

# Constitution

The College of Law Limited (ACN 138 459 015)

A Company Limited by Guarantee

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**King & Wood Mallesons**  
Governor Phillip Tower  
1 Farrer Place  
Sydney NSW 2000

T: +61 2 9296 2000  
F: +61 2 9296 3999  
Ref: 02 5085 3709

# Constitution

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# Constitution

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## 1 Interpretation and definitions

### 1.1 Definitions

In this Constitution, unless the contrary intention appears:

**Academic Board** means the academic board created by the Board of Governors under article 8.10(c).

**address** includes an email address, facsimile number or other electronic address for receiving written communications.

**Advisory Board** means an advisory board created by the Board of Governors under article 8.10(e).

**Alternate Governor** means a person appointed as an alternate governor under article 8.12.

**Alumni** means, for the purposes of this Constitution, the persons who are Graduates of the College and does not include any person who is employed by, or who provides services under contract to, the Company or a related body corporate of the Company at the date of close of nominations for a Ballot of the Alumni Association.

**Alumni Association** means the body known as ‘The College of Law Alumni Association’ of which any Graduate may become a member, as it is constituted from time to time, or any replacement or substantially equivalent organisation as determined by the Board of Governors.

**Alumni Executive Committee** means the Executive Committee of the Alumni Association, as it is constituted from time to time, or any replacement or substantially equivalent committee as determined by the Board of Governors.

**Alumni Ordinary Member** means a Member of the Company admitted in accordance with article 5.3(b) and who is an Alumni.

**Ballot** means a ballot conducted in accordance with article 5.7.

**Board of Governors** or **Board** means all or some of the Governors, acting as a board of directors of the Company.

**Business Day** means a day on which trading banks are open for business in the State in which the Company’s registered office is for the time being located.

**Chair** means the chair of the Board of Governors.

**College** includes the public educational institution known as the College of Law carried on by the Company and previously carried on by College of Law Pty Limited (ABN 32 001 040 651).

**College Crest** means any coat of arms or crest which may be assumed and used by the Company.

**College Ordinary Member** means an Alumni Ordinary Member or an Ex-Officio Ordinary Member.

**Committee** means a committee of Governors constituted under article 8.8(d).

**communication service** means any email, facsimile, other electronic post service or other electronic means of written communication.

**communication service number** includes an email or other electronic address.

**Community Ordinary Member** means a Member of the Company admitted under article 5.4.

**Company** means The College of Law Limited (ACN 138 459 015) as that name may be changed from time to time.

**Constitution** means this constitution as amended from time to time and a reference to an article is a reference to an article of this Constitution.

**Corporations Act** means the Corporations Act 2001.

**Deputy Chair** means the deputy chair of the Company appointed by the Board of Governors under article 8.2.

**Emeritus Member** means a Member of the Company admitted by the Board of Governors in accordance with article 5.8 and **Emeriti Members** shall have a corresponding meaning.

**Executive Governor** means any person appointed by the Board of Governors pursuant to article 8.10.

**Ex-Officio Ordinary Member** means a person who is admitted as an ex-officio ordinary member under article 5.3(c).

**Foundation Ordinary Member** means a Member of the Company admitted under article 5.5.

**Founder** means the Law Society of New South Wales.

**Governor** means a person holding office as a director of the Company and includes an Alternate Governor.

**Graduate** includes a person who has successfully completed a course run by the College, or by any educational institution run by a related body corporate of the Company, of a kind nominated by the Board of Governors and who has been conferred with a degree, diploma or other award in respect of such course.

**Member** means a person entered in the Register as a member of the Company for the time being.

**Nominations Advisory Committee** means the committee established in accordance with article 5.12.

**Ordinary Member** means a Member of the Company other than an Emeritus Member.

**Preferred Foundation Ordinary Member** means a Member of the Company admitted under article 5.6.

**Principal and CEO** means the chief executive officer of the Company who is appointed by the Board of Governors under article 8.11.

**Register** means the register of members of the Company kept pursuant to the Corporations Act.

**Representative** means a person authorised to act as a Member's representative pursuant to section 250D of the Corporations Act.

**Secretary** means a person appointed under article 9.1 as a secretary of the Company, and, where appropriate, includes an acting secretary and a person appointed by the Board to perform all or any of the duties of a secretary of the Company.

## 1.2 Interpretation

In this Constitution unless the contrary intention appears:

- (a) **(gender)** words importing any gender include all other genders;
- (b) **(person)** the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (c) **(singular includes plural)** the singular includes the plural and vice versa;
- (d) **(meaning not limited)** a reference to the words “include”, “including”, “for example” or “such as”, when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (e) **(regulations)** a reference to a law includes regulations and instruments made under the law;
- (f) **(amendments to statutes)** a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise;
- (g) **(from time to time)** a power, an authority or a discretion reposed in a Governor, the Governors, the Company in general meeting or a Member may be exercised at any time and from time to time;
- (h) **(signed)** where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Governors;
- (i) **(writing)** “writing” and “written” includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and

- (j) **(currency)** a reference to \$ is a reference to the lawful currency of Australia.

### **1.3 Corporations Act**

In this Constitution unless the contrary intention appears:

- (a) an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act; and
- (b) “section” means a section of the Corporations Act.

### **1.4 Headings**

Headings are inserted for convenience and are not to affect the interpretation of this Constitution.

### **1.5 Replaceable rules not to apply**

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

### **1.6 Modification of this Constitution**

A provision of this Constitution may only be modified by special resolution of the Members in accordance with section 136(2) of the Corporations Act and with the prior written approval of the Preferred Foundation Ordinary Member.

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## **2 Company Details**

### **2.1 Status as public company**

The Company is a public company.

### **2.2 Company limited by guarantee**

The Company is limited by guarantee.

### **2.3 Purpose of Company**

The Company is established for the purposes set out in article 3.1 of this Constitution.

### **2.4 Name**

The name of the Company is **The College of Law Limited**.

### **2.5 Limited liability**

The liability of Members of the Company is limited.

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## 3 Objects

### 3.1 Objects of the Company

The objects for which the Company is formed are to provide higher education and to conduct research. The Company will achieve these objects through the acquisition, operation, maintenance and promotion of the educational institution known as the College of Law (“**the College**”) in Australia and New Zealand (including all its investments in subsidiaries and other assets) and, without limitation:

- (a) to encourage and provide facilities and services for legal education (including courses of study in practical legal education and applied law), study and research generally;
- (b) to provide legal educational facilities and services at university standard for all persons who, without discrimination and from all sections of the public, are eligible and seeking the benefits of such facilities;
- (c) to provide facilities and services for the welfare of staff and students;
- (d) to establish facilities and services for providing courses of study or instruction at such levels of attainment as the Company deems proper to meet the special needs of the legal profession, government, industry and commerce;
- (e) to disseminate knowledge and promote scholarship;
- (f) to conduct examinations and assessments;
- (g) to award and confer degrees, diplomas and other awards;
- (h) to aid, by research and other appropriate means, the advancement and development of knowledge and the practical application of knowledge to the legal profession, government, industry and commerce;
- (i) to undertake such research, development, consultancy or other services for commercial organisations, public bodies or individuals which, in the opinion of the Company, are appropriate to be undertaken by public educational institutions;
- (j) to aid or engage in the development, promotion or use of the results of the College research;
- (k) to prepare, publish or distribute written works, audio or audio-visual material, computer software and material using any technology;
- (l) to exercise other commercial functions comprising the commercial exploitation or development, for the College’s benefit, of any facility, resource or property of the College or in which the College has a right or interest (including, for example, study, research, knowledge, precedents and other intellectual property and the practical application of study, research, knowledge, precedents and other intellectual property), whether alone or with others and including in respect of the property at 2 Chandos Street, St Leonards, NSW 2065;
- (m) to acquire, hold and deal with shares or other interests in, or promote, establish or otherwise participate in, controlled entities, other companies, trusts, partnerships



or other incorporated or unincorporated bodies or joint ventures (whether or not incorporated) whose objects or activities include any of the objects of the College or activities which it is permitted to carry on;

- (n) to exercise other functions as are conferred or imposed on it by or under any applicable law;
- (o) to seek or encourage gift donations, endowments or bequests to the College and to seek or encourage participation in any investment, entity or arrangement which is of financial or other benefit to the College; and
- (p) to do all such things as are ancillary or conducive to the attainment of all or any of the objects of the Company referred to above.

