible to be a Director under the Corporations Act or ACNC Act.

10.9 Office Bearers

- (a) The Office Bearers of the College will comprise a Chair and a Deputy Chair.
- (b) The College in General Meeting may increase or reduce the number of Office Bearers.

10.10 Election of Office Bearers

- (a) At the first Board meeting after the annual General Meeting, the Directors shall elect:
 - (i) the Chair in any year which the Chair's term as Chair has expired pursuant to clause 10.11; and
 - (ii) the Deputy Chair.
- (b) Any two (2) Directors may, at that meeting, nominate another Director for election as a bearer of a particular office.
- (c) If only one (1) candidate is nominated for a particular Office Bearer's position, that candidate is to be deemed elected.
- (d) The candidates who receive the most votes will be elected. If two (2) or more candidates receive an equal number of votes, the chair of the meeting has a casting vote.

10.11 Term of Office of Chair

The term of office of the Chair is that person's current term of appointment as a Board member. The maximum tenure for a Chair is six (6) years or two terms, whichever is the greater. The retiring Chair may act until the conclusion of the meeting at which the next succeeding Chair is appointed.

10.12 Casual Vacancies

- (a) Having regard to clause 10.4(b)(iii), the Board has power to appoint a person as a Director either to fill a casual vacancy among the Board or as an addition to the existing members but so that the total number of Directors does not exceed the number fixed under this Constitution.
- (b) Any person appointed under this clause holds office until the next general meeting when an election shall be held to fill the vacancy but the person is not to be taken into account in deciding the number of Directors to retire by rotation at the meeting. Any person appointed under this clause is eligible for election at that general meeting.
- (c) Any appointment to hold a casual vacancy in accordance with this clause shall not count towards a Director's term of appointment for the purposes of clause 10.7(e).

10.13 Removal of Office Bearer

An Office Bearer may be removed from that office by resolution of the Board of which not less than fourteen (14) days notice has been given to all Directors for the time being in Australia. The Board may at any time replace an Office Bearer removed pursuant to this clause in accordance with the relevant provisions in clauses 10.10(b) to 10.10(d) (inclusive).

11. Powers and Duties of the Board

11.1 Board to Govern the College

- (a) The governance of the business and affairs of the College is vested in the Board. The Board may exercise all powers and do all such acts and things that the College is authorised or permitted to exercise and do and that are not by this Constitution or by statute directed or required to be exercised or done by the College in General Meeting.
- (b) The Board may exercise the powers conferred on it in this clause in such manner and upon terms and conditions in all respects as it thinks fit.
- (c) The Board shall delegate the day to day operations of the College to the Principal.

11.2 Power to Borrow

Without limiting the generality of clause 11.1, the Board may exercise all of the powers of the College to borrow or raise money, to charge any property or business of the College, to give any other security for a debt, liability or obligation of the College or of any other person, to guarantee or to become liable for payment of money or the performance of any obligations by any other person.

11.3 Execution of College Payments etc.

All payments and negotiable instruments executed by the College and all receipts for money paid to the College will be executed, as the case may be in such a manner and by such persons as the Board shall determine.

11.4 Director's Contracts with the College

Subject to the Corporations Act:

- (a) no Director will be disqualified from holding the office of Director by virtue of holding any office or place of profit in any corporation in which the College is a shareholder or is otherwise interested;
- (b) no Director will be disqualified from that office from serving the College in any other office or in any other professional capacity, except that of Auditor of the College;
- (c) no Director will be disqualified by virtue of holding the office of Director from contracting with the College or any corporation in which the College is a shareholder or is otherwise interested or in any related entity, either as vendor, purchaser or otherwise and nor will any contract or arrangement entered into by or on behalf of the College in which any Director is in any way directly or indirectly interested be avoided; and
- (d) a Director is not liable to account to the College for any profit arising from that office or realised by the contract or arrangement, or by any participation in any association, institution, fund, trust or scheme or otherwise by reason only of the Director holding that office or of the fiduciary relations thereby established, provided that the disclosure required by clause 11.8 has been made.

