



CONSTITUTION OF AMBROSE TREACY COLLEGE FOUNDATION LIMITED

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CONSTITUTION OF AMBROSE TREACY COLLEGE FOUNDATION LIMITED

1. NAME OF COMPANY

The name of the Company is Ambrose Treacy College Foundation Limited.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

The following definitions apply in this document:

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

Alternate means an alternate Director appointed under rule 8.1.

Appointor in relation to an Alternate, means the Director who appointed the Alternate.

ATO means the Australian Taxation Office.

Auditor means the auditor of the Company as appointed by the Board from time to time.

Board means the Directors acting collectively under this document.

Building Fund means a gift fund that provides money for the acquisition or purchase of land and/or buildings or the maintenance of buildings used or to be used for the benefit of the College.

Bursary Fund means a gift fund that provides money for eligible bursaries, scholarships or prizes.

College means Ambrose Treacy College.

College Board means the board of directors for the College.

College Board Representative means an individual nominated by the College Board to act as Director of the Company in accordance with rule 7.5.

College Principal means the appointed College principal for the College.

Company means Ambrose Treacy College Foundation Limited ABN 15 601 740 738.

DGR or Deductible Gift Recipient means endorsement from the ATO that the fund or organisation is entitled to receive gifts or donations that are tax deductible.

Director means a person who is a director for the time being of the Company.

DGR means deductible gift recipient endorsed under Division 30 of ITAA.

Director means a person who is, for the time being, a director of the Company including, where appropriate, an Alternate.

EREA means Edmund Rice Education Australia ABN 96 372 268 340.

EREA Representative means an individual nominated by EREA to act as Director of the Company in accordance with rule 7.4.

General Purpose Fund means a public gift fund that provides money for a range of general purposes including but not limited to acquiring, constructing, maintaining and providing better sports and playing fields, play areas, car parking and landscaping, furniture and training facilities, sponsorship of visiting or overseas lecturers, teachers or other academics, computer and associated facilities of the College.

Gift or Gifts means a gift of money, property or deductible contributions which originate from deductible sources.

ITAA means the *Income Tax Assessment Act 1997* (Cth).

Member means a person who is a member of the Company under rule 16.

Objects means the objects of the Company as set out in rule 5.1.

Ordinary Resolution means a resolution passed at a meeting of Members by a majority of the votes cast by Members entitled to vote on the resolution.

Responsible Person or **Responsible Persons** means natural persons with a degree of responsibility to the general community, as defined in Taxation Ruling TR95/27, including justices of the peace, members of the clergy, church authorities, trustees or board members of a non-profit school or college, justices, magistrates, solicitors, accountants, directors, senior executives of large companies, medical practitioners and other professional persons, teachers in senior positions, persons holding public or elected office, people who hold (or have held) other public positions or people with honours.

Secretary means, during the term of that appointment, a person appointed as a secretary of the Company in accordance with this document.

Special Resolution has the meaning given in the Act.

Voting Member in relation to a general meeting, or meeting of a class of Members, means a Member who has the right to be present and to vote on at least 1 item of business to be considered at that meeting.

2.2 Interpretation

This rule 2.2 specifies the rules for interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) The headings are for convenience only and do not affect the interpretation of this document.
- (b) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document), or a provision of a document (including a provision of this document), is to that document or provision as amended or replaced;
 - (iii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;

- (iv) anything (including a right, obligation or concept) includes each part of it; or
- (v) a rule is to a rule in this document.
- (c) A singular word includes the plural, and vice versa.
- (d) A word which suggests one gender includes any other gender.
- (e) If a word is defined, another part of speech of that word has a corresponding meaning.
- (f) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (g) The word “agreement” includes an undertaking or other binding arrangement or understanding whether or not in writing (unless the context specifies that it must be in writing).
- (h) A reference to something being “written” or “in writing” includes that thing being represented or reproduced in any mode in a visible form.
- (i) A word (other than a word defined in rule 2.1) which is defined by the Act has the same meaning in this document where it relates to the same matters as the matters for which it is defined in the Act or the ITAA.
- (j) Unless otherwise provided, a reference to a Chapter, Part, Division, or section is a reference to a Chapter, Part, Division or section of the Act.