### **3.2 Powers of the Company**

For the purpose of carrying out the objects, the Company shall have the following powers:

- (a) to purchase, take on lease or in exchange, hire and otherwise acquire any lands, buildings, easements or property, real and personal; and any rights or privileges which may be requisite for the purposes of, or capable of being conveniently used in connection with, any of the objects of the Company and to sell, manage, lease, mortgage, dispose of or otherwise deal with all or any part of the property of the Company, including in respect of the property at 2 Chandos Street, St Leonards, NSW 2065;
- (b) to enter into any arrangements with any Government or authority, supreme, municipal, local or otherwise, that may seem conducive to the Company's objects or any of them; and to obtain from any such Government or authority any rights, privileges and concessions which the Company may think it desirable to obtain; and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (c) to charge fees for the provision of and in connection with any of the objects of the Company;
- (d) to hold or arrange competitions and provide or contribute towards the provision of prizes, awards and distinctions in connection with those activities;
- (e) to buy, sell and deal in all kinds of apparatus and all kinds of provisions whatsoever required by the College;
- (f) to appoint, employ, remove or suspend such academic and teaching staff and such administrative and other officers and staff within the College as the Company may from time-to-time determine, including without limiting the generality of the foregoing, deputy vice-chancellors, bursars, registrars, librarians, deans of divisions or schools, readers, fellows, principal lecturers, senior lecturers, lecturers and examiners;
- (g) to appoint, employ, remove or suspend such managers, clerks, secretaries, servants, workmen and other persons as may be necessary or convenient for the purposes of the Company;

- (h) to establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or past employees of the Company or the dependants or connections of any such persons; and to grant pensions and allowances; and to make payments towards insurance;
- (i) to construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences which may seem calculated directly or indirectly to advance the Company's interest, and to contribute to, subsidise or otherwise assist and take part in the construction, improvement, maintenance, development, working, management, carrying out, alteration or control thereof, including in respect of the property at 2 Chandos Street, St Leonards, NSW 2065;
- (j) to invest and deal with the money of the Company not immediately required in such manner as the Company may think fit;
- (k) to borrow or raise or secure the payment of money in such manner as the Company may think fit and to secure the same or the repayment of performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Company in any way and in particular by the issue of debentures, perpetual or otherwise, charged upon all or any of the Company's property (both present and future), and to purchase, redeem or pay off any such securities;
- (l) to make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- (m) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Company;
- (n) to take or hold mortgages, liens and charges to secure payment of the purchase price or any unpaid balance of the purchase price, of any part of the Company's property of any kind sold by the Company, or any money due to the Company from purchasers and others;
- (o) to take any gift of property whether subject to any special trust or not, for any one or more of the objects of the Company provided that in case the Company shall take or hold any property which may be subject to any trusts the Company shall only deal with the same in such manner as is allowed by law having regard to such trusts;
- (p) to take such steps by personal or written appeals, public meetings or otherwise, as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Company, in the form of donations, annual subscriptions or otherwise;
- (q) to print and publish or create any newspapers, periodicals, books, journals, papers, monographs, leaflets, websites or material using any technology that the Company may think desirable for the promotion of its objects;
- (r) in furtherance of the objects of the Company, to amalgamate with any companies, institutions, societies or associations having objects altogether or in part similar to those of the Company and which shall prohibit the distribution of its or their

income and property among its or their Members to an extent at least as great as that imposed upon the Company under or by virtue of article 4 of this Constitution;

- (s) in furtherance of the objects of the Company, to purchase or otherwise acquire and undertake all or any part of the property, assets, liabilities and engagements of any or more of the companies, institutions, societies or associations with which the Company is authorised to amalgamate;
- (t) in furtherance of the objects of the Company, to transfer all or any part of the property, assets, liabilities and engagements of the Company (including the property at 2 Chandos Street, St Leonards, NSW 2065) to any one or more of the companies, institutions, societies or associations with which the Company is authorised to amalgamate;
- (u) to establish or join in the establishment or promotion of other companies, trusts, institutions, societies or associations and to enter into partnerships, joint ventures or other arrangements with other individuals, companies, trusts, institutions, societies or associations;
- (v) to make donations for patriotic or charitable purposes; and to subscribe or guarantee money for charitable or benevolent objects, or for any public, general or useful object;
- (w) to act as trustee, to hold and deal with property or land or to promote any trust for any purpose;
- (x) to give guarantees;
- (y) to establish such faculties, departments, schools or other organisational sections or units as the Company thinks fit;
- (z) in furtherance of the objects of the Company:
  - (i) to acquire by purchase, lease or otherwise, land (whether improved or not) suitable for student and staff purposes;
  - (ii) to erect on lands owned or occupied by the college, whether acquired for that purpose or not, buildings suitable for such purposes; and
  - (iii) to enter into such arrangements with any other party as the Company may decide for the provision of student and staff accommodation; and
- (aa) to do all such other things as are incidental or conducive to the exercise of the above powers in furtherance of the objects of the Company.

### **3.3 Territorial scope**

The objects and powers of the Company may be exercised within Australia and New Zealand and elsewhere.

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## **4 Income and property of the Company**

### **4.1 Application of income and property for objects only**

The profits (if any), other income and property of the Company, however derived, must be applied solely towards the promotion of the objects of the Company as set out in article 3.1.

### **4.2 No dividend, bonus or profit paid to Members**

No part of the profits, income or property of the Company may be paid or transferred to a Member, either directly or indirectly by way of dividend, bonus or otherwise.

### **4.3 Payments by Company in good faith**

Subject to article 8.3, article 4.2 does not prevent payment in good faith to an officer of the Company or a Member, or to a firm or company of which an officer of the Company or a Member is a partner, director or employee;

- (a) of remuneration for services to the Company; and
- (b) for goods supplied in the ordinary course of business.

### **4.4 Charitable Fundraising Act**

Funds raised by means of a collection within the meaning of the Charitable Fundraising Act 1991 (NSW) and corresponding legislation in other jurisdictions (as applicable) must be maintained in accordance with those Acts.

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## **5 Membership**

### **5.1 Who may be a Member**

The Governors may admit as a Member a person who has consented to become a Member under the Corporations Act and is an eligible person to be admitted to membership in accordance with this Constitution.

### **5.2 Ordinary Members**

There shall be no more than thirty-one Ordinary Members of the Company, who are admitted to membership or otherwise are Members under articles 5.3 to 5.7.

### **5.3 College Ordinary Members**

- (a) There shall be no more than ten College Ordinary Members of the Company from time to time, consisting of up to eight Alumni Ordinary Members admitted in accordance with article 5.3(b) and up to two Ex-Officio Ordinary Members, admitted in accordance with article 5.3(c).
- (b) Up to eight persons are admitted as Alumni Ordinary Members if they are elected to be so under the Ballot process of the Alumni Association, under article 5.7.