11.5 Restrictions on Director Voting

- (a) A Director who has a material personal interest in a matter that is being considered at a meeting of the Board, unless section 195 of the Corporations Act permits, clause 11.5(c) applies or clause 11.5(d) applies, must not:
 - (i) be present while the matter is being considered at the meeting; or
 - (ii) vote on the matter.
- (b) No act of the College is invalid or voidable by reason only of the failure of a Director to comply with such prohibition.
- (c) A Director with a material personal interest in a matter that is being considered at a meeting of the Board may be present and vote if the Directors who do not have a material personal interest in the matter have passed a resolution that:
 - (i) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the College; and
 - (ii) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present.
- (d) A Director with a material personal interest in a matter that is being considered at a meeting of the Board may be present but not vote if the Directors who do not have a material personal interest in the matter have passed a resolution that:
 - (i) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the College; and
 - (ii) states that those Directors are satisfied that the interest should not disqualify the Director from being present but do disqualify that Director from voting.

11.6 Professional Capacity

Subject to the Corporations Act:

- (a) any Director may act or the Director's firm may act in a professional capacity for the College or any other corporation in which the College is a shareholder or any related entity of the College; and
- (b) the Director and that Director's firm will be entitled to remuneration for professional services as if that Director were not a Director, provided that this clause will not authorise a Director or that Director's firm acting as an Auditor of the College.

11.7 May Sign on Behalf of the College Notwithstanding Interest

Notwithstanding that a Director is interested in the contract or arrangement, that Director may be appointed as the Director to sign on behalf of the College, any instrument to which the interest relates.

11.8 Disclosure of Interest

- (a) A Director who is in any way, whether directly or indirectly, interested in the matter in which the College has an interest will declare the nature of the interest at the meeting of the Board as soon as practicable after the relevant facts have come to the Director's knowledge.
- (b) For the purposes of clause 11.8(a) a general notice given to the Board by a Director to the effect that the Director is an officer or member of a specified corporation or a member of a specified firm or is otherwise interested in any corporation or firm and is to be regarded as interested in any matter, after the date of the notice, in which that corporation or firm may have an interest, will be deemed to be a sufficient declaration of interest in relation to the matter if:
 - (i) the notice states the nature and extent of the Director's interest in the corporation or firm;
 - (ii) when the matter is first considered, the extent of the Director's interest in the corporation or firm is not greater than as stated in the notice; and
 - (iii) the notice is given at a meeting of the Board or the Director takes reasonable steps to ensure that it is brought up and read at the next meeting of the Board after it was given.
- (c) It is also the duty of the Director who holds any office or possesses any property the holding of which office or the possession of which property might, whether directly or indirectly, create duties or interests in conflict with the Director's duties or interests as a Director of the College, to declare at the first meeting of the Board held after the Director becomes a Director, or if the Director is already a Director at the first meeting of Board held after the Director commenced holding any such office or possess any such property, the fact of the Director's holding such office or possessing such property and the nature, character and extent of the conflict.

11.9 Record of Disclosures

It is the Company Secretary's duty to record in the minutes any disclosure given by a Director pursuant to clause 11.8.

11.10 Meaning of Contract

In clause 11.8, where the context permits, "contract or arrangement" includes a proposed contract or arrangement.

12. Proceedings of the Board

12.1 Meetings

- (a) The Board shall meet together on no less than six (6) occasions during each year.
- (b) The Chair may invite, and the Directors may resolve that the Chair invite, any person despite such a person not being a Director, to a meeting (or part thereof) of the Board and to participate in any discussions the Directors think fit, provided that such a person shall not have any voting or other rights.

- (c) Where it is impracticable to meet in person the Directors may meet together by telephone or other means of instantaneous communication otherwise in accordance with clause 9.15.

