



CONSTITUTION

Australian Guild of Education Pty Ltd

ACN 671 463 853

Corporations Act 2001 (Cth)

A Company Limited by Shares

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Corporations Act 2001 (Cth)
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THE CONSTITUTION

PART ONE – GENERAL INFORMATION

1. NAME:

The name of the company is the **Australian Guild of Education Pty Ltd**.

2. LIMITED LIABILITY:

The liability of members is limited.

3. PRINCIPLE PURPOSE:

Delivering high-quality tertiary education.

4. REPLACEABLE RULES:

The provisions of the *Corporations Act 2001* (Cth) which operate as replaceable rules apply to the company where they have been expressly included herein. Where the replaceable rules have not been included they are expressly excluded. Where there is only one (1) director and that director is also the sole shareholder the replaceable rules do not apply.

5. INTERPRETATION & DEFINITIONS

- (a) In this constitution unless the context otherwise requires the following words and phrases shall have the following meanings:

ASIC means the Australian Securities and Investments Commission.

Constitution means the constitution of the Australian Guild of Education Pty Ltd. as amended from time to time.

Institute means Australian Guild of Education Pty Ltd.

Company means Australian Guild of Education Pty Ltd.

AGE means Australian Guild of Education Pty Ltd.

Members means Australian Guild of Education Pty Ltd shareholders

Company Director means the directors of the company appointed by majority vote of members at a general shareholders meeting.

Members votes means votes cast by shareholders, in person or by proxy based on one vote per share.

General meeting means a meeting of the company's members.

Register means the register of Members.

Office means the registered office of the company.

Corporations Act means the Corporations Act 2001 as modified or amended from time to time.

Section means a section of the Corporations Act.

The Academic Board means the Australian Guild of Education Pty Ltd's, Academic Board.

- (b) The dictionary in Part 1-2 Division 1 of the Corporations Act applies to this Constitution as if that dictionary were fully set out herein;
- (c) Where in any Chapter of the Corporations Act there are particular definitions or dictionaries applying to that Chapter or any part of that Chapter then to the extent such definitions or dictionaries are applicable to this Constitution they are to apply as if they were fully set out herein;
- (d) Where a Section is referred to in this Constitution, it is a Section of the Corporations Act.
- (e) In this Constitution, except where the context otherwise requires, the following apply:
 - (i) the singular includes the plural and vice versa, and gender includes the other gender;
 - (ii) another grammatical form of a defined word or expression has a corresponding meaning;
 - (iii) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of or schedule or annexure to this Constitution and a reference to this Constitution includes any schedule or annexure;
 - (iv) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
 - (v) the meaning of general words is not limited by specific examples introduced by including, for example, or similar expressions; and
 - (vi) headings are for ease of reference only and do not affect interpretation.

6. COMPANY OBJECTS

- (a) The Australian Guild of Education Pty Ltd is established to provide high quality tertiary education and to foster an academic environment in which students acquire lifelong learning and research skills that prepare them for their careers and professional roles. To this end, the Institute shall perform the following functions:
 - (i) confer degrees and award diplomas, certificates and other awards to qualified students in accordance with its rules and regulations;
 - (ii) provide facilities for teaching and learning of a standard appropriate to allow the delivery of superior higher education courses;

- (iii) promote free intellectual inquiry and research among its teachers and students;
- (iv) provide courses of study or instruction in a range of fields, to meet the needs of the community while paying particular attention to new and emerging fields of study;
- (v) actively pursue collaborative relationships with other institutions of higher learning nationally and internationally for the benefit of its students;
- (vi) develop governance and procedural rules, admission policies, financial arrangements and quality assurance processes that are underpinned by the values and goals that ensure the integrity and quality of the Institution's academic programs; and
- (vii) perform such other related activities as may be directed by the Board in accordance with the Constitution to promote the academic objectives of the Institute.

PART TWO – GENERAL MEETINGS

7. CALLING AND NOTICE OF SPECIAL MEETINGS

- (a) **(Calling Special Meetings).** Members can call a special meeting in either of 2 ways:
 - (i) Members (at least 10% of the votes) request in writing that the Directors call a meeting – at the company's cost (i.e., printing/postage, etc) – and state the resolution(s) being proposed. The Directors shall convene the meeting within 21 days.
 - (ii) Alternatively, those Members may call the meeting themselves at their own cost. The convening and holding of the meeting is done in the same way as if it had been called by the Directors.
- (b) **(Service).** A notice of the general meeting must be in writing and be served on each eligible person, those being each member entitled to attend and vote at the general meeting, each director of the company and if the company has appointed an auditor on the auditor of the company.

For a notice to be effectively served it must be:

- (i) (in the instance where an eligible person has nominated to be served correspondence via email), emailed to the member at the address last supplied by them for this purpose as contained in the Member's Register; or
 - (ii) (in the instance where an eligible person has nominated to be served correspondence via physical postage), posted to the member at the address last supplied by them for this purpose as contained in the Member's Register; or
 - (iii) personally handed to the eligible person concerned.
 - (iv) (In the case of a member that is not a natural person) emailed or posted to the email address or postal address that has been supplied to the Company Secretary for the purpose of correspondence as contained in the Member's Register; or by being left at its registered office or handed to a director of that corporate member.
- (c) **(Date of Service).** A notice shall be deemed to have been served:

- (i) in the case of a notice served by post two days after posting;
- (ii) in the case of a notice served personally on the date it is handed to the recipient or left at the registered office or handed to a director of that corporate member.
- (d) (Contents of a Notice – Section 249L).** A notice of a meeting of a company's members must:
- (v) Set out the place date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this); and
- (vi) State the general nature of the business;
- (vii) 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
- (viii) If a member is entitled to appoint a proxy, the proxy must contain a statement setting out the following information:
 - (A) that a member has the right to appoint a proxy;
 - (B) whether or not the proxy needs to be a member of the company; and
 - (C) that a member who is entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise.