- (c) Up to two persons are admitted as Ex-Officio Ordinary Members if they are elected to be so by the Board of Governors. The duration and/or other terms of their appointment are as determined by the Board of Governors.
- (d) An Alumni Ordinary Member must not hold office without re-election:
  - (i) past the third annual general meeting following the Alumni Ordinary Member's appointment or last election; or
  - (ii) for more than three years,
 which ever is the longer.
- (e) There must be an election of Alumni Ordinary Members to be admitted under article 5.3(b) before each annual general meeting of the Company by a Ballot of the Alumni under article 5.7. Before such election, the Alumni should be encouraged by the Chair to elect persons with experience as legal practitioners and to ensure representation of the legal communities in Australia and New Zealand that the Board of Governors considers appropriate. The election can be satisfied by one or more of the following so long as the maximum number of Alumni Ordinary Members under article 5.3(a) is not exceeded:
  - (i) a person standing for election as a new Alumni Ordinary Member under the Ballot;
  - (ii) any Alumni Ordinary Member who was appointed under article 5.7(j) standing for election as an Alumni Ordinary Member;
  - (iii) any Alumni Ordinary Member who is retiring at the end of the annual general meeting due to the tenure limitation in article 5.3(d), standing for re-election; or
  - (iv) if no person or Alumni Ordinary Member is standing for election or re-election in accordance with paragraphs (i), (ii) or (iii), then the Alumni Ordinary Member who has been an Alumni Ordinary Member the longest without re-election must retire and stand for re-election. If two or more Alumni Ordinary Members have been an Alumni Ordinary Member the longest and an equal time without re-election, then in default of agreement, the Alumni Ordinary Member to retire will be determined by ballot of the Alumni before the Ballot under article 5.7.
- (f) An Alumni Ordinary Member retiring under this article 5.3 shall be eligible for re-election.

#### **5.4 Community Ordinary Members**

- (a) There shall be no more than ten Community Ordinary Members of the Company from time to time admitted in accordance with this article 5.4.
- (b) The Board of Governors shall, after receiving a report from the Nominations Advisory Committee under article 5.12(e), make a recommendation to the Members of the Company identifying which persons it wishes to be admitted as Community Ordinary Members, ensuring that such recommendation includes persons with experience as legal practitioners and representation of the legal

communities in Australia and New Zealand that the Nominations Advisory Committee considers appropriate. The Members shall elect at a general meeting the Community Ordinary Members from the persons recommended by the Board of Governors.

- (c) A Community Ordinary Member must not hold office without re-election:
  - (i) past the third annual general meeting following the Community Ordinary Member's appointment or last election; or
  - (ii) for more than three years,which ever is the longer.
- (d) There must be an election of Community Ordinary Members at each annual general meeting of the Company. This can be satisfied by one or more of the following so long as the maximum number of Community Ordinary Members under article 5.4(a) is not exceeded:
  - (i) a person standing for election as a new Community Ordinary Member having been nominated in accordance with article 5.4(b);
  - (ii) any Community Ordinary Member who is retiring at the end of the annual general meeting due to the tenure limitation in article 5.4(c), standing for re-election; or
  - (iii) if no person or Community Ordinary Member is standing for election or re-election in accordance with paragraphs (i) or (ii), then the Community Ordinary Member who has been a Community Ordinary Member the longest without re-election must retire and stand for re-election. If two or more Community Ordinary Members have been a Community Ordinary Member the longest and an equal time without re-election, then in default of agreement, the Community Ordinary Member to retire will be determined by ballot.
- (e) A Community Ordinary Member retiring under this article 5.4 shall be eligible for re-election.

## **5.5 Foundation Ordinary Members**

- (a) There shall be no more than ten Foundation Ordinary Members of the Company from time to time admitted in accordance with this article 5.5.
- (b) A person is admitted as a Foundation Ordinary Member if they are appointed to be so by the Founder by notice in writing to the Company at any time other than during the 48 hours immediately prior to an annual general meeting. A Foundation Ordinary Member may be removed at any time other than during the 48 hours immediately prior to an annual general meeting by notice in writing by the Founder to the Company. Any appointment or removal takes effect on the date specified in such notice (or if no date is specified, on the date of receipt of such notice by the Company).
- (c) A Foundation Ordinary Member must not hold office:

for more than three years,

without confirmation that they may continue to hold office from the Founder, by notice in writing to the Chair at any time other than during the 48 hours immediately prior to an annual general meeting.

- (d) The Chair may permit a time within 48 hours of an annual general meeting of the confirmation referred to in paragraph (c).

## **5.6 Preferred Foundation Ordinary Member**

- (a) The Founder may nominate a person to represent the Founder as the Preferred Foundation Ordinary Member. The Founder shall appoint no more than one Preferred Foundation Ordinary Member, in addition to the Foundation Ordinary Members, by notice in writing to the Company at any time other than during the 48 hours immediately prior to an annual general meeting. The Preferred Foundation Ordinary Member may be removed at any time other than during the 48 hours immediately prior to an annual general meeting by notice in writing by the Founder to the Company. Any appointment or removal takes effect on the date specified in such notice (or if no date is specified, on the date of receipt of such notice by the Company). The Preferred Foundation Ordinary Member can be the Founder. .
- (b) The Company may not carry out any of the following acts without the prior written consent of the Preferred Foundation Ordinary Member which consent should not be unreasonably withheld or delayed, having regard to the objects set out in article 3.1:
  - (i) changes to this Constitution, its repeal or the adoption of a new constitution;
  - (ii) changing the name of the Company;
  - (iii) any proposal to cease to carry out the objects of the Company other than in the case of insolvency;
  - (iv) the Company entering into a scheme of arrangement under the Corporations Act with the Members or any class of them;
  - (v) merging or amalgamating the Company with any other entity;
  - (vi) the appointment of a new Chair, or Deputy Chair;
  - (vii) the appointment or removal of the auditor of the Company;
  - (viii) entering into any transaction involving capital expenditure exceeding the amount of one-third of the Company's total operating revenue for the preceding financial year; and
  - (ix) establishing or joining in the establishment or promotion of any other company, trust, institution, society or association in which the Company has a significant ownership stake or management participation and which is primarily involved in activities in New South Wales similar to a core

service provided, or activity carried out, by the Founder in New South Wales at the relevant time.

## **5.7 Ballot**

- (a) A Ballot for each of the Alumni Ordinary Members to be appointed under article 5.3(b) will be held each year within the period of two months before the date on which the annual general meeting is held.
- (b) The Alumni Executive Committee will act as returning officer for each Ballot.
- (c) The Alumni Executive Committee will send a notice to the last known address of all members of the Alumni Association calling for nominations for election as an Alumni Ordinary Member of the Company at least two months before the proposed closing date of the Ballot and not more than three months before that date.
- (d) A period of at least 14 Business Days will be allowed for nominations to be lodged with the Company.
- (e) A nomination must be in writing signed/certified/confirmed by the nominee and at least two other persons as sponsors, who are members of the Alumni Association.
- (f) A nomination must include details of the jurisdiction in which the nominee resided when they:
  - (i) first enrolled in a course; and
  - (ii) completed the most number of courses or their final course.
- (g) The nominee may submit written material, not exceeding 150 words, to be sent with the Ballot material/information, to assist persons voting to determine their suitability as a Member. The Alumni Executive Committee may decline to distribute this material if, in their opinion, it is defamatory or otherwise inappropriate.
- (h) If the number of nominations exceeds the number of positions to be filled, the Alumni Executive Committee will prepare Ballot material/information with clear instructions consistent with the provisions of the Constitution.
- (i) If the number of nominations equals the number of positions to be filled, then the chairperson will, at the annual general meeting, declare the nominees elected without the need for a Ballot.
- (j) If the number of nominations is less than the number of positions to be filled, then the chairperson will, at the annual general meeting, declare the nominees elected without the need for a Ballot and the Board of Governors will at its first meeting after that date fill any vacancies, as casual vacancies, with persons who, in the opinion of the Board of Governors are suitably qualified persons. Any person admitted by the Board of Governors to fill a vacancy ceases to be a Member when another person is elected or appointed as a replacement in accordance with this article 5.



- (k) Where a Ballot is necessary, Ballot material/information (together with the written material submitted by nominees) will be sent to all members of the Alumni Association within 14 days after the date on which nominations closed.
- (l) The Ballot will close at 4.00pm on the 55th day after the date on which nominations closed (or the next Business Day, if a Saturday, Sunday or public holiday).
- (m) Nominees who receive the most number of votes in the Ballot will be elected to fill the contested positions with effect from the close of the annual general meeting and the results of the Ballot will be declared by the chairperson at the annual general meeting.
- (n) If two or more nominees receive the same number of votes and it is necessary for one or more of them, but not all of them, to be elected to fill the contested positions, then, in default of agreement between them, the nominees to be elected will be determined by lot.
- (o) The accidental failure to give any notice or other document to, or the non-receipt of any notice of other document by, any person entitled to be notified or otherwise to receive it does not invalidate the election of any person under this article 5.7.
- (p) Voting (and notification) procedures of the Company may be conducted by physical or electronic means (including by web service or by email).