3. NAME OF COMPANY

The name of the Company is Ambrose Treacy College Foundation Limited.

4. PUBLIC COMPANY

4.1 Public Company

The Company is a public company limited by guarantee.

4.2 Limitation of liability

- (a) The liability of the each Member is limited.
- (b) Each Member undertakes to contribute to the property of the Company, if the Company is wound up while the Member is a Member or within one year after the Member ceases to be a Member, for payment of:
 - (i) the Company's debts and liabilities;
 - (ii) the costs, charges and expenses of winding up; and
 - (iii) for the adjustment of the rights of the contributions among themselves,
 - (iv) such amount as may be required, but not exceeding \$10.

4.3 No distribution to Members

- (a) No portion of the income or property of the Company may be paid directly or indirectly, by way of dividend, bonus or otherwise to the Members except:
 - (i) as provided for in rule 4.3(b); and/or
 - (ii) if the Member is a registered charity pursuant to the ACNC Act.
- (b) Provided the following is done in good faith, the Company may:
 - (i) pay a Member for goods and services they provide or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the Company; or
 - (ii) make a payment to a Member in carrying out the Company's charitable purposes in accordance with the Objects.

4.4 Replaceable Rules

The replaceable rules referred to in section 141 do not apply to the Company and are replaced by the rules set out in this document.

5. OBJECTS

5.1 Objects of the Company

The objects of the Company are:

- (a) to be a not-for-profit organisation working to support the EREA and the College, to maintain and improve the facilities and operations of the College, and to develop the broader interests of the College;
- (b) without limiting the generality of rule 5.1(a):
 - (i) to raise the profile of the College in the broader general College community;
 - (ii) to encourage broader participation in the activities of the College community by the public, former students and current students;
 - (iii) to create opportunities for the College to attract and retain the continuing interest and financial support of past students, parents of students and past students and friends;
 - (iv) to solicit donations and gifts for the benefit of the College or any of the its funds or accounts from past students, parents or friends and others;
 - (v) to raise finance for the acquisition of land or the acquisition, construction or maintenance of buildings to be used by the College;
 - (vi) to acquire land and to construct and maintain buildings for the Colleges;
 - (vii) to promote or assist in educational, sporting, cultural and extracurricular activities of all kinds of the College and to disseminate information concerning the College and its activities;
 - (viii) to promote financial assistance for the provision of scholarships and bursaries;

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- (ix) to attract and encourage gifts, bequests and all forms of deferred gifts to enable the fulfilment of these Objects;
 - (x) to act as trustee of trusts and funds which may be established for the benefit of the College; and
 - (xi) to undertake other types of fundraising activities to enable the fulfilment of these Objects.

5.2 Limitations

Subject to rule 6, the Company can only exercise the powers in section 124(1) to:

- (a) carry out the Objects of the Company; and
- (b) do all things incidental or convenient in relation to the exercise of power under rule 5.2(a).

6. RULES

- (a) The Directors may make, amend or repeal rules and laws or policies, not inconsistent with these rules, for the internal management of the Company.
- (b) The Directors will specifically endorse rules from time-to-time for the operation of a Building Fund, Bursary Fund and General Purpose Fund of which the Company will act as trustee and which will be endorsed under Division 30 of the ITAA as deductible gift recipients.

7. DIRECTORS

7.1 Number of Directors

- (a) The number of Directors must not be less than three but no more than nine.
- (b) Alternate Directors are not to be treated as Directors for the purpose of determining the minimum or maximum number of Directors holding office.
- (c) Subject to the Act, the Company may, by Ordinary Resolution:
 - (i) increase or reduce the number of Directors provided that the minimum will not be less than three; and
 - (ii) determine the procedure for the rotation of Directors in and out of office.
- (d) Subject to any determination by the Company determining the number of Directors, the Directors may from time to time determine the respective number of Directors provided that the minimum will not be less than three.