8. QUORUM

- (a) (Quorum – Section 249T – a replaceable rule).** A quorum will be half of the appointed members if the number of members is even, or a majority of the appointed members if the number of members is odd.
- (b) (Determining whether quorum is present – Section 249T(2) – a replaceable rule).** If an individual is attending both as a member and as a proxy count them only once.
- (c) (No quorum present – Section 249T(3) – a replaceable rule).** A meeting of the company's members that does not have a quorum present within thirty (30) minutes after the time for the meeting set out in the notice of meeting is adjourned to the date, time and place the directors specify. If the directors do not specify one or more of those things, the meeting is adjourned to:
 - (i) if the date is not specified, the same day in the next week; and
 - (ii) if the time is not specified, the same time; and
 - (iii) if the place is not specified, the same place.
- (d) (No quorum at resumed meetings – Section 249T(4) – a replaceable rule).** If no quorum is present at the resumed meeting within thirty (30) minutes after the time for the meeting, the meeting is dissolved.

9. CHAIRPERSON

- (a) (Election of Chairperson).** The members shall elect an individual who is a member of the company (or a representative of a member of the company) to chair general meetings.

- (b) **(Standing Chairperson).** The members may elect a person to be a standing chairperson for the period of one year and that person shall chair all general meetings at which he or she is present.
- (c) **(Interim Chairperson).** In the event that the elected standing chairperson is not in attendance within ten (10) minutes of the time when the general meeting is convened then the members present shall elect an individual who is a member of the company (or a representative member of the company) to chair that general meeting but only during the absence of the standing chairperson. If the standing chairperson joins the general meeting after the election of a chairperson for that general meeting, then the standing chairperson shall take over as chairperson of the meeting.

10. CHAIRPERSON'S CASTING VOTE

(Chairperson's casting vote – Section 250E(3) – a replaceable rule). The chairperson has a casting vote, and also, if he or she is a member, any vote he or she has in his or her capacity as a member.

Note 1: The chairperson may be precluded from voting, eg. by a conflict of interest.

Note 2: For rights to appoint proxies, see Section 249X.

11. ADJOURNMENTS

- (a) **(Chairperson must adjourn - Section 249U(4) – a replaceable rule).** The chairperson must adjourn a general meeting if the members present with a majority of votes at the general meeting agree or direct that the chairperson must do so.
- (b) **(Business at adjourned general meetings – Section 249W – a replaceable rule).** Only unfinished business is to be transacted at a general meeting resumed after an adjournment.
- (c) **(Notice of adjourned general meetings – Section 249M – a replaceable rule).** When a general meeting is adjourned, a new notice of the resumed general meeting must be given if the general meeting is adjourned for one month or more.

12. VOTING & POLLS

- (a) **(Show of hands - Section 250J(1) – a replaceable rule).** A resolution put to the vote at a general meeting must be decided on a show of hands unless a poll is demanded.
- (b) **(Proxy votes - Section 250J(1A) – a replaceable rule).** Before a vote is taken the chairperson must inform the general meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- (c) **(Result - Section 250J(2) – a replaceable rule).** On a show of hands, a declaration by the chairperson is conclusive evidence of the result, provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chairperson nor the minutes of the general meeting need to state the number or proportion of the votes recorded in favour or against.

- (d) **(When a poll must be taken – Section 250M(1) – a replaceable rule).** A poll demanded on a matter other than the election of a chairperson or the question of an adjournment must be taken when and in the manner the chairperson directs.
- (e) **(Election of chair or adjournment – Section 250M(2) – a replaceable rule).** A poll on the election of a chairperson or on the question of an adjournment must be taken immediately.
- (f) **(Show of hands or poll - Section 250E(1) – a replaceable rule).** Subject to any rights or restrictions attached to any class of shares, at a general meeting:
 - (i) on a show of hands, each member has one vote; and
 - (ii) on a poll, each member has one vote for each share they hold.
- (g) **(Jointly held shares).** If a share is held jointly and more than one member votes in respect of that share, only the vote of the member whose name appears first in the register of members counts.
- (h) **(Unpaid Calls).** A member shall not be entitled to vote at a special meeting unless all calls and other sums presently payable by the member in respect of shares in the company have been paid.
- (i) **(Objections to right to vote).** A challenge to a right to vote at a general meeting:-
 - (i) may only be made at the meeting; and
 - (ii) must be determined by the chair, whose decision is final.

13. PROXIES

- (a) **(Appointment of Proxy – Section 249X(1) – a replaceable rule).** A member who is entitled to attend and cast a vote at a general meeting may appoint a person as the member's proxy to attend and vote for the member at that general meeting.
- (b) **(Proportion or number of votes – Section 249X(2) – a replaceable rule).** The appointment may specify the proportion or number of votes that the proxy may exercise.
- (c) **(Members' entitlement to appoint more than one proxy – Section 249X(3) – a replaceable rule).** If the member is entitled to cast two or more votes at the general meeting, that member may appoint two proxies. If the member appoints two proxies and the appointment does not specify the proportion or number of the member's votes each proxy may exercise half of the votes. Where this results in fractions of votes then these fractions are to be disregarded.
- (d) **(Instrument of Proxy).** An instrument appointing a proxy shall be in writing under the hand of the appointor or of the appointor's attorney, duly authorised in writing or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised.
- (e) **(Particular Resolution).** An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy shall not be entitled to vote on the resolution except as specified in the instrument.