## **5.8 Emeriti Members**

- (a) There shall be no more than 30 Emeriti Members of the Company from time to time or such other maximum number as may be resolved by the Board of Governors from time to time.
- (b) A person shall be eligible to be admitted as an Emeritus Member if the person, in the opinion of the Board of Governors:
  - (i) has made a substantial contribution, in money or in kind, to the Company;
  - (ii) is a prominent and distinguished member of the Australian or New Zealand community or a foreign community to which they belong; and
  - (iii) has a genuine interest in the objects of the Company,
 and the Board of Governors may admit such person as an Emeritus Member.
- (c) The Emeriti Members have the right to meet with the Board of Governors at a single meeting of the Emeriti Members and the Board of Governors annually to consult with the Board of Governors on matters that are of concern or interest to the Emeriti Members relating to the College. The Board of Governors shall convene the meeting and decide the time and place of the meeting and the manner in which it will be conducted. The Chair will chair the meeting or, in the absence of the Chair, the Deputy Chair will chair the meeting.
- (d) After a person has been an Emeritus Member for five years, the Board of Governors may remove such person as an Emeritus Member at any time by giving notice in writing to such person.

## **5.9 Resignation by Members**

A Member may at any time, by giving notice in writing to the Secretary, resign their membership of the Company, but shall continue to be liable for all arrears due and unpaid at the date of their resignation and for all other moneys due by them to the Company and in addition for any sum for which they are liable as a Member of the Company under this Constitution.

## **5.10 Censuring of Member or suspension or termination of membership**

If any Member (including an Ordinary Member and an Emeritus Member but not including the Preferred Foundation Ordinary Member) wilfully refuses or neglects to comply with the provisions of this Constitution or is guilty of any conduct which, in the opinion of the Board of Governors, is unbecoming of a Member or prejudicial to the interests of the Company or if, for any other reason, the Board of Governors is of the opinion that it is in the best interests of the Company to do so, the Board of Governors shall have power to censure the Member or suspend or terminate the Member's membership of the Company, exercisable as follows:

- (a) At least 1 week before the meeting of the Board of Governors at which a resolution to censure the Member or for the suspension or the termination of the Member's membership is proposed, the Member is given written notice:
  - (i) of such meeting;
  - (ii) of the proposed resolution;
  - (iii) of the grounds of the proposed resolution; and
  - (iv) that the Member shall at such meeting, and before the passing of such resolution, have a reasonable opportunity to give orally or in writing a statement relating to why the resolution should not be passed.
- (b) If, at the meeting of the Board of Governors, a resolution is passed by a majority of two-thirds of those present and voting (such vote to be taken by ballot), the Member concerned must be dealt with in accordance with the resolution. If the resolution is for the termination of the Member's membership, the Member's membership shall be terminated, with effect from the time of the declaration of the result of the ballot, and their name removed from the Register.

## **5.11 Cessation of membership**

- (a) A Member ceases to be a Member if:
  - (i) in respect of an Ordinary Member, they cease to be a member of the group they were elected to represent;
  - (ii) the Member becomes bankrupt or makes an arrangement or composition with their creditors generally;
  - (iii) the Member becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health; or

- (iv) the Member dies.
- (b) If a vacancy arises in the manner set out in articles 5.9 or 5.10 or paragraph (a) of this article 5.11, the Board of Governors may admit a new Member to fill the vacancy, but the person admitted must be eligible in the same way as the original Member was. If the person admitted to fill such a vacancy is not an Ex-Officio Ordinary Member or Emeritus Member, they shall retire at the next Ballot (if any) held or the next annual general meeting (as the case may be) and shall be eligible for re-election or re-appointment in accordance with article 5.

## **5.12 Nominations Advisory Committee**

- (a) A Nominations Advisory Committee shall be established.
- (b) The Nominations Advisory Committee shall comprise:
  - (i) the Chair;
  - (ii) two members of the Board of Governors appointed by the Board of Governors;
  - (iii) the Preferred Foundation Ordinary Member; and
  - (iv) three Members of the Company chosen at the annual general meeting, one being an Alumni Ordinary Member, one being a Community Ordinary Member and one being a Foundation Ordinary Member.
- (c) The Nominations Advisory Committee shall comply with the policies and procedures established by the Board of Governors and notified to the Nominations Advisory Committee from time to time.
- (d) The Board of Governors may fill any casual vacancy on the Nominations Advisory Committee (if applicable) but must do so from the relevant Members' category.
- (e) The Nominations Advisory Committee shall:
  - (i) establish criteria to be approved by the Board of Governors for the identification of potential candidates as contemplated in article 5.12(e)(ii), with such criteria to have regard to any governance requirements, protocols, guidelines or other recommendations applicable to the Company under relevant legislation or government policy or protocols as applicable to the higher education sector from time to time;
  - (ii) in applying the criteria established pursuant to article 5.12(e)(i), identify potential candidates for appointment to the Board of Governors and admission to membership of the Company as a Community Ordinary Member;
  - (iii) consult with the Board of Governors and make reasonable efforts to consult with the College community, or any part of the College Community about the skills of the potential candidates;

- (iv) report its recommendations to the Board of Governors about the suitability of the potential candidates;
- (v) establish policies, criteria and guidelines in relation to the selection of potential candidates for appointment to the Board of Governors and admission to membership of the Company; and
- (vi) propose any amendment to the Constitution required to give effect to policies, criteria and guidelines established under article 5.12(e)(v)

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## **6 General Meetings**

### **6.1 Convening and notice of general meetings**

- (a) The Company shall, in addition to any other meeting held by the Company, hold a general meeting, to be called the annual general meeting, in accordance with the provisions of the Corporations Act.
- (b) Any Governor may at any time convene a general meeting of the Company.
- (c) Unless the provisions of the Corporations Act allow for a shorter period of notice, at least 21 days' notice must be given in writing to each Member entitled to attend and vote at general meetings or a meeting of a class of Members of the Company, as the case may be.
- (d) The Governors shall, on receipt of a request in accordance with section 249D of the Corporations Act, convene a general meeting of the Company.
- (e) A notice convening a meeting of the Company shall:
  - (i) set out the place, date and time of the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
  - (ii) set out the general nature of the meeting's business;
  - (iii) if a special resolution is to be proposed at the meeting - set out an intention to propose the special resolution and state the resolution; and
  - (iv) if a Member is entitled to appoint a proxy - contain a statement setting out the following information:
    - (A) that the Member has a right to appoint a proxy; and
    - (B) that the proxy need not be a Member of the Company.
- (f) All business at a general meeting other than annual general meetings shall be special business.
- (g) The Governors may by notice in writing to the Members postpone any meeting which has been convened to a date specified in the notice, or cancel the meeting, subject to the Corporations Act.

- (h) The accidental omission to give notice of any general meeting to, or the non-receipt of any such notice by, any person entitled to be notified does not invalidate the meeting or any resolution passed at that meeting.

## **6.2 Proceedings at general meetings**

- (a) A quorum at a general meeting of the Company is constituted by at least one-third of Members entitled to vote, present in person or by proxy, attorney or Representative, provided there are at least:
  - (A) 2 Alumni Ordinary Members;
  - (B) 2 Community Ordinary Members;
  - (C) the Preferred Foundation Ordinary Member; and
  - (D) 2 Foundation Ordinary Members,present in person or by proxy, attorney or representative.
- (b) No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. However, notwithstanding article 6.2(a), the presence of the Preferred Foundation Ordinary Member is not required to constitute a quorum at a general meeting where the Preferred Foundation Ordinary Member has given notice (in any form and with no time restrictions) to the Company that the meeting may proceed without his or her presence, either:
  - (i) having made such decision after having regard to the matters and resolutions set out in the notice of meeting; or
  - (ii) because he or she is unable to attend the meeting due to an unforeseen circumstance or emergency, including but not limited to illness, travel disruption or other commitments.
- (c) If a quorum is not present within 30 minutes after the time appointed for a meeting or such longer period as the chairperson of the meeting allows, the meeting:
  - (i) if convened on the request of Members pursuant to section 249D, or by Members pursuant to section 249E or 249F, of the Corporations Act, is dissolved;
  - (ii) in any other case, stands adjourned to the same day in the next week at the same time and place or to such other day, time and place as the chairperson determines.
- (d) If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.
- (e) The chairperson's ruling on all matters relating to the order of business, procedure and conduct of a general meeting is final.