7.2 Appointment of Directors

A person may, by Special Resolution of Members, be appointed to be a Director to either to fill a casual vacancy or in addition to the existing directors, so long as:

- (a) the total number of directors does not at any time exceed the number decided in accordance with rule 7.1; and
- (b) the appointment requirements in rules 7.3, 7.4 and 7.5 continue to be satisfied.

7.3 Appointment and Resignation of College Principal

- (a) At all times, one Director of the Board must be the College Principal.
- (b) If the College Principal's employment with the College comes to an end, they must be removed from the office of Director and replaced by their successor.

7.4 Appointment and Resignation of EREA Representative

- (a) At all times, one Director of the Board must be the EREA Representative.
- (b) EREA may appoint an EREA Representative to act as a Director by providing the Board with a written nomination.
- (c) If the EREA Representative resigns or is removed as a Director, they must be replaced by another EREA Representative in accordance with this rule 7.4.

7.5 Appointment, Resignation and Removal of College Board Representatives

- (a) At all time, two Directors of the Board must be College Board Representatives.
- (b) Subject to rule 7.5(c) the College Board may nominate a College Board Representative to act as a Director by providing the Board and EREA with a written nomination.
- (c) In the event that EREA do not agree to the nomination provided by the College Board:
 - (i) the nominated College Board Representative will not be appointed as a Director; and
 - (ii) EREA will instead direct the Company to appoint another representative of the College Board to act as a Director of the Company.
- (d) If a College Board Representative resigns or is removed as a Director, a replacement Director must be appointed in accordance with this rule 7.5.

7.6 Term and Rotation

- (a) Except for the College Principal and EREA Representative whom shall not be the subject of the rotation and subject to rule 7.9:
 - (i) no Director shall hold office for a period in excess of:
 - (A) three years; or
 - (B) until the third annual general meeting following the director's appointment, whichever is the longer,without submitting themselves for re-election; and
 - (ii) at every annual general meeting:
 - (A) one-third of the directors; or
 - (B) if their number is not a multiple of three, then the number nearest to but not exceeding one-third (or such number as is necessary to ensure compliance with rule 7.6(a)(i)),

shall retire from office and be eligible for re-election.

- (b) The Directors to retire in every year shall be the Directors longest in office since last being re-elected. Between Directors who were elected on the same day the Director to retire shall be decided by lot unless they otherwise agree.
- (c) A retiring Director shall be eligible for re-election without needing to give any prior notice of an intention to submit for re-election and shall hold office as a Director until the end of the meeting at which the Director retires.

7.7 Election procedure for Directors at a Members Meeting

- (a) If the number of candidates for election as Directors is equal to or less than the number of vacancies on the Board, the Chairman must declare those candidates to be duly elected as Directors.
- (b) If the number of candidates for election as Directors is greater than the number of vacancies on the Board, a ballot must be held for the election of the candidates.
- (c) If a ballot is required, balloting lists must be prepared listing the names of the candidates only in alphabetical order.
- (d) The candidates receiving the greatest number of votes cast in their favour must be declared by the Chairman to be elected as Directors.
- (e) If an equality of votes would otherwise prevent the successful candidate for a vacancy from being determined, the Chairman, prior to the declaration of the result of the ballot, in addition to his or her deliberative vote (if any) is entitled to a casting vote, except that if the Chairman:
 - (i) does not exercise a casting vote; or
 - (ii) is one of the candidates who received the same number of votes;

then the names of the candidates who received the same number of votes must be put to a further ballot immediately.

7.8 Time appointment or retirement takes effect

- (a) Directors who are elected at a meeting of Members take office immediately after the end of the general meeting.
- (b) Directors who retire at a meeting of Members continue to hold office until the end of the general meeting.