- (f) **(Abstention).** An instrument appointing a proxy may specify that the proxy is to abstain from voting in respect of a particular resolution and, where an instrument of proxy so provides, the proxy shall not vote in respect of the resolution.
- (g) **(Demand for Poll).** An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- (h) **(Form of Proxy).** An instrument appointing a proxy shall be in the format specified in: *APPENDIX A: "Appointment of a Proxy Form"*; or in a written notification whose format and wording are sufficiently similar to APPENDIX A, so as to convey the same meaning and intention; and shall be accompanied by instructions for the Proxy as contained in:

APPENDIX B: INSTRUCTIONS FOR THE EXECUTION OF A PROXY VOTE

- (i) **(Receipt of Proxy).** An instrument appointing a proxy shall not be treated as valid unless the instrument of proxy, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, is or are:
 - (i) deposited, not less than 48 hours before the time for holding the general meeting or adjourned general meeting at which the person named in the instrument proposes to vote at the office or at such other place in Australia is specified for that purpose in the notice convening the general meeting; **or**
 - (ii) in the case of a poll, deposited not less than 24 hours before the time appointed for the taking of the poll, at the office or at such other place in Australia as is specified for that purpose in the notice convening the general meeting; **or**
 - (iii) in any case, handed to the Chairperson of the general meeting prior to the commencement of the general meeting.
- (j) **(Standing Proxy).** Notwithstanding anything elsewhere contained, the appointment of a proxy may be a standing one.
- (k) **(Validity of a proxy in the event of death, incapacity or revocation).** Unless the company has received written notice of the death of the appointing member before the start or resumption of the general meeting at which a proxy has been appointed to vote, a vote cast by the proxy will be valid even if before the proxy votes:
 - (i) the appointing member dies; **or**
 - (ii) the appointing member is becomes mentally incapacitated; **or**
 - (iii) the appointing member revokes the proxy without providing proper notice to the Company Secretary; **or**
 - (iv) the appointing member revokes the authority under which the proxy was appointed by a third party without providing proper notice to the Company Secretary; **or**
 - (v) the member transfers the share in respect of which the proxy was given.
- (l) **(Proxy and member present).** A proxy's authority to vote is suspended while the member is present at the general meeting.

14. CONVENING OF GENERAL MEETINGS

- (a) **(Several locations).** The company may hold a general meeting at two or more venues using any form of technology that gives the members as a whole a reasonable opportunity to participate.
- (b) **(General meetings in Australia).** Notwithstanding anything elsewhere contained unless all members entitled to attend and vote at general meetings agree in writing to the contrary all general meetings of members must be held in Australia and in a State in which the majority of members reside or have their place of business. If there is no such State then the State in which the greatest number of members reside or have their place of business.

15. RESOLUTIONS OF MEMBERS WITHOUT A GENERAL MEETING

- (a) **(Signed minute of resolution).** Subject to section 249A the company may pass a resolution without a general meeting being held if three quarters of the total number of 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) **(Several counterparts).** A minute of resolution passed pursuant to paragraph (a) may be signed in separate copies provided the resolution and the statement are identical in all copies.
- (c) **(Time passed).** A resolution passed pursuant to paragraph (a) or (b) shall for all the purposes of this Constitution be passed when three quarters of members have signed the document or counterpart.
- (d) **(One Member).** Where the Company has only one member, a document recording the resolution and the date and time and signed by the member shall for all purposes be a validly passed resolution. Where the one member is a company, a corporate representative approved for that company under Section 250D of the Corporations Act may sign such resolution.
- (e) **(Notification).** Where under the Corporations Act there is a requirement that information or documents be given to members then that requirement shall be satisfied if such information or documents are given to the members with the document to be signed.
- (f) **(Lodgement).** Where under the requirements of the Corporations Act a copy of the notice of the general meeting must be lodged with ASIC, it shall be sufficient if the copy of the documents signed by the members is lodged with ASIC and if there is a requirement that a copy of any other document or information be lodged with ASIC then it will be sufficient if that information or documents are so lodged.

PART THREE – DIRECTORS

16. APPOINTMENT OF DIRECTORS

- (a) **(Appointment of directors by members).** The company directors will number no fewer than two independent directors and the Chair of the Academic Board, and no more than seven. The company directors are determined by the members of the company by resolution at any meeting of shareholders as follows:

- (i) The directors shall be determined by the majority vote of members of the company. The term of office for independent directors shall be two years from the date of their first BoD meeting. Except in exceptional circumstances as determined by the members, there is a limit of two extensions or re-appointments for two further terms.
- (ii) If the number of nominees exceeds the number of vacancies and an election of directors becomes necessary, the company members, at a members meeting, shall determine the new directors by vote.
- (iii) The members, at a meeting at which a director retires prior to completing their term of office, may fill the vacated office by electing a person thereto.
- (iv) The company members may from time to time, by a resolution passed at a members meeting, increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.
- (v) The company may, by resolution, remove any director before the expiration of their period of office, and may, by resolution, appoint another person in their stead.
- (vi) Employees of the company and persons with a pecuniary interest in the ownership of the company, with the exception of a Shareholder representative, may only serve as ex-officio members on the BoD.

17. CEASING TO BE A DIRECTOR

- (a) **(Death or resignation).** A director shall cease to be a director upon their retirement, resignation or death. A resignation of a director must be in writing and shall be effective from the later of the following two dates and times:
 - (i) the date and time stated in the resignation as being the date and time upon which it shall take effect; or
 - (ii) the date and time it is served on the company at its registered office or upon the company secretary or if there is no company secretary upon any other director of the company.
- (b) **(Automatic expulsion event).** A person shall also cease to be a director automatically if that person:
 - (i) becomes disqualified under the Corporations Act from managing corporations;
 - (ii) has been convicted in criminal proceedings brought in connection with a contravention of the Corporations Act or otherwise relating to actions or omissions of that person in managing corporations or for an offence involving fraud or dishonesty;
 - (iii) becomes an insolvent under administration under any Act; or
 - (iv) becomes a person of unsound mind who is a person whose person or affairs or estate is being dealt with in any way under the laws then applying in respect to mental health.

18. REMUNERATION, DIRECTORS FEES AND EXPENSES

- (a) **(Members fix directors' remuneration).** The members of the company may from time to time, by resolution, fix the directors fees payable to directors and any other remuneration payable to directors generally or to any particular director.
- (b) **(Expenses).** The company may from time to time, with prior agreement, pay a directors' travelling and other expenses that are properly incurred. Where a director has incurred an expense then the company may reimburse that expense to the director upon being provided with such evidence thereof as the company may reasonably require. These expenses may include but are not limited to:
- (i) attending directors' meetings or any meetings of committees of the Board of Directors; and
 - (ii) attending general meetings of the company; and
 - (iii) and other expenses incurred in connection with the company's business.