12.2 Quorum

- (a) The quorum necessary for the transaction of the business of the Board shall be a number equating to one half of the current Directors (rounded up when there is not a whole number *[for example if the number of directors is 7 then the quorum is 4]*).
- (b) A meeting of the Directors during which a quorum is present is competent to exercise all or any of the authorities, powers and discretions under this Constitution for the time being vested in or exercisable by the Board generally.
- (c) Where a quorum cannot be established for a meeting of the Board (or consideration of a particular matter) a Director may convene a General Meeting to deal with a matter or the matters in question.

12.3 Validity of Acts

- (a) Acts of the Board or a Director, even if it is afterwards discovered that there was some defect in the appointment of any of the Directors or the Board or that any of them were disqualified, are valid as if each person was duly appointed and qualified, and continued to be a Director or a member of the Board (as the case may be).
- (b) If the number of Directors is reduced below the minimum number fixed under this Constitution, the continuing Directors may act to increase the number of Directors to that number, or to call a general meeting of the College, but for no other purpose.

12.4 Convening meetings

The Company Secretary will, on the request of three or more Directors, convene a meeting of the Board.

12.5 Notice of Meeting

- (a) Notice of every Board meeting will be given to each Director and may be given to any Director's nominated electronic address.
- (b) A Board meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw the Director's consent within a reasonable period prior to the meeting.

12.6 Chair and Deputy Chair

The Chair is entitled to preside at meetings of the Board but, if the Chair is not present and able and willing to act within fifteen (15) minutes after the time appointed for a meeting or has signified an intention not to be present and able and willing to act, the following may preside (in order of entitlement):

- (a) the Deputy Chair; and
- (b) a Director chosen by a majority of the Directors present.

12.7 Voting

Questions arising at a meeting of the Board are to be decided by a majority in one of the following ways:

- (a) a show of hands
- (b) a vote in writing, or
- (c) another method chosen by the Chair that is fair and reasonable in the circumstances.

In the event of an equality of votes the chair of the meeting has a casting vote. The chair has discretion both as to whether or not to use the casting vote and as to the way in which it is used.

12.8 Committees of the Board

- (a) The Board may delegate any of its powers to committees consisting of one or more Directors and such other individuals, including Principal and Staff, as it thinks fit and the Board may from time to time revoke that delegation.

- (b) Members of committees will be appointed/re-appointed annually at the first Board meeting after the AGM, or at any other time the Board so chooses.
- (c) The Board shall appoint a Director as chair of each committee of the Board.
- (d) A committee will conform to any regulations that may be imposed upon it by the Board in the exercise of its powers.
- (e) So far as they are capable of application and with the necessary changes, the provisions of this Constitution for regulating the meetings and proceedings of the Board govern the meeting and proceedings of committees.
- (f) Minutes of meetings of committees maintained in accordance with clause 14 of this Constitution must be tabled at each subsequent meeting of the Board next after the committee meeting.

12.9 Foundation Committee

- (a) There will be a committee permanently appointed pursuant to clause 12.8(a) named the Foundation Committee.
- (b) The role of the Foundation Committee is to guide and monitor the major philanthropic activities of the College.
- (c) Terms of reference for the Committee are contained in the St Philip's College governance manual.

12.10 Governance Committee

- (a) There will be a committee permanently appointed pursuant to clause 12.8(a) named the Governance Committee.
- (b) The role of the Governance Committee is to ensure best practice of governance for the College.
- (c) Terms of reference for the Committee are contained in the St Philip's College governance manual.

12.11 Written Resolution

- (a) If no less than three quarters of the Directors have signed a document containing a statement that they are in favour of a resolution of the Board in terms set out in the document, a resolution in those terms will be deemed to have been passed at a meeting of the Board held on the day on which the document was signed and at the time at which the document was last signed by a Director or, if the Directors signed the documents on different days, on the day on which and at the time at which the document was last signed by a Director.
- (b) For the purposes of clause 12.11(a):
 - (i) two (2) or more separate documents containing statements in identical terms each of which is signed by one or more Directors will together be deemed to constitute one document containing a statement in those terms signed by the Directors;
 - (ii) a reference to all Directors does not include a reference to the Director who, at a meeting of the Board, would not be entitled to vote in the resolution; and
 - (iii) any document so signed by a Director may be received by the College at the Registered Office (or other place agreed by the Directors) by post, facsimile, Email or by being delivered personally by that Director.