### **6.3 Voting procedures at general meetings**

- (a) The Chair shall preside at every general meeting of the Company, but if the Chair is not present and willing to act as chairperson of the meeting within 15 minutes after the time appointed for a meeting, the following, being Members of the Company, may preside as chairperson of the meeting, in the following order of entitlement:
  - (i) the Deputy Chair;
  - (ii) another member of the Board of Governors present;
  - (iii) a Member present in person chosen by a majority of the Members present in person or by proxy, attorney or representative.
- (b) In the case of an equality of votes, the chairperson of the meeting does not have a casting vote, either on a show of hands or on a poll, and the motion is deemed not to have been passed.
- (c) Every question submitted to a meeting shall be decided by a show of hands unless, before or upon the declaration of the result of the show of hands, a poll is demanded by:
  - (i) the chairperson of the meeting; or
  - (ii) not less than 3 Members present in person or by proxy, attorney or representative and having the right to vote at the meeting.
- (d) Unless a poll is demanded, a declaration by the chairperson of the meeting that the resolution has been carried or carried unanimously or without dissent or by a particular majority or lost, and an entry to that effect in the minutes of the meeting, is conclusive evidence of the result of the resolution and it is not necessary to prove the number or proportion of votes cast in favour of or against the resolution.
- (e) Where a poll is duly demanded, it shall be taken in such manner and at the time and place the chairperson of the meeting directs.
- (f) The result of the poll is deemed to be the resolution of the meeting at which the poll was demanded.
- (g) A poll cannot be demanded on the election of a chairperson of a meeting or on the adjournment of a meeting.
- (h) 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.
- (i) The demand for a poll may be withdrawn.

### **6.4 Adjournment of general meetings**

- (a) Without limiting article 6.3(c)(ii), the chairperson of a meeting may, with the consent of the meeting, adjourn the meeting from time to time and place to 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) Where a meeting is adjourned for more than 1 month, the Governors must give at least 3 Business Days' notice of the adjourned meeting in the same manner as for an original meeting. Otherwise, it is not necessary to give notice of any adjournment or of the business to be transacted at an adjourned meeting.

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## **7 Votes of Members**

### **7.1 Right to vote**

- (a) All Members are entitled to receive notice of general meetings of the Company and have the right to attend general meetings.
- (b) An Ordinary Member has a right to vote at general meetings.
- (c) An Emeritus Member has the right to address general meetings.
- (d) An Emeritus Member has no right to vote at general meetings.
- (e) On a show of hands, each Ordinary Member present in person or by proxy, attorney or Representative has one vote and on a poll, each Ordinary Member present in person or by proxy, attorney or Representative has one vote.
- (f) If an Ordinary Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the Ordinary Member's committee or trustee or other person as properly has the management of the Member's estate may exercise any rights of the Ordinary Member in relation to a general meeting as if the committee, trustee or other person were the Ordinary Member.
- (g) An objection may be raised to the right of a person to attend or vote at a meeting or adjourned meeting or to vote on a poll only at that meeting or adjourned meeting or when that poll is taken, and every vote not disallowed at the meeting or adjourned meeting or when the poll is taken is deemed valid for all purposes.
- (h) In the case of a dispute as to the admission or rejection of a vote, the chairperson of the meeting shall decide the matter and the chairperson's decision is final and conclusive.

### **7.2 Proxies and attorneys**

- (a) A Member entitled to attend and vote at a general meeting of the Company or of any class of Members of the Company is entitled to appoint a person as the Member's proxy to attend and vote for the Member at the general meeting.
- (b) A proxy has the same right as the Member to speak at the general meeting.
- (c) An instrument appointing a proxy shall be:
  - (i) in writing under the hand of the appointor or of the appointor's attorney authorised in writing;

- (ii) in or to the effect of the following form or in any other form acceptable to the Governors generally or in a particular case:





- (g) Subject to the Corporations Act, an instrument appointing an attorney or a proxy is valid only if there is lodged or received at the place specified by the Company in the notice of meeting not less than 48 hours before the time appointed for the meeting or adjourned meeting at which the person named as the attorney or in the proxy proposes to attend and vote:
  - (i) the instrument appointing the attorney, or the proxy and any power of attorney or other authority under which the instrument of proxy is executed (or a copy of the power or the authority notarially certified), together with such evidence of stamping, execution and non revocation of the instrument or power as the Governors may require; or
  - (ii) where that instrument is signed by the Member, a legible photocopy, scanned copy or facsimile copy of the power of attorney, or the instrument of proxy together with such evidence of due stamping, execution and non-revocation of that instrument as the Governors may require.
- (h) A vote cast by a proxy, attorney or representative is valid notwithstanding the previous revocation of the proxy's, attorney's or representative's authority by the death or mental incapacity of the appointing Member unless the Company receives notice in writing of the revocation or transfer at the place specified by the Company in the notice of meeting before commencement of the meeting or adjourned meeting or poll at which the instrument, authority or certificate is to be used or the power is to be exercised.

### **7.3 Signed document passing resolution of Members**

- (a) The Company may pass a resolution without a general meeting being held if all Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by Members if the wording of the resolution and statement is identical in each copy. A photocopy, scanned copy or facsimile copy of a document, the original of which in the opinion of the Secretary has been apparently signed by a Member, is deemed to be a document signed by that Member for these purposes.
- (c) Any document that is attached to a resolution signed in accordance with this article 7.3 is deemed to have been laid before the Company in general meeting.
- (d) The resolution is passed when the last Member signs.
- (e) The passage of a resolution in accordance with this article 7.3 satisfies any requirement that the resolution be passed at a general meeting.

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## **8 Governors**

### **8.1 Appointment of Governors**

- (a) Unless otherwise determined by the Company in general meeting, the number of Governors shall be not less than 3 and not more than 11.

- (b) A Governor must be a natural person.
- (c) A Governor is not required to be a Member.
- (d) The initial Board of Governors on adoption of this Constitution will be appointed by the Founder. The initial Chair of the Company will be Joseph John Catanzariti.
- (e) At the first meeting of the Board of Governors, the Governors will:
  - (i) admit persons as the initial Members, having regard (as far as reasonably practicable) to the provisions of this Constitution; and
  - (ii) call the first annual general meeting of the Company.
- (f) At the first general meeting, the Members must ensure that, (as far as reasonably practicable) with effect from the conclusion of such general meeting, the Board of Governors comprises:
  - (i) two persons appointed by the Foundation Ordinary Members;
  - (ii) the Chair appointed by the Preferred Foundation Ordinary Member;
  - (iii) the Principal and CEO and the chair of the Academic Board (who will also be the two initial Ex-Officio Ordinary Members); and
  - (iv) six persons elected as Governors by the Ordinary Members at the first annual general meeting.
- (g) A person may be elected as a Governor by the Members at a general meeting. A person (other than a Governor retiring under article 8.4) is not eligible to be elected as a Governor at a general meeting unless the Board of Governors has received a nomination from the Nominations Advisory Committee in respect of such person and they have, at least 30 Business Days before the meeting, lodged at the registered office of the Company, a notice in writing duly signed by them, consenting to their nomination as a candidate for the office.

Notice of each candidature must, at least seven days prior to the meeting at which the election is to take place, be given to all Members.