19. POWERS OF DIRECTORS

- (a) **(Management of Business – Section 198A(1) – a replaceable rule).** The business of a company is to be managed by or under the direction of the directors.
- (b) **(Exercise of powers).** The directors may exercise all the powers of the company except any powers that under the Corporations Act or under this Constitution are required to be exercised only pursuant to or after the passing of a resolution of the members of the company at a general meeting.
- (c) **(Appointment of attorneys).** The directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the directors), for such period and subject to such conditions as they think fit.
- (d) **(Protections and delegation by attorney).** Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.
- (e) **(Execution of negotiable instrument – Section 198B(1) – a replaceable rule).** Any two directors of the company may sign, draw, accept, endorse or otherwise execute a negotiable instrument.
- (f) **(Directors may determine different execution – Section 198B(2) – a replaceable rule).** The directors may determine by resolution that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.
- (g) **(Delegation of powers).** The directors may from time to time by resolution delegate any of their powers to:
- (i) the executive officer of the company;
 - (ii) the managing director of the company;

- (iii) any executive director of the company;
- (iv) any committee or committees of directors of the company;
- (v) any non-executive director of the company;
- (vi) any other person employed by the company or retained as an agent or representative of the company.

In delegating such powers the directors may impose such conditions, limitations and qualifications to the exercise of those powers as they may think fit.

- (h) **(Committees of the Company).** A committee of the company to which powers are delegated by the directors, shall exercise those powers in accordance with any terms of reference authorised by the directors and directions by the directors; a power so exercised shall be deemed to have been exercised by the directors.
- (i) **(Appointment of Chairperson for Committees of the Company).** The chairperson of a committee of the company is appointed in accordance with the terms of reference authorised by the directors and directions by the directors. Where such committee meetings are held and; the chairperson is not present within ten minutes after the time appointed for the commencement of the meeting or is unwilling to act, the members of the committee that are present shall elect one of their number to be chairperson of that committee meeting.
- (j) **(Committee Meetings).** Committees of the company will meet and adjourn as determined by the terms of reference authorised by the directors and any directions of the directors. Questions requiring a decision by the committee shall, unless otherwise specified in the terms of reference, be determined by a majority of votes of the members of the committee present and voting. In the case of an equality of votes, the chairperson, in addition to his or her deliberative vote (if any), shall have a casting vote.
- (k) **(Use of Technology).** The members of a committee may, by consent of the majority of members, participate in a meeting of the committee by means of any technology allowing all persons participating in the meeting to hear each other at the same time. Any member of a committee participating in such a meeting shall for the purposes of this Constitution be deemed to be personally present at the meeting. The consent of a member of a committee to the use of technology may be a standing one. Any consent of a member of a committee to the use of technology may be withdrawn with substantive reason provided, only within a reasonable period prior to a meeting at which the technology is to be used.

20. DIRECTORS MEETINGS

- (a) **(Proceedings of Directors).** Where there is more than one director, the directors shall meet together as a board for the despatch of business and adjourn and otherwise regulate their meetings in accordance with this Constitution and any terms of reference as authorised by the members of the company.
- (b) **(Calling Directors' Meetings).** Ordinary meetings of the directors' will occur no less than four times per annum. Ordinary Directors' meetings may be called by any director by giving reasonable notice of at least ten (10) business days to every other director. Such notice shall set out the time and place of such meeting and a short description of the matters proposed to

be discussed. **Special** Director's meetings of the directors' may be called by the Standing Chair or the CEO by giving reasonable notice and may take place within 24 hours of this notice so long as a quorum is gathered. Notice may be given by letter, facsimile or by email and in urgent situations may be given orally by any form of telephonic communication and the purpose of the meeting must be stated..

- (c) **(Failure to give notice).** A meeting of directors shall not be invalid because of any failure to give notice to any particular director provided reasonable attempts have been made to contact that director. It shall be conclusive evidence that reasonable attempts have been made to contact that director if the notice has been sent by facsimile to his or her last known facsimile number; or sent by prepaid post to the directors last known residential address; or where the notice has been sent by email to him or her whether or not that email has been opened; or where there is evidence that attempts have been made to telephone the director at his or her last known telephone numbers without success.
- (d) **(Inadequacy of notice).** Where there is any inadequacy in a notice given to any director that inadequacy shall not invalidate any meeting of directors unless at that meeting the directors then present resolve that the directors' meeting should not proceed because of that inadequacy.

21. CHAIRPERSON OF DIRECTORS MEETINGS

- (a) **(Appointment of a Standing Chairperson).** The Shareholders may appoint a Standing Chairman to the Board of Directors. In the event that a Standing Chairperson is not appointed by the Shareholders, the directors may by resolution elect one from amongst themselves to act as the chairperson of a particular directors meeting or as a chairperson for all directors meetings. The directors' resolution may determine the period for which the particular director is to act as and be the chairperson. The appointment of a chairperson can be a standing appointment. Except where under any shareholders agreement or agreement between directors there is a contractual right to act as chairperson of directors meetings of the company, the directors may by resolution at any time and notwithstanding that the chairperson is a standing appointment change the chairperson of their directors meetings.
- (b) **(First item of business).** Where there is no standing chairperson of the company or; the standing chairperson is unavailable to chair the meeting or; the standing chairperson has not arrived within ten minutes of the scheduled time of commencement of the meeting - as the first item of business at every directors meeting, the directors must elect a director present to act as chairperson of the directors meeting.