13. Dispute Resolution Mechanism

13.1 Guiding principle

The Members and Directors agree that every effort should be made to ensure that disputes between them and disputes regarding the application of a provision of this Constitution do not arise and that if a dispute does occur the parties to the dispute should make every reasonable effort to resolve the dispute through informal negotiation, but that if this Constitution provides that a dispute must be resolved by a Board committee or if there is any dispute between

Members, Directors or the application of a provision of this Constitution that can not be resolved by informal negotiation, then:

- (a) the dispute must be resolved as prescribed in this clause; and
- (b) no party to the dispute may commence any court proceedings relating to the dispute unless it has complied with the procedures in this clause, except where the party seeks urgent interlocutory relief.

13.2 Reference to Committee and determination

- (a) Subject to the disputing parties first complying with their obligations under clause 13.1, wherever a dispute as contemplated by clause 13.1 arises or this Constitution provides that a dispute must be resolved by a Board committee, then the Board must refer the matter in issue to the Governance Committee for determination and this clause 13.2 will apply.
- (b) The Governance Committee will be instructed to:
 - (i) determine the Dispute within the shortest practicable time; and
 - (ii) deliver a report stating the determination with respect to the matters in dispute setting out the reasons for the determination.
- (c) The Governance Committee will determine the procedures for the conduct of the process in order to resolve the dispute and must provide each relevant party with a fair opportunity to make submissions in relation to the matter in issue. The Governance Committee is entitled to determine the dispute and deliver the report referred to in clause 13.2(b) even if one party:
 - (i) refuses to participate in the dispute resolution process;
 - (ii) fails to make submissions in relation to the matter in dispute; or
 - (iii) otherwise fails to comply with the procedures determined by the Governance Committee.
- (d) Any process or determination of the dispute by the Governance Committee will be made as an expert and not as an arbitrator and the determination of the Governance Committee will be final and binding on the parties without appeal so far as the law allows and except in the case of manifest error or where either party has not been provided with a fair opportunity to make submissions in relation to the matter in issue.

14. Minutes

14.1 Minutes of all proceedings to be kept

- (a) The Board will cause minutes of all proceedings of General Meeting and meetings of the Board, including meetings of committees of Board, to be duly entered in books kept for that purpose in accordance with the Corporations Act.
- (b) The Board will cause all written resolutions made pursuant to clause 12.9 be duly entered in books kept for that purpose in accordance with the Corporations Act.

14.2 Minutes to be Signed by Chair

Except in the case of written resolutions made in accordance with clause 12.9 the Board will cause the minutes of all proceedings of General Meetings and meetings of the Board, including meetings of committees of Board, to be signed by the chair of the meeting at which the proceedings took place or by the chair of the next succeeding meeting.

14.3 Minutes to be Presumed Accurate

Where the minutes of proceedings of General Meetings and meetings of the Board, including meeting of committees of Board, are signed in accordance with clause 14.2 those minutes shall be presumed to be an accurate record of the relevant proceedings unless the contrary is proved.

14.4 Inspection of Minutes

Books containing the minutes of proceedings of General Meetings will be open for inspection by any Member without charge.

15. Company Secretary

15.1 Appointment of Company Secretary

The Board must appoint at least one Company Secretary. This person may be, but need not be, the Business Manager. The appointment of the Company Secretary may either be for a specified term or an unspecified term.

15.2 Suspension or Removal of Company Secretary

The Board may suspend or remove a Company Secretary from that office, and appoint another person to act as Company Secretary.

15.3 Powers of Company Secretary

The Board may vest in the Company Secretary such powers, duties and authorities as it may from time to time determine and the Company Secretary must exercise all such powers and authorities' subject at all times to the control of the Board.

16. Principal

The Board shall appoint the Principal on such terms and conditions as the Board shall determine.