- (h) The Board of Governors may appoint a person as a Governor to fill a casual vacancy where a Governor retires under article 8.4, is removed or whose office is vacated, or as an addition to the existing Governors, but so that the total number of Governors shall not exceed the number fixed in accordance with the Constitution. Any Governor appointed in accordance with this article 8.1 shall hold office only until the next annual general meeting and shall then be eligible for election.
- (i) The Members may by ordinary resolution remove any Governor from office and may by ordinary resolution appoint another Governor.
- (j) Each of the Principal and CEO and the chair of the Academic Board is a Governor by virtue of their appointment under article 8.10 and are exempt from retirement and re-election in accordance with article 8.11(d).

## **8.2 Election of Chair and Deputy Chair**

- (a) The Board of Governors may from time to time elect two of their number to be Chair and Deputy Chair of the Company respectively.
- (b) In any election of the Chair and/or the Deputy Chair, the members of the Board of Governors must consider and take into account:
  - (i) any governance requirements, protocols, guidelines or other recommendations applicable to the Company under relevant legislation or government policy or protocols; and
  - (ii) any views of the Preferred Foundation Ordinary Member for the time being.
- (c) A member of the Board of Governors need not give any reason for voting in any particular way or explain what considerations they took into account in voting.

## **8.3 Remuneration and expenses**

- (a) The Governors are entitled to receive remuneration for acting as Governors as the Company may determine by ordinary resolution.
- (b) A Governor may receive remuneration in the Governor's capacity as an employee of the Company, provided that the terms of the Governor's employment are approved by a resolution of the Governors.
- (c) Where, with the prior approval of the Governors, a Governor, or firm of which the Governor is a member, employee or director, renders or is called upon to perform services for the Company in the Governor's or the firm's technical or professional capacity, the Governors may arrange with that Governor special remuneration by payment of a stated sum of money determined by a resolution of the Governors, provided the amount paid or payable for the services does not exceed reasonable commercial terms.
- (d) A Governor is entitled to be reimbursed out of the funds of the Company reasonable travelling, accommodation and other expenses the Governor incurs when travelling to or from and attending meetings of the Governors or a Committee of the Governors or when otherwise engaged on the business of the Company, provided that the amount does not exceed a maximum amount previously approved by the Governors.

## **8.4 Vacation of office**

- (a) In addition to the circumstances in which the office of a Governor becomes vacant under the Corporations Act, the office of a Governor becomes vacant if the Governor:
  - (i) becomes bankrupt or makes an arrangement or composition with their creditors generally;
  - (ii) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

- (iii) resigns from office by notice in writing to the Company or refuses to act;  
or
  - (iv) is absent from the meetings of the Governors for a continuous period of 6 calendar months without special leave of absence from the Governors (but for the purposes of determining whether the Governor is absent from a meeting, attendance by the Governor's alternate is deemed to be attendance by the Governor).
- (b) A Governor is not disqualified by that office from:
- (i) holding any other office or position of profit (except that of auditor) in the Company or in any body corporate in which the Company is a member or otherwise interested; or
  - (ii) entering into a contract or arrangement with the Company as vendor, purchaser, underwriter or otherwise and participating in any association, institution, fund, trust or scheme for past or present employees or Governors of the Company,

subject to article 8.3.

## **8.5 Rotation of Governors**

- (a) A Governor must not hold office without re-election:
- (i) past the third annual general meeting following the Governor's appointment or last election; or
  - (ii) for more than three years,
- which ever is the longer.
- (b) There must be an election of Governors at each annual general meeting of the Company. This can be satisfied by one or more of the following so long as the maximum number of Governors under article 8.1 is not exceeded:
- (i) a person standing for election as a new Governor having been nominated in accordance with article 8.1(g);
  - (ii) any Governor who was appointed under article 8.1(h) standing for election as a Governor;
  - (iii) any Governor who is retiring at the end of the annual general meeting due to the tenure limitation in article 8.5(a), standing for re-election; or
  - (iv) if no person or Governor is standing for election or re-election in accordance with paragraphs (i), (ii) or (iii), then the Governor who has been a Governor the longest without re-election must retire and stand for re-election. If two or more Governors have been a Governor the longest and an equal time without re-election, then in default of agreement, the Governor to retire will be determined by ballot.

- (c) This article does not apply to the Principal and CEO or to the chair of the Academic Board who are exempt from retirement and re-election in accordance with article 8.11(d).
- (d) A Governor retiring under paragraph (a) shall be eligible for re-election.

## **8.6 Powers of Governors**

- (a) Subject to the Corporations Act and to clause 5.6, the management of the business of the Company is vested in the Governors and they may exercise all the powers of the Company and do all such acts and things as the Company can exercise and do and are not required to be exercised or done by the Company in general meeting.
- (b) Without limiting the generality of paragraph (a), the Governors may exercise all powers of the Company to:
  - (i) borrow or raise or secure the payment or repayment of any sum or sums of money;
  - (ii) charge, mortgage or otherwise encumber any or all of the undertakings, property, assets or business of the Company (both present or future whatsoever and wheresoever situate) or all or any of its uncalled capital;
  - (iii) issue notes, bonds, debentures or any other securities whatsoever or give any other security or guarantee for any debt, liability or obligation of the Company or of any other person,

in such manner and on such terms and conditions as the Governors determine.
- (c) Where a Governor or other officer of the Company becomes personally liable for the payment of a sum primarily due from the Company, the Governors may mortgage, charge or otherwise give security over the whole or any part of the Company's undertakings, property or assets (present or future), by way of indemnity to secure the Governor against any loss in respect of that liability.
- (d) All cheques, bills of exchange, promissory notes, bankers drafts and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, accepted, drawn, made, endorsed or otherwise executed for and on behalf of the Company by any two Governors or by such persons (whether Governors or officers of the Company or not) and in such manner as the Governors determine.

## **8.7 Meetings of Governors**

- (a) The Governors may meet together for the despatch of business, adjourn and otherwise regulate their meetings and proceedings as they think fit.
- (b) Without limiting the generality of paragraph (a):
  - (i) the Governors may confer by radio, telephone, closed circuit television or other electronic means of audio or audio-visual communication, or by any other form of technology consented to by all of them (which consent:
    - (A) may be a standing consent;

- (B) may only be withdrawn within a reasonable time before the meeting);
- (ii) a resolution passed at such a conference, notwithstanding the Governors are not present together in one place at the time of the conference, is deemed to have been passed at a meeting of the Governors held on the day on which and at the time at which the conference was held;
- (iii) the provisions of this Constitution relating to proceedings of Governors apply, so far as they are capable of application (with necessary modification), to conferences held by these means.
- (c) A Governor may, and the Secretary shall, upon the request of a Governor, convene a meeting of the Governors.
- (d) The person convening a meeting of Governors shall give at least 7 days' written notice of the meeting to each Governor by delivering or posting the notice, or by sending the notice by a communication service, to the last address or communication service number (as the case may be) within Australia or New Zealand provided by the Governor for the purposes of this article 8.7. A meeting of Governors may be convened on less than 7 days' notice if all Governors entitled to receive notice of the meeting agree in writing prior to the commencement of the meeting.
- (e) If any of the Governors consider that a meeting of the Governors is required upon short notice for consideration of urgent business, notice of such meeting and of the general nature of the business for discussion at the meeting may be given by telephone to each Governor at the Governor's last telephone number within Australia or New Zealand provided by the Governor for the purposes of this article 8.7.
- (f) Notice of meetings of Governors may be given to a Governor at an address or communication service number outside Australia or New Zealand provided by the Governor for the purposes of this article 8.7, but the Governor or Secretary convening a meeting of Governors is not obliged to give notice to any Governor at an address or communication service number outside Australia or New Zealand.
- (g) Three Governors constitute a quorum at a meeting of Governors, unless the Governors at any time determine that a greater number of Governors must be present to constitute a quorum.

## **8.8 Proceedings of Governors**

- (a) The Chair shall preside at meetings of the Governors, but, if at the time of any meeting a Chair has not been elected or is not present within ten minutes of the time appointed for holding the meeting, the Deputy Chair shall be chairperson of that meeting. In the absence of the Chair and Deputy Chair, the Governors shall elect one of their number to chair the meeting.
- (b) Subject to this Constitution, questions arising at a meeting of the Governors are decided by a majority of votes of the Governors present and competent to vote on the question.