7.9 Cessation of Director's Appointment

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

- (a) dies;
- (b) is not permitted by the Act (or an order made under the Act) to be a director;
- (c) becomes disqualified from managing corporations under Part 2D.6 of the Act and is not given permission or leave to manage the Company under section 206F or 206G of the Act;

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- (d) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
 - (e) fails to attend Board meetings (either personally or by Alternate) for a continuous period of 6 months without leave of absence from the Board;
 - (f) resigns by notice in writing to the Company; or
 - (g) is removed from office under rule 7.10,
- or if the person was appointed to the office for a specified period and that period expires.

7.10 Removal from Office

Whether or not a Director's appointment was expressed to be for a specified period a Director may be removed from office at any time if EREA provides the Company with a written direction that the Director is to be removed.

7.11 Insufficient Directors

If the number of Directors is reduced below the minimum required by rule 7.1, the continuing Directors may act as the Board only:

- (a) to appoint Directors up to that minimum number;
- (b) to convene a meeting of Members; and
- (c) in emergencies.

8. ALTERNATES

8.1 Appointment of Alternate

With the other Directors' approval, a Director (other than an Alternate) may appoint a person who is approved by the Board to act as an Alternate for a specified period or each time the Appointor is unable to attend a Board meeting or act as Director.

8.2 Alternate Directors

- (a) An Alternate is entitled to notice of meetings of the Directors and, if the Appointor is not present at such meeting, is entitled to attend and vote in his or her stead.
- (b) An Alternate may exercise any powers that the Appointor may exercise and the exercise of any such power by the Alternate is deemed to be the exercise of the power by the Appointor.
- (c) An Alternate is not, in his or her capacity as an Alternate, entitled to receive notice of, or attend and vote at, a meeting of members.
- (d) The appointment of an Alternate may be terminated at any time by the Appointor even if the period of the appointment of the Alternate has not expired, and terminates in any event if the Appointor vacates office as a Director.
- (e) The appointment, or the termination of an appointment, of an Alternate is effected by a notice in writing signed by the Appointor and served on the Company.

9. POWERS OF THE BOARD

9.1 Powers Generally

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

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

9.2 Exercise of Powers

- (a) Subject to the Act and to any other provisions of this Constitution, the business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and forming the Company, and may exercise all such powers of the Company as are not, by the Act or this Constitution, required to be exercised by the Company in general meeting of the Board or otherwise in accordance with rules 8, 10 or 14 (as the case may be).
- (b) Without limiting the generality of rule 9.2(a), the Board may exercise all the powers of the Company to borrow money, to change any property or business of the Company and to issue debentures or give any security for a debt, liability or obligation of the Company or of any other person.

9.3 Executing Negotiable Instruments

The Board must decide the manner (including the use of facsimile signatures if thought appropriate) in which negotiable instruments can be executed, accepted or endorsed for and on behalf of the Company. The Company may execute, accept, or endorse negotiable instruments only in the manner for the time being decided by the Board.

10. DELEGATION OF BOARD POWERS

10.1 Power to Delegate

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

10.2 Power to Revoke Delegation

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

10.3 Terms of Delegation

- (a) A delegation of powers under rule 10.1 may be made:
 - (i) for a specified period or without specifying a period; and
 - (ii) on the terms (including power to further delegate) and subject to any restrictions the Board decides.
- (b) A document of delegation may contain the provisions for the protection and convenience of those who deal with the delegate that the Board thinks appropriate.

10.4 Proceedings of Committees

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

11. DIRECTORS' DUTIES AND INTERESTS

11.1 Compliance with Duties under the Act

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

11.2 Director Not Disqualified from Holding Other Offices

A Director is not disqualified by reason only of being a Director from:

- (a) holding any office or place of profit or employment other than that of the Company's Auditor;
- (b) being a Member or creditor of any corporation (including the Company) or partnership other than the Auditor; or
- (c) entering into any agreement with the Company.

11.3 Disclosure of Interests

- (a) A Director is not disqualified by their office from contracting with the Company in any capacity whatsoever.
- (b) A Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of the interest unless section 191 of the Act provides otherwise.