22. VOTING AT DIRECTORS MEETINGS

- (a) **(Majority vote).** A resolution of the directors must be passed by a majority of the directors present that are entitled to vote on the resolution and on the basis that each director has one vote that he or she can cast either for or against the resolution.
- (b) **(Casting vote).** The chairperson has a casting vote if necessary. This shall be in addition to any vote that he or she has in his or her capacity as a director.
- (c) **(Voting and completion of transaction).** If a director of the company has a material personal interest in a matter that relates to the affairs of the company then the director must disclose the

nature and extent of the interest and its relation to the affairs of the company at or prior to a meeting of the directors. If at a meeting of directors where a relevant transaction is being considered then the disclosure must be made before the transaction is entered into.

- (d) **(No requirement for disclosure).** There is no requirement under paragraph (c) of this clause to disclose an interest that is one which under Section 191(2) of the Corporations Act a director does not have to disclose.
- (e) **(Consequences of disclosure).** Provided that where there has been an obligation on the part of the director to make a disclosure of his interest and that disclosure has been made, the director may vote on matters that relate to the interest and:
 - (i) any transactions that relate to the interest may proceed; and
 - (ii) the director may retain all benefits under the transaction even though the director has the interest; and
 - (iii) the company cannot avoid the transaction merely because of the existence of the interest.

23. DIRECTORS' MEETINGS HELD USING TECHNOLOGY

- (a) **(Telephone or video link up).** Subject to paragraph (b) hereof the directors may hold board meetings by telephone conference calls or link ups; by video or other form of visual or audio link up where all directors can orally hear and communicate with all other directors so linked up. All directors' resolutions so passed shall be valid and fully effective.
- (b) **(Consent).** For the purposes of the Corporations Act, each director by consenting to be a director of the company has consented to directors' meetings being held using technology in accordance with paragraph (a) of this clause. Any director participating in such a meeting shall for the purposes of this Constitution be deemed to be personally present at the meeting. The consent of the director to the use of technology is a standing one. Any consent of a director to the use of technology may only be withdrawn within a reasonable period prior to a directors' meeting at which the technology is to be used and reasonable rationale must be provided.

24. MINUTE OF DIRECTORS RESOLUTIONS

- (a) **(Resolutions – Section 248A(1) – a replaceable rule).** The directors of a company may pass a resolution without a directors' meeting being held if all the directors entitled to vote on the resolution provide a statement that they are in favour of the resolution set out in the document.
- (b) **(Copies – Section 248A(2) – a replaceable rule).** Separate copies of a document may be used for signing by directors if the wording of the resolution and statement is identical in each copy.
- (c) **(When a resolution is passed – Section 248A(3) – a replaceable rule).** The resolution is passed when the last director signs.
- (d) **(Sole Director)** Where the Company only has one director a director's resolution will be validly passed if the sole director signs a document recording the director's resolution. The director's resolution should be dated by the Director.

25. DEFECT IN APPOINTMENT OF DIRECTOR OR COMMITTEE MEMBER

- (a) **(Validity of acts).** All acts done by any meeting of the director or of a committee of directors or by any person acting as a director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a director or a member of the committee, or to act as, a director, or that a person so appointed was disqualified, be as valid as if the person had been duly appointed and was qualified to be a director or to be a member of the committee.
- (b) **(No liability).** Where a defect is discovered in the appointment of a person as a director or a member of a committee and where that person has acted in good faith in the discharge of his or her duties or powers then that person shall not, simply because of the defect in his or her appointment be liable to the company or to indemnify the company in respect to any loss or liability incurred by the company.

PART FOUR – BOARDS AND COMMITTEES

26. BOARDS AND COMMITTEES RECOGNISED UNDER THE CONSTITUTION

- (a) The Institute shall form the following boards and committees:
- (i) The Board of Directors;
 - (ii) The Quality and Risk Committee (QARC)
 - (iii) The Finance Committee
 - (iv) The Academic Board;
 - (v) The Executive Management Committee;
 - (vi) The Learning and Teaching Committee; and
 - (vii) Course Advisory Committee(s).

27. BOARD OF DIRECTORS AND DELEGATIONS

- (a) **(Role of the Board of Directors).** The Board of Directors is legally delegated by the members to act on its behalf in accordance with this Constitution in governing the Institute. The Board of Directors sets the strategic objectives for the organisation and is responsible for ensuring that the Australian Guild of Education Pty Ltd meets its legal and financial obligations and responsibilities in pursuit of its mission and goals.
- (b) **(The Quality and Risk Committee).** The Quality and Risk Committee is a sub-committee of the Board of Directors and its role is to provide advice and assistance to the Board of Directors in relation to the governance framework of Australian Guild of Education Pty Ltd, including risk management, internal systems controls, regulatory compliance, policy and procedure compliance, and internal audit functions.
- (c) **(The Finance Committee).** The Finance Committee is a sub-committee of the Board of Directors (BoD). Their role is to evaluate the financial performance of the organisation, to ensure financial resources are used appropriately and in accordance with the objectives of the

organisation, and providing appropriate advice and recommendations to the Board to ensure the financial viability of the organisation.

- (d) **(The Academic Board).** The Board of Directors delegates responsibility for academic policymaking, academic administration and oversight of the educational process pertaining to the operation of higher education courses to the Academic Board. The Academic Board determines academic policy and regulations and has responsibility for the achievement of educational objectives. Academic Board members are appointed on a bi-annual basis.
- (e) **(The CEO and the Executive Management Committee).** The Board of Directors delegates responsibility for the efficient conduct of the Institute's business to the CEO who convenes the Executive Management Committee, which consists of the senior management of the Institute. The Executive Management Committee assists the CEO in the day-to-day running of the Institute.
- (f) **(Learning and Teaching Committee).** The Academic Board forms a Learning and Teaching Committee. The Learning and Teaching Committee is a subcommittee of and reports to the Academic Board. The Academic Board ascribes responsibility for coordinating teaching and learning duties and oversight of examination rules and procedures to the Learning and Teaching Committee.
- (e) **(Course Advisory Committees).** The Academic Board forms course advisory committees. The course advisory committees are subcommittees of and report to the Academic Board. The primary role of course advisory committees is to ensure that any new or existing Australian Guild of Education qualifications are current and relevant.