- (c) In the case of an equality of votes, the Chair has a casting vote in addition to a deliberative vote. If the Chair is absent from the meeting, then the person chairing the meeting has a casting vote in addition to a deliberative vote.
- (d) The Governors may delegate any of their powers to Committees consisting of any Governor or Governors, or such other persons as the Governors think fit, and may at any time revoke that delegation.
- (e) A Committee to which any powers have been delegated shall exercise the powers delegated in accordance with any directions of the Governors.
- (f) The Governors may act notwithstanding any vacancy in the Board of Governors, but, if and so long as their number is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum of the Board of Governors, the continuing member or members may act for the purpose of summoning a general meeting of the company, but for no other purpose.
- (g) Subject to paragraph (e), the meetings and proceedings of a Committee of Governors are governed by the provisions of this Constitution regulating meetings and proceedings of the Governors, so far as they are capable of application (with necessary modification) to meetings and proceedings of Committees.
- (h) All acts of the Governors, a Committee of the Governors or a member of a Committee of Governors are valid notwithstanding that it is afterwards discovered that there was some defect in the appointment, election or qualification of them or any of them or that they or any of them were disqualified from acting or had vacated office.

### **8.9 Signed document passing resolution of Governors**

- (a) The Governors may pass a resolution without a Governors' meeting being held if at least 70% of the Governors entitled to vote on the resolution (which does not include any Alternate Governor whose appointor signs the document) sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by Governors if the wording of the resolution and statement is identical in each copy. A photocopy, scanned copy or facsimile copy of a document, the original of which in the opinion of the Secretary has been apparently signed by a Governor, is deemed to be a document signed by that Governor for these purposes.
- (c) The resolution is passed when the last Governor signs.

### **8.10 Executive Governor, Academic Board and Advisory Boards**

- (a) The Board of Governors may from time to time appoint one or more persons from its number to hold the honorific title of Executive Governor, to hold office as Executive Governor for the period determined at the time of appointment.
- (b) The Board of Governors may confer on an Executive Governor such of the powers exercisable by them, on such terms and conditions and with such restrictions as they think fit and may withdraw or vary any of the powers conferred on an Executive Governor.



- (c) The Board of Governors shall create an Academic Board to which the Board of Governors shall delegate certain powers on matters concerning the academic functions and policies of the College.
- (d) The Academic Board shall be chaired by one of its members approved by the Board of Governors and shall consist of such members of the academic staff, students and legal academy and legal community as the Board of Governors shall, from time-to-time appoint, or as shall be determined in the manner laid down from time-to-time by the Board of Governors. The Board of Governors may from time to time invite the chair of Academic Board to report to it, either generally, or in respect of specific academic functions or policies of the College.
- (e) The Board of Governors may constitute and appoint one or more Advisory Boards consisting of such member or members as the Board of Governors or the Advisory Boards so constituted thinks fit. The Board of Governors may formulate its own rules as to the manner in which the membership of such boards may be constituted and, without limiting the generality of the foregoing, any of such advisory boards may consist of persons who are not members of the Board of Governors. Such Advisory Boards shall act in an advisory capacity only and shall have power to co-opt any member or members thereof and all members of such advisory boards shall have one vote.

#### **8.11 Principal and CEO**

- (a) The Governors may from time-to-time appoint a person to the office of Principal and CEO on such terms as they think fit and, subject to the terms of any agreement entered into in any particular case, may revoke any such appointment. The appointee shall contemporaneously with their appointment as Principal and CEO be appointed to the Board of Governors. The appointment of such person as a Governor shall automatically be determined if they cease from any cause to be the Principal and CEO.
- (b) The Principal and CEO shall, subject to the terms of any agreement entered into in a particular case, receive such remuneration (whether by way of salary or commission or partly in one way and partly in another) as the Governors determine.
  - (i) The Governors may, upon such terms and conditions and with such restrictions as they think fit, confer upon the Principal and CEO any of the powers exercisable by them.
  - (ii) Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Governors.
  - (iii) The Governors may at any time withdraw or vary any of the powers so conferred on the Principal and CEO.
- (d) The Principal and CEO is, while holding that office, exempt from retirement by rotation under article 8.5.

#### **8.12 Alternate Governors**

- (a) A Governor may by notice in writing to the Company appoint a person (whether a Member of the Company or not and whether otherwise a Governor or not)

approved by a majority of the other Governors and who has satisfied the eligibility criteria as set out in article 5.12(e)(i), to act as an Alternate Governor in the Governor's place, on such terms and conditions and for such period as the Governor specifies.

- (b) An appointment, or the termination of an appointment, of an Alternate Governor is effected by notice in writing signed by the Governor who makes or made the appointment and lodged with the Company.
- (c) An Alternate Governor:
  - (i) may at any time be removed or suspended from office by writing under the hand of the Governor by whom the alternate was appointed, notwithstanding that the period of the appointment of the alternate has not expired;
  - (ii) is entitled to receive notice of meetings of the Governors and to attend and vote at those meetings if the Governor by whom the alternate was appointed is not present;
  - (iii) where the alternate is also a Governor, has a separate additional vote on behalf of the Governor whom the alternate is representing;
  - (iv) may exercise all the powers reposed in the appointor (subject to any conditions or restrictions imposed in that regard by the appointor), but does not have the power to appoint an Alternate Governor;
  - (v) automatically ceases to be an Alternate Governor if the Governor by whom the alternate was appointed ceases to be a Governor,
  - (vi) whilst acting as a Governor, is responsible to the Company for the alternate's own acts and defaults, and the Governor by whom the alternate was appointed is not responsible for those acts or defaults;
  - (vii) is not entitled to any remuneration but is entitled to be reimbursed out of the funds of the Company for all reasonable travelling, accommodation and other expenses incurred by the Alternate Governor in travelling to or from and attending meetings of the Governors or a Committee of the Governors or when otherwise engaged on the business of the Company; and
  - (viii) is counted in determining a quorum for the purposes of article 8.7(g), but, where the Alternate Governor is also a Governor, is not counted in both capacities.

### **8.13 Minutes**

The Governors shall ensure that the Company keeps minute books, and that minutes of meetings are signed, as required by the Corporations Act.

### **8.14 Interests of Governors**

- (a) A Governor (including an Alternate Governor) in their capacity as such, may, unless prohibited from doing so in accordance with the Corporations Act, vote in

respect of any contract or arrangement or proposed contract or arrangement in which they have, directly or indirectly, a material interest and may be present while the matter is being considered at a meeting of Governors. The provisions of the Corporations Act shall apply in the case of any such material interest.

- (b) A Governor may, notwithstanding their office as such and the fiduciary relationship established by that office:
  - (i) hold any other office or place of profit (except that of auditor of the Company) in the Company or in any body corporate in which the Company is a member or otherwise interested, provided however that a Governor shall not without the approval of the Governors hold the office of a director of any other company which, in the opinion of the Governors, is for the time being in active competition with the Company;
  - (ii) enter into a contract or arrangement with the Company as vendor, purchaser, underwriter or otherwise and may participate in any association, institution, fund, trust, scheme or convenience for past or present employees or Governors of the Company; and
  - (iii) subject to paragraph (d), retain for their own benefit, any profit arising from any such other office or place of profit, or from any such contract or arrangement and any remuneration, pension, allowance, commission or other benefit received in relation to such office or place of profit or received by reason of participation in any such association, institution, fund, trust, scheme or convenience.
- (c) Any contract or arrangement entered into by or on behalf of the Company is not void or voidable by reason only that a Governor is in any way directly or indirectly interested in it.
- (d) A Governor who is in any way directly or indirectly interested in a contract or arrangement or proposed contract or arrangement with the Company, or who holds any office or possesses any property by which, directly or indirectly, duties or interests might be created in conflict with their duties or interests as Governor, shall declare the nature of their interest or the nature, character and extent of the conflict (as the case may be).

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## **9 Secretary**

### **9.1 Appointment of Secretary**

The Company must have at least one Secretary who is to be appointed by the Governors.

### **9.2 Suspension and removal of Secretary**

The Governors may suspend or remove a Secretary from that office.