17. Business Manager

17.1 Appointment

The Principal in conjunction with the Board shall recommend to the Board for its appointment an individual to fill the role of Business Manager of the College for such term and on such conditions as the Principal and the Board shall jointly determine.

17.2 Role

The Business Manager shall perform such duties as may be prescribed by the Principal or the Board from time to time and shall be responsible to the Principal in the performance of those duties.

18. Auditor

18.1 Appointment

The College at the annual General Meeting shall appoint a properly qualified auditor.

18.2 Role

The auditor shall conduct an annual audit of the accounts of the College and report to the annual General Meeting in accordance with the Corporations Act.

19. Life Governors of St Philip's College

19.1 Qualification

- (a) The Board may, by appointing a person a Life Governor in accordance with clause 19.2, confer a special honour upon an individual whom it considers to have rendered to the College devoted, distinguished and exceptional services.
- (b) The individual may have previously been an employee or officer of the College, but must not at the time of nomination for Life Governor of St Philip's College, be either an officer or employee of the College.

19.2 Nomination and appointment

Notice of motion proposing the honour together with such documents supporting the nomination the Board may request shall be submitted to the Chair or Deputy Chair by the proposer and seconder for consideration by the Board. A person so nominated to be a Life Governor shall only be appointed as Life Governor if he or she qualifies in accordance with clause 19.1, the Board resolves, by Special Resolution, to so appoint him or her.

19.3 Title and Privilege

The special honour conferred shall consist of the award of the title of "Life Governor of St Philip's College" but shall not otherwise confer any material privilege upon the recipients nor shall the recipient be entitled any rights that a Member has. However the recipient shall be entitled to receive invitations to all formal functions of the College and if determined by the Board or at the discretion of the Chair, a recipient may be requested to undertake special duties on behalf of the Board or otherwise to provide advice to the Board.

19.4 When a Life Governor stops being a Life Governor

A Life Governor stops being a Life Governor if he or she:

- (a) gives written notice of resignation as a Life Governor to the College;
- (b) dies; or
- (c) has his or her appointment as a Life Governor revoked by a resolution of the Members.

20. Signing documents

20.1 Execution of documents

The College may sign an instrument, including a deed, by having the instrument signed by:

- (a) two Directors; or
- (b) a Director and the Company Secretary.

20.2 Other ways of executing documents

Despite clause 20.1, any document including a deed, may also be signed by the College in any other manner permitted by law.

20.3 Electronic Signature

The Board may determine, either generally or in a particular case and in any event subject to such conditions as it thinks fit, that wherever a signature is required by this Constitution on a document that requirement will be satisfied by a facsimile or Email of the signature affixed by mechanical or other means.

21. Inspection of Books

- (a) Subject to the Corporations Act and any resolution of the College in General Meeting, the Board may determine whether and to what extent and at what times and places and under what conditions and regulations the books and documents of the College or any of them will be open to inspection by the Members and other persons.
- (b) A person, not being a Director, has no right to inspect any of the books or documents of the College except as conferred by the Corporations Act, this Constitution or authorised by the Board or by a resolution of the College in General Meeting and is not entitled to require or receive any information concerning the affairs of the College.

22. Notices

22.1 Method of Service of Notices

A notice may be served by the College on a Member or other person receiving notice under this Constitution by any of the following methods:

- (a) by serving it personally on the Member or other person;
- (b) by leaving it at the Member's address or the address of the other person;
- (c) by sending it by post in a pre-paid letter, envelope or wrapper addressed to the Member at the Member's address or for the other person at that person's address; or
- (d) by sending to the email address, or by facsimile transmission to a facsimile number, nominated by the Member or the person for the purpose of serving notices.

22.2 Notice by Advertisement

Any notice by a court of law or otherwise required or allowed to be given by the College to the Members or any of them by advertisement will unless otherwise stipulated, be sufficiently advertised if advertised once in a daily newspaper circulating in the Northern Territory of Australia.