PART FIVE – COMMON SEAL, BOOKS AND REGISTERS

28. COMMON SEAL

- (a) **(Custody of the common seal).** The directors shall have custody of the common seal and shall ensure that it is kept safe and is only used pursuant to resolutions of the directors authorising its use.
- (b) **(Use of the seal).** The common seal shall be used for the purposes of executing documents which are required to be executed under seal or which the company through its directors resolves shall be executed under seal. The affixing of the common seal of the company to any document shall only be done in the presence of:
 - (i) two persons, one being a director and the other the company secretary; or
 - (ii) two persons who are directors of the company; or
 - (iii) two persons who the directors authorise by resolution to witness the affixing of the common seal; or
 - (iv) one director and another person, which other person the board authorises by resolution to witness the affixing of the common seal.

- (c) In the case of there being one director, the common seal may be affixed in the presence of the one director who shall witness its affixing by signing the document to which it is affixed on that page next to or through the common seal as affixed.
- (d) **(Signatures of witnesses)**. The persons who witness the affixing of the common seal shall sign the document to which the seal is affixed in their capacity as witnesses and it shall be apparent on the face of the document as to whether those persons are directors, company secretary or other person so authorised.

29. BOOKS AND REGISTERS

- (a) **(Minute Book)**. The company secretary shall ensure that a minute book of all directors meetings and meetings of members is maintained and that:
 - (i) all minutes of all directors meetings and all documents containing directors' resolutions are kept in that minute book;
 - (ii) all minutes of all general meetings and all documents containing resolutions of members are kept in that minute book;
 - (iii) all signed consents to appointment as officers of the company are kept in the minute book;
 - (iv) all disclosures of material personal interest made pursuant to Section 191 of the Corporations Act are kept in the minute book;
 - (v) such other documents as the directors may resolve be kept in the minute book.
- (b) **(Register)**. The company secretary shall ensure that the following registers are kept and at all times maintained:
 - (i) a register of members to be kept in accordance with the provisions of the Corporations Act;
 - (ii) a register of charges to be kept in accordance with the provisions of the Corporations Act;
 - (iii) a register of options to be kept in accordance with the provisions of the Corporations Act;
- (c) **(Other Registers)**. The company secretary shall keep and maintain such other registers and records as the directors by resolution and/or the managing director or chief executive officer may direct to be kept in order to ensure good corporate governance and good corporate compliance procedures are at all times maintained.
- (d) **(Inspection of books, registers and records)**. All directors shall have access at all times to the book, records and registers of the company. The directors of a company, or the company by a resolution passed at a general meeting, may authorise and permit a member to inspect the books and records of the company.
- (e) **(Location of books, registers and records)**. All of the books, records and registers shall be kept at the registered office of the company and shall be within the custody and control of the company secretary.

PART SIX – DIVIDENDS

30. DIVIDENDS

- (a) **(Members may fix dividends).** Subject to paragraph (c) of this clause, the members may as they think fit and from time to time from profits available determine that a dividend is payable and fix:
- (i) the amount; and
 - (ii) the time for payment;
 - (iii) the method of payment;
 - (iv) whether the dividend is fully franked, partly franked or unfranked.

The methods of payment may include the payment of cash, the issue of shares, the grant of options and the transfer of assets.

- (b) **(Interest – Section 254U(2) – a replaceable rule).** Interest is not payable on a dividend.
- (c) **(Corporations Act – Section 254T).** Notwithstanding paragraph (a) of this clause, a dividend may only be paid if;
- (i) the Company's assets exceed its liabilities at the time the dividend is declared, this excess must be sufficient to cover the dividend being declared; and
 - (ii) the payment of the dividend is fair and reasonable to the company's shareholders as a whole; and
 - (iii) the payment of the dividend does not materially prejudice the company's ability to pay its creditors.
- (d) **(Special rights to dividends).** Subject to the rights of persons (if any) entitled to shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect of which the dividend is paid.
- (e) **(Apportionment of dividends).** All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid, but, if any share is issued on terms providing that it will rank for dividend as from a particular date, that share shall rank for dividend accordingly.
- (f) **(Deduction from dividends).** The members may deduct from any dividend payable to a member all sums of money (if any) presently payable by the member to the company on account of calls or otherwise in relation to the shares held by that member in the company.

31. PAYMENTS

- (a) **(Payments in cash).** Any dividend, interest or other money payable in cash in respect of shares may be paid by cheque sent by prepaid post directed to:

- (i) the address of the holder of those shares as shown in the register of members, or in the case of joint holders, to the address shown in the register of members as the address of the joint holder first named in the register of members; or
- (ii) to such other addresses as the holder or joint holders in writing direct(s) or direct.
- (b) **(Receipts)**. Any one or two or more joint holders may give effectual receipts for any dividends, interest or other money payable in respect of the shares held by them as joint holders.

PART SEVEN – NOTICES AND WINDING UP

32. NOTICES

- (a) **(Notices to members)**. A notice may be given to any member either by serving it on the member personally or by sending it by post or email to the member at his, her or its address as shown in the register or the address supplied by the member to the company for the providing of notices to them.;
- (b) **(Notices to directors)**. A notice may be given to any director either by serving it on the director personally, by sending it by post to the director at his or her last known address or with the director's consent by facsimile, email or by telephone.
- (c) **(Notice to joint members)**. Notice to joint members must be given to the joint member named first in the register of members.
- (d) **(Legal representatives and beneficiaries)**. A notice may be served or given to a person entitled to a share in consequence of the death or bankruptcy of a member by serving it on the person personally or by sending it to him or her by post addressed to the person by name, or by the title of representative of the deceased or assignee of the bankrupt, or by any like description, at the address (if any) in Australia supplied for that purpose by the person. If such an address has not been supplied, then service of the notice can be made at the address to which the notice might have been sent if the death or bankruptcy had not occurred.
- (e) **(Notices given by facsimile or email)**. Notwithstanding the foregoing and subject to the Corporations Act, if a person to whom a notice is to be given has supplied to the company a facsimile number or email address for the service of notices on him, her or it then any such notice may be given or served on that person by facsimile or email.
- (f) **(Notices sent by facsimile)**. Except as provided in clause 5 or otherwise stated in this Constitution a notice sent by facsimile or email shall be deemed served immediately upon the completion of sending if such completion is within business hours in the place where the addressee's facsimile machine or computer is located, but if not, then at 9.00am on the next occurring business day at such place.
- (g) **(Business hours, Business days)**. For the purposes of this clause, 'business hours' means from 9.00am to 5.00pm on a business day which means a day on which the major trading banks are open for business at the place or in the postal district where the addressee's facsimile machine or computer is located.