### **9.3 Terms of office**

A Secretary holds office on such terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Governors.

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## **10 Seal**

### **10.1 Types of seals**

- (a) The Governors may adopt a common seal of the Company.
- (b) Where the Company has a common seal, the Company may have a duplicate common seal, which must be a copy of the common seal with the words “duplicate seal” or “certificate seal” added.
- (c) The Governors shall provide for the safe custody of all seals in such manner as they determine.

### **10.2 Use of seal**

- (a) The seal shall be used only by the authority of the Governors.
- (b) Subject to paragraph (c), every document to which the seal is affixed shall be signed by a Governor and countersigned by the Secretary or a second Governor or by some other person appointed generally or in a particular case by the Governors for that purpose.
- (c) The Governors may determine, generally or in a particular case, that the seal and the signatures of the Governor, Secretary or other person appointed by the Governors for the purpose of signing documents to which the seal is affixed, may be affixed or written on documents by a specified mechanical means so as to produce a facsimile of such seal and signatures.

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## **11 College Crest**

If and when the company adopts a College Crest, the Board of Governors shall provide for its safe custody and the College Crest shall only be used by the authority of the Governors or of a Committee of the Governors authorised by the Board of Governors in that regard.

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## **12 Accounts and audit**

### **12.1 Auditor**

Where the Company has an auditor, the auditor or the auditor’s agent authorised in writing for the purpose is entitled to:

- (a) attend general meetings;
- (b) receive all notices of and other communications relating to general meetings which a Member is entitled to receive; and
- (c) speak at any general meeting which the auditor attends on any part of the business of the meeting which concerns the auditor in that capacity,

but does not have the right to vote at general meetings.

## **12.2 Accounts**

The Board of Governors shall cause proper accounting and other records to be kept and shall distribute copies of every profit and loss account and balance sheet (including every document required by law to be attached thereto) accompanied by a copy of the auditors report as required by the Corporations Act. The Board of Governors shall cause to be made out and laid before each annual general meeting a balance sheet and profit and loss account made up to a date not more than five months before the date of the meeting.

## **12.3 Inspection of Company records**

- (a) Subject to the Corporations Act, the Governors shall determine whether and to what extent and at what times and places and under what conditions the accounting records and other documents of the Company or any of them will be open to inspection by the Members and other persons.
- (b) A Member or other person (not being a Governor):
  - (i) has no right to inspect any documents of the Company, except as conferred by the Corporations Act or any other statute, or except as authorised by the Governors; and
  - (ii) is not entitled to require or receive any information concerning the business, trading or customers of the Company or any trade secret or secret process of or used by the Company.
- (c) The Board of Governors shall ensure that the Company complies with its obligations (if any) relating to the accounting records and other documents of the Company being made available to the Parliament of New South Wales or otherwise under the Legal Profession Act 2004.

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## **13 Notices**

### **13.1 Mode of service**

The Company (including the Secretary) may give a certificate, cheque, warrant, notice or other document to any Member, or to any known Alumni, by:

- (a) delivering it to, or serving it on, the person personally;
- (b) sending it by post, courier or airmail to the person at the last known address recorded in the register (if applicable) or supplied by the person to the Company, for the giving of notices to the person; or
- (c) where applicable, sending it to the person via facsimile transmission to such facsimile number, or by electronic message to such electronic address, supplied by the person to the Company for the giving of notices to the person.

### **13.2 Deemed receipt of notice**

- (a) A document sent by way of ordinary post, courier or air mail to an address in Australia or New Zealand is deemed to have been received or served on the second Business Day following that on which it was posted or dispatched. In proving delivery or service, it is sufficient to prove that the envelope or wrapper

containing the document was properly addressed and stamped (if posted) and was posted or dispatched.

- (b) A document sent by way of a facsimile transmission or electronic message is deemed to be received at the time the facsimile transmission or electronic message was sent as detailed on the transmission report by the senders machine which indicates that the document or message was sent in its entirety.
- (c) A document sent by way of a facsimile transmission or electronic message is not deemed to have been received if a delivery report indicates a delivery failure.

### **13.3 Proof of service**

A certificate in writing signed by a Governor, Secretary or other officer of the Company that:

- (a) a document or its envelope or wrapper was addressed and stamped and was posted or dispatched;
- (b) a document was sent by facsimile transmission or electronic message and that a transmission, sent or received report was produced by the machine from which it was sent which indicated that the communication was sent in its entirety; or
- (c) no delivery report was received indicating a delivery failure,

is conclusive evidence of those facts.

### **13.4 Notice of general meeting of the Company**

- (a) Subject to paragraph (c), the following persons are entitled to receive notice of every general meeting:
  - (i) every Member;
  - (ii) every Governor; and
  - (iii) the auditor for the time being of the Company.
- (b) No other person is entitled to receive notices of general meetings.
- (c) A Member who has no registered address in Australia or New Zealand or who has not supplied to the Company any facsimile number or electronic address for the giving of notices to the member is not entitled to receive notices from the Company.

### **13.5 Previous notice**

A person who by operation of law or other means becomes entitled to be registered as a Member, is bound by every notice previously given in respect of that membership.

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## 14 Winding Up

### 14.1 Contributions on winding up

Each Member undertakes to contribute to the Company's property if the Company is wound up during, or within one year after the cessation of, the Member's membership on account of:

- (a) payment of the Company's debts and liabilities contracted before they ceased to be a Member;
- (b) the costs of winding up; and
- (c) adjustment of the rights of the contributories among themselves,

an amount not to exceed \$10.

### 14.2 Winding up or revocation of endorsement as a DGR

- (a) Upon either:
  - (i) the winding up of the Company; or
  - (ii) the revocation of the endorsement of the Company as a deductible gift recipient under the *Income Tax Assessment Act 1997* (Cth) (the "ITAA 1997"),

whichever is the earlier, any surplus property may not be paid to or distributed among the Members.

- (b) Instead, the surplus assets in paragraph (c) must be given or transferred to a fund, authority or institution:
  - (i) having objects and/or purposes similar to those of the Company;
  - (ii) whose memorandum of association, constitution, trust deed or other governing document prohibits the distribution of its income and property among its members to an extent at least as great as is imposed on the Company under this Constitution;
  - (iii) that is an exempt entity as defined in section 995(1) of the ITAA 1997; and
  - (iv) to which income tax deductible gifts can be made under Division 30 of the ITAA 1997.

The fund, authority or institution is to be determined by the Members at or before the time of the commencement of the winding up of the Company or the revocation of its endorsement as a deductible gift recipient, as the case may be, and, in default, by application to the Supreme Court of New South Wales. If and so far as effect cannot be given to this provision, then the surplus assets must be given or transferred to some other charitable fund, authority or institutions for the advancement of education that satisfies the requirement in sub-paragraph (iv) above.

- (c) The surplus assets referred to in paragraph (b) include (but are not limited to) the following assets remaining after the payment or other satisfaction of all the Company's debts and other liabilities:
  - (i) gifts of money or property for the principal purpose of the Company;
  - (ii) contributions described in item 7 or 8 of the table in section 30-15 of the ITAA 1997 in relation to a fund-raising event as defined in section 995(1) of that Act held for that purpose; and
  - (iii) money received by the Company because of such gifts or contributions.

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## 15 Indemnity

To the maximum extent permitted by law, the Company will indemnify any current or former Governor or Secretary of the Company out of the property of the Company against:

- (a) any liability incurred by the person in that capacity (except a liability for legal costs);
- (b) legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity; and
- (c) legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the Company or a subsidiary, if that expenditure has been approved in accordance with the Company's policy,

except to the extent that:

- (d) the Company is forbidden by law to indemnify the person against the liability or legal costs; or
- (e) an indemnity by the Company of the person against the liability or legal costs, if given, would be made void by law.

### 15.2 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Governor or Secretary of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by law to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by law.

### 15.3 Contract

The Company may enter into an agreement with a person referred to in articles 15 and 15.2 with respect to the matters covered by those articles. An agreement entered into



pursuant to this article may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.