11.4 Director Interested in a Matter

If a Director has an interest in a matter that relates to the affairs of the Company and either the Director discloses the interest under section 191 of the Act or it is not required to be disclosed under section 191 of the Act:

- (a) subject to a resolution by the Board to the contrary, a Director who has a material personal interest must not:
 - (i) be present while the matter is being considered at the meeting;
 - (ii) vote on the matter; or
 - (iii) be counted in a quorum at a Board meeting in which the matter is considered;
- (b) the Company may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the Company;
- (c) the Director may retain benefits under the transaction even though the Director has the interest; and
- (d) the Company cannot avoid the transaction merely because of the existence of the interest.

If the interest is required to be disclosed under section 191 of the Act, rule 11.4(c) applies only if it is disclosed before the transaction is entered into.

12. REMUNERATION OF DIRECTORS

- (a) The Directors shall not be paid remuneration.
- (b) The Directors may be reimbursed for all expenses properly incurred in attending or in connection with their attendance at any meeting of the Company or of the Board or any committee of Directors.

13. OFFICERS' INDEMNITY AND INSURANCE

13.1 Indemnity

- (a) Subject to the Act:
 - (i) the Company, to the extent the person is not otherwise indemnified:
 - (A) must indemnify every officer of the Company and every officer of the Company's wholly owned subsidiaries; and
 - (B) may indemnify the Company's Auditor, against a Liability incurred as such an officer or Auditor (other than to the Company or a related body corporate of the Company), including a Liability incurred as a result of the Company or a wholly owned subsidiary of the Company appointing or nominating the officer as trustee or officer of another corporation, unless the Liability arises out of conduct involving a lack of good faith; and
 - (ii) the Company may make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by an officer or Auditor in defending an action for a Liability incurred as such an officer or Auditor or in resisting or responding to actions taken by a government agency or a liquidator.
- (b) In relation to this rule, Liability means a liability of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages and expenses, including costs and expenses incurred in connection with any investigation or inquiry by a government agency or a liquidator.

13.2 Insurance

Subject to the Act, the Company may enter into, and pay premiums on, a contract of insurance in respect of any person.

13.3 Former Officers

The indemnity in favour of officers under rule 13.1 is a continuing indemnity. It applies in respect of all acts done by a person while an officer of the Company or one of its wholly owned subsidiaries even though the person is not an officer at the time the claim is made.

13.4 Deeds

Subject to the Act, without limiting a person's rights under this rule 13, the Company may enter into an agreement with a person who is or has been an officer of the Company or

any of the Company's subsidiaries, to give effect to the rights of the person under this rule 13 on any terms and conditions that the Board thinks fit.

14. BOARD MEETINGS

14.1 Convening Board Meetings

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

14.2 Notice of Board Meeting

The convenor of each Board meeting:

- (a) must give reasonable notice of the meeting (and, if it is adjourned, of its resumption) individually to each Director and each Alternate; and
- (b) may give notice orally (including by telephone) or in writing,

but failure to give notice to, or non-receipt of notice by, a Director does not result in a Board meeting being invalid.

14.3 Use of Technology

- (a) A Board meeting may be held using any means of audio or audio-visual communication by which each Director participating can hear and be heard by each other Director participating or in any other way permitted by section 248D of the Act.
- (b) A Board meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Directors present at the meeting is located or, if an equal number of Directors is located at two or more places, at the place where the chair of the meeting is located.

14.4 Chairing of Board Meetings

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

14.5 Quorum

- (a) At a meeting of directors, the number of directors whose presence is necessary to constitute a quorum is such number as is determined by the Board from time to time and, unless so determined, is three.
- (b) The fact that a director is in any way, directly or indirectly, interested in any matter arising for decision at a meeting of directors does not prevent that director being counted in a quorum.

14.6 Majority Decisions

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

14.7 Written Resolution

If all the Directors entitled to receive notice of a Board meeting and to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document, a Board resolution in those terms is passed at the time when the last Director signs.