33. WINDING UP

- (a) **(Dividends and distributions by a liquidator).** If the company is wound up, the liquidator may, with the sanction of a special resolution, divide among the members in kind the whole or any part of the property of the company and may for that purpose set such value as the liquidator considers fair upon any property to be so divided and may determine how the division is to be carried out as between the members or different classes of members;
- (b) **(Vesting of property in trustees).** The liquidator may, with the sanction of a special resolution, vest the whole or any part of any such property in trustees upon such trusts for the benefit of the contributors as the liquidator thinks fit, but so that no member shall be compelled to accept any shares or other securities in respect of which there is any liability.

PART EIGHT – INDEMNITY OF OFFICERS

34. INDEMNITY OF OFFICERS

- (a) **(Indemnity).** The directors, and other company officers of the Company shall be indemnified out of the assets of the Company against any liability incurred by the company in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any application under the Law in which relief is granted to him by the Court in respect of any negligence default breach of duty or breach of trust.
- (b) **(Indemnity of auditors).** Subject to the provisions of the Law, every director and every manager and officer of the Company or any other person (whether an officer of the Company or not) employed by the Company as auditor shall be indemnified by the Company against all costs, losses, expenses and liabilities incurred by him in the course of the business of the Company and it shall be the duty of the directors, out of the funds of the Company, to pay and satisfy such costs losses expenses and liabilities incurred by him..
- (c) **(Payment of insurance premiums).** Except to the extent that it is prohibited from doing so by the Corporations Act the company may pay or agree to pay a premium in respect of a contract insuring any officer, or auditor of the company from and against any liability.

PART NINE – SHARES AND SHARE CAPITAL

35. SHARES AND SHARE CAPITAL

- (a) **(Members' power to issue shares).** The members may by resolution issue shares in the company to such persons as they think fit, on such terms as they think fit and for such subscription price as they think fit. Such shares may be issued as fully paid or partly paid and the members may fix such terms as to the payment of calls where the shares are partly paid as the directors think fit.
- (b) **(Application for allotment).** No shares shall be issued unless the company has received an application for allotment from the allottee duly signed specifying the number of shares applied for, the subscription price and a statement to the effect that the allottee will be bound by the terms of this Constitution if the shares applied for or in portion thereof are allotted to him, her or it. Unless otherwise directed by the members an application for allotment must be

accompanied by a cheque or cash or such other consideration representing the subscription price for the shares.

- (c) **(Preference shares).** Subject to the Corporations Act, the company may issue preference shares, including redeemable preference shares.
- (d) **(Classes of shares).** The members may issue shares of any particular class and attach rights in respect of those shares as part of the terms upon which they are allotted. The holders of those shares shall thereafter be entitled to the enjoyment and benefit of those rights.
- (e) **(Variation of class rights).** The rights attaching to any class of shares so issued may only be varied with the consent in writing of the holders of three-quarters of the issued shares of that class, or with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of that class.
- (f) **(Meetings of class shareholders).** The provisions of this Constitution relating to general meetings shall apply so far as they are capable of application and mutatus mutandis to every such separate meeting except that:
 - (i) If there are two or more holders of shares of the class, a quorum shall be constituted by two persons who, between them, hold or represent by proxy one-third of the issued shares of the class;
 - (ii) If there is only one person holding shares of the class, a quorum shall be constituted by that person; and
 - (iii) Any holder of shares of the class, present in person or by proxy, may demand a poll.
- (g) **(Issue of further shares of a class to be a deemed variation of class rights).** The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further share ranking equally with the first-mentioned shares.
- (h) **(Alteration of share capital).** The company may by resolution, in accordance with the Corporations Act, convert all or any of its shares into a larger or smaller number of shares. The cancellation of such shares will constitute a reduction of capital.

36. REDUCTION OF SHARE CAPITAL

- (a) **(Reduction of share capital).** The company may reduce its share capital in such a manner as it thinks fit provided that it is fair and reasonable to shareholders as a whole, does not materially prejudice the company's ability to pay its creditors and is approved by shareholders under Section 256C of the Corporations Act. A cancellation of a share for no consideration is a reduction of share capital.
- (b) **(Buyback of Shares).** The company may buy back any of its shares in accordance with the provisions of chapter 2J part 2J(1) and the applicable procedures as set out in division 2 of that part.

37. SHARE CERTIFICATES

- (a) **(Issue of share certificate).** The company secretary shall ensure that the company issues share certificates in respect to all shares allotted by it. Such share certificates shall be issued within one month of the date of allotment and sent to the new shareholder at the address stated in the application for allotment.
- (b) **(Jointly held shares).** Where there are two allottees to whom shares are allotted jointly the company shall not be bound to issue more than one share certificate.
- (c) **(Content of share certificate).** The share certificates shall identify by name the shareholder, the number and class of shares held and whether the shares are allotted as fully paid or partly paid. The share certificates shall be signed by a director or by the company secretary. A copy of the share certificate shall be kept by the company with its books and records.