22.3 Time of Service

- (a) Any notice sent by post, airmail or air courier will be deemed to have been served on the day that is seven days following that on which the letter, envelope or wrapper containing the notice is posted or delivered to the air courier.
- (b) In proving service of any notice it will be sufficient to prove that the letter, envelope or wrapper containing the notice was properly addressed and put into the post office or other public postal receptacle or delivered to the air courier.
- (c) A certificate in writing signed by any manager, Company Secretary or other officer or Staff that the letter, envelope or wrapper containing the notice was so addressed and posted is conclusive evidence of the posting.
- (d) Subject to the Corporations Act, if this Constitution requires or permits notice to be given to the College or the officers, neither accidental omission to give the notice or non-receipt of the notice invalidates the meeting, resolution, procedure or other matter to which the notice relates.

22.4 Time of Service by electronic means

- (a) Any notice sent by facsimile transmission will be deemed to have been served on receipt of the transmission report or other means of confirmation of successful transmission, confirming successful transmission.
- (b) Any notice sent by Email will be treated as given to and received when the Email enters the recipient's information system.

22.5 Signature on Notices

The signature on any notice to be given by the College may be written or printed on, or a facsimile or Email thereof, may be affixed by mechanical or other means subject to the Corporations Act.

22.6 Calculation of Notice Period

Where a period of notice is required to be given, the day on which the notice is dispatched and the day of doing the act or other thing will not be included in the number of days or other periods.

23. Accounts

23.1 College to Maintain

The College will keep such accounting, financial and other records of the business of the College as it is required to keep by the Corporations Act.

23.2 Annual Accounts

The Board must lay before the annual General Meeting of the College the financial statements, the Director's report and the Auditor's report for the last financial year of the College, together with such other accounts, reports and statements as are required by the Corporations Act.

23.3 Copy of Accounts

Other than those Members who have provided written notice to the College stating that they do not wish to receive a copy of every document that is required to be laid before each annual General Meeting by clause 23.2, a copy of these documents will be sent to all persons entitled to receive notices of General Meetings together with the notice of meeting, as required by the Corporations Act.

23.4 Accounts Conclusive

Audited financial reports laid before the College in General Meetings are conclusive except as regards errors notified to the College within three (3) months after the relevant General Meeting. If the College receives notice of an error within that period, it must immediately correct the report and the report as corrected is then conclusive.

23.5 Financial Year

The financial year of the College is 1 January to 31 December each year.

23.6 Non-Profit

The College must not be carried on for the purposes of profit or gain to individual Members. No portion of the income and property of the College, however it is derived, may be paid or transferred to Members as dividends, bonuses or otherwise, except as bona fide remuneration or reimbursement or payment for services rendered, goods supplied or expenses incurred on behalf of the College as prescribed in clause 5.5.

24. Winding Up

24.1 Voluntary Winding Up

The College can only be wound up or dissolved voluntarily by the College if:

- (a) pursuant to a Special Resolution of a General Meeting; and
- (b) the Northern Synod has been given sixty (60) days notice of any such meeting to wind up the College.

24.2 Prohibition on Transfer

If upon the winding up or dissolution of the College, there remains after satisfaction of all its debts and liabilities any property whatsoever, that property must not be paid to or distributed amongst the Members but must be given or transferred to one or more other funds, authorities or institutions which or each of which:

- (a) has objects similar to the Objects of the College; and
- (b) whose constitution prohibits a distribution of its income and property among its members to an extent at least as great as is imposed on the College pursuant to this Constitution,

to be determined by the Northern Synod after consultation with the Board at or before the time of dissolution or failing such a determination, by a judge who has or acquires jurisdiction in the matter.

25. Indemnity and Insurance

25.1 Indemnities

To the extent permitted by law:

- (a) the College indemnifies out of the property of the College every person who is or has been an officer of the College against liabilities, costs or expenses incurred by that person in defending any proceedings in which judgment is given in that person's favour, or in which the person is acquitted, or in connection with an application in relation to any proceedings in which the court grants relief to the person pursuant to the Corporations Act or which are withdrawn before judgment; and
- (b) the College indemnifies out of the property of the College every person who is or has been an officer of the College against any liability incurred by the person, as an officer of the College, to another person (other than the College or a related body corporate of the College) unless the liability arises out of conduct involving a lack of good faith; and
- (c) the College indemnifies out of the property of the College every person who has been an officer of the College against any liabilities, costs or expenses in connection with any administrative or legal proceedings relating to that person's position with the College except proceedings against the person in which judgment is not given in that person's favour or in which that person is not acquitted.