38. TRANSFER OF SHARES

- (a) **(Approval of Members).** A shareholder shall be entitled to transfer his, her or its shares in the company to any other shareholder of the company or to any third party who is not a shareholder provided the members have by resolution approved of such transfer.
- (b) **(Registration of transfers).** No transfer of shares shall be registered unless it has first been approved by the directors by resolution to that effect. No transfer shall be registered until the share transfer has been duly stamped in accordance with any applicable state legislation dealing with the stamping and payment of duty in respect to the transfer of shares. Provided however the directors may approve a share transfer subject to the same being stamped.
- (c) **(Person remains holder until transfer registered etc - Section 1072F(1) – a replaceable rule).** A person transferring share remains the holder of the shares until the share transfer is registered and the name of the person to whom they are being transferred is entered in the register of members in respect of the shares.
- (d) **(Directors not required to register transfer - Section 1072F(2) – a replaceable rule).** The directors are not required to register a transfer of shares in the company unless:
 - (i) the transfer and any share certificate have been lodged at the company's registered office; and
 - (ii) any fee payable on registration of the transfer has been paid; and
 - (iii) the directors have been given any further information they reasonably require to establish the right of the person transferring the shares to make the transfer.
- (e) **(Share certificates).** The directors shall upon the registration of a transferee as the holder of the shares transferred to him, her or it cause to be issued a share certificate in the name of the transferee as the holder of those shares. The directors shall also at the same time cause the cancellation of the previous share certificate issued in respect to those shares.

39. TRANSMISSION BY DEATH OR BANKRUPTCY OF THE HOLDER OF SHARES

- (a) **(If shares not held jointly – Section 1072A(1) – a replaceable rule).** If a shareholder who does not own shares jointly dies, the company will recognise only the personal representative

of the deceased shareholder as being entitled to the deceased shareholder's interest in the shares.

- (b) **(Transmission - Section 1072A(2) – a replaceable rule).** If the personal representative of the deceased shareholder gives the directors the information they reasonably require to establish the representative's entitlement to be registered as holder of the shares:
- (i) the personal representative may by giving a written and signed notice to the company, elect to be registered as the holder of the shares; or
 - (ii) by giving a completed transfer form to the company, transfer the shares to another person.
- (c) **(Rights of personal representative).** The personal representative is entitled, whether or not registered as the holder of the shares, to the same rights as the deceased shareholder.
- (d) **(Registration of personal representative).** On receiving an election from the personal representative pursuant to paragraph (b) of this clause to being registered as the holder of the deceased shareholders shares the company must register the personal representative as the holder of the shares.
- (e) **(If shares held jointly - Section 1072A(5) – a replaceable rule).** If a shareholder who owns shares jointly dies, the company will recognise only the survivor as being entitled to the deceased shareholder's interest in the shares. The estate of the deceased shareholder is not released from any liability in respect of the shares.
- (f) **(Transmission - Section 1072B(1) – a replaceable rule).** If a person who is entitled to shares because of the bankruptcy of a shareholder gives the directors the information they reasonably require to establish the person's entitlement to be registered as holder of the shares, the person may:
- (i) by giving a written and signed notice to the company, elect to be registered as the holder of the shares; or
 - (ii) by giving a complete transfer form to the company, transfer the shares to another person.
- (g) **(Election - Section 1072B(2) – a replaceable rule).** On receiving an election under paragraph (f) of this clause to the effect that the person entitled to shares requires to be registered as the holder of those shares the company must register that person as the holder of those shares.
- (h) **(Bankruptcy Act - Section 1072B(4) – a replaceable rule).** This clause has effect subject to the *Bankruptcy Act* 1966 (Cth).
- (i) **(Transmission – Section 1072D(1) – a replaceable rule).** If a person entitled to shares because of the mental incapacity of a shareholder gives the directors the information they reasonably require to establish the person's entitlement to be registered as the holder of the shares, the person may:
- (i) by giving a written and signed notice to the company, elect to be registered as the holder of the shares; or
 - (ii) by giving a completed transfer form to the company, transfer the share to another person; and

- (iii) the person is entitled, whether or not registered a the holder of the shares, to the same rights as the shareholder.
- (j) **(Election).** On receiving an election under paragraph (i) of this clause from that person to the effect that he or she is to be registered as the holder of the shares the company must register that person as the holder of the shares.
- (k) **(Transfer rules).** A transfer of any shares pursuant to this clause is subject to the same rules as apply to transfers of shares generally.

*This version of the Constitution of Australian Guild of Education Pty Ltd.
was approved by the shareholders on 6 July 2024.*

APPENDIX A: APPOINTMENT of a PROXY FORM

APPOINTMENT OF PROXY

I / We,

of _____,

being a member/members of the Australian Guild of Education Pty Ltd.,

hereby appoint _____

of _____ or, failing him/her,

of _____ or, failing him/her, the chairperson of the meeting as my/our proxy to vote for me/us and on my/our behalf* at all general meetings of the company until further notice/* at the *annual general/*general meeting of the company to be held on the _____ day of _____ 20____ and at any adjournment of that meeting.

*My/our proxy is entitled to vote with respect to * _____% of my/our shares/* _____ shares.

This form is to be used in accordance with the directions below. Unless the proxy is directed, he/she may vote or abstain as he/she thinks fit.

[Description of resolution]

(Signature)

APPENDIX A_PART 2: INSTRUCTIONS FOR THE EXECUTION OF A PROXY VOTE

INSTRUCTIONS FOR EXECUTION OF FORM OF PROXY

- (i) *To direct the appointee to cast all votes covered by this instrument in respect of an item of business in a particular manner either on a show of hands or on a poll, place a sufficient indication (including, without limitation, a tick or a cross) in the relevant box in respect of that item of business.*
- (ii) *To direct the appointee to cast some only of the votes covered by this instrument in respect of an item of business in a particular manner, place in the relevant box in respect of that item of business either the number of votes to be cast in that manner on a poll or the percentage of the total votes covered by this instrument to be so cast on a poll. This direction, if given, is also an instruction to the appointee to vote according to the appointee's discretion on a show of hands.*