25.2 Insurance

To the extent permitted by law, the College 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 College against a liability:

- (a) incurred by the person in his or her capacity as an officer of the College or in the course of acting in connection with the affairs of the College or otherwise arising out of the officer's holding of such office, provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the College or a contravention of sections 182 and 183 of the Corporations Act; or
- (b) for costs and expenses incurred by that person in defending proceedings, whatever their outcome.

25.3 Interpretation

In clauses 25.1 and 25.2:

- (a) the term "**proceedings**" means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act, matter or thing in his or her capacity as such an officer or in the course of acting in connection with the affairs of the College or otherwise arising out of the officer's holding such office (including proceedings alleging that the officer was guilty of negligence, default, breach of trust or breach of duty in relation to the College); and
- (b) the term "**officer**" has the meaning given to that term in section 9 of the Corporations Act.

26. Deductible Gift Recipient Status

26.1 Deductible Gift Recipient Endorsement

The College in the furtherance of its Objects is empowered to obtain and thereafter comply with all relevant requirements to maintain, either as whole or in respect of a fund, authority or institution that the College owns or includes, endorsement as a Deductible Gift Recipient (**DGR**) under Subdivision 30-BA of the *Income Tax Assessment Act 1997* (Cth) so as to ensure that it is an organisation which can receive income tax deductible gifts and contributions within the meaning of that Act.

26.2 Deductible Gift Recipient Accounting

Without limiting the operation of clause 26.1, the College must:

- (a) ensure that all gifts and deductible contributions made to it for its principal purpose in relation to its status as an endorsed DGR are used for that purpose and that receipts issued contain all relevant information as required by the Australian Taxation Office (**ATO**) from time to time; and
- (b) maintain adequate accounting and other records that record and explain transactions that are relevant to its status as an endorsed DGR as required by the ATO from time to time.

26.3 Transfer on Dissolution or Cessation of Deductible Gift Recipient Endorsement

In the event of the College being dissolved or ceasing to be endorsed as a DGR, any remaining gifts, deductible contributions and any money received in respect of such gifts and contributions, acquired by the College by virtue of such endorsement, must be transferred to an institution:

- (a) which is charitable at law; and
- (b) gifts to which can be deducted under division 30 of the *Income Tax Assessment Act 1997* (Cth).

26.4 Synod

The identity of the institution referred to in clause 26.3 will be determined by the Northern Synod.

27. Alteration of the Constitution

27.1 Amendment

The College may, in a General Meeting, amend this Constitution or provisions of this Constitution by Special Resolution provided that:

- (a) the amendment is in accordance with the Corporations Act;
- (b) no amendment may change clause 6.1(a), unless any such proposed amendment is first approved by the Northern Synod by written notice from the Northern Synod Secretary;
- (c) no amendment may change the manner in which the Northern Synod Member is appointed as a Member or removed as a Member, unless any such proposed amendment is first approved by the Northern Synod by written notice from the Northern Synod Secretary;
- (d) no amendment may change the manner in which a Northern Synod Director is appointed as a Director or removed as a Director, unless any such proposed amendment is first approved by the Northern Synod by written notice from the Northern Synod Secretary; and
- (e) no amendment may change the Objects, unless any such proposed amendment is first approved by the Northern Synod by written notice from the Northern Synod Secretary.

27.2 ACNC to be notified

The Board must, as soon as practicable after any amendment is made to this Constitution in accordance with clause 27.1, notify the Australian Charities and Not-for-profits Commission of the amendment.

28. Regulations

Subject to the Corporations Act, the College in General Meeting may make, amend or repeal regulations consistent with this Constitution, for the internal management of the College.