14.8 Valid Proceedings

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

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

15. AUDITOR

- (a) The Company must appoint an Auditor and provide assistance to the Auditor in accordance with the Act.
- (b) The Auditor will not have any affiliation or interest in the Company nor any affiliation with an actual or potential supplier of goods and services, recipient of grant funds or an organisation with competing or conflicting objectives.

16. MEMBERSHIP**16.1 Number of Members**

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

16.2 Classes of Members

- (a) There is be a single class of membership, being ordinary members.
- (b) The Directors, may at any time and with the consent of the Members, create further classes of membership of the Company, including setting out the rights of those members.

16.3 Register of Members

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

16.4 Application for Membership

- (a) An application for membership must:
 - (i) be in writing in a form approved by the Directors; and
 - (ii) be accompanied by any other documents as the Directors may require.

-
- (b) If the applicant is a body corporate it must nominate one person (**Nominated Representative**) to represent the applicant in the Company. The application must:
 - (i) state the name and address of the Nominated Representative; and
 - (ii) be signed by the Nominated Representative by way of consent.

16.5 Admission to membership

- (a) The Board must consider an application for membership as soon as practicable after its receipt and determine, in their discretion, the admission or rejection of the applicant.
- (b) The Directors need give no reason for the rejection of an application.
- (c) If an applicant is accepted for membership:
 - (i) the secretary must notify the applicant of admission in the form the Directors determine; and
 - (ii) the name and details of the member must be entered in the register of members.
- (d) If an application for membership is rejected the Secretary must notify the applicant in writing.

17. CESSATION OF MEMBERSHIP

17.1 Resignation of membership

- (a) A Member's membership will cease if the Member gives written notice to the Board terminating its membership with the Company.
- (b) The resignation takes effect at:
 - (i) the time the notice is received by the secretary; or
 - (ii) if a later time is stated in the notice – the later time.

17.2 Misconduct of a Member

- (a) If any Member:
 - (i) is in breach of the provisions of this Constitution of the Company;
 - (ii) is convicted of an indictable offence; or
 - (iii) is guilty of any act or omission which, in the opinion of the Board is unbecoming of a Member, or prejudicial to the interests of the Company,

the Board may expel the Member from the Company and remove the Member's name from the register of members.
- (b) The Board shall not expel a Member unless at least seven days' notice has been given to the member stating the date, time and place at which the question of expulsion of that member is to be considered by the Board, and the nature of the alleged misconduct.

- (c) The Board must give the Member a full and fair opportunity to show why the membership should not be terminated in accordance with rule 17.4.
- (d) If, after considering all representations made by the Member, the Board decides to terminate the membership, the Secretary must give the Member a written notice of the decision.

17.3 Other grounds for cessation of Membership

A Member's membership of the Company shall automatically cease:

- (a) if EREA provides a written direction to the Company that a Member's membership is to be revoked;
- (b) in the case of a Member who is a natural person on the date that the Member:
 - (i) dies;
 - (ii) becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the laws relating to the mental health; or
- (c) in the case of a Member which is a body corporate on the date that:
 - (i) a liquidator is appointed in connection with the winding-up of the Member; or
 - (ii) an order is made by a court for the winding-up or deregistration of a Member.

17.4 Appeal against rejection or termination of Membership

- (a) A person whose application for membership has been rejected, or whose membership has been terminated, may give the Secretary written notice of the person's intention to appeal against the decision.
- (b) A notice of intention to appeal must be given to the Secretary within 1 month after the person receives written notice of the decision.
- (c) If the Secretary receives a notice of intention to appeal, the Secretary must, within one month after receiving the notice, call a general meeting to decide the appeal.

17.5 General meeting to decide appeal

- (a) The general meeting to decide an appeal must be held within 3 months after the Secretary receives the notice of intention to appeal.
- (b) At the meeting, the applicant must be given a full and fair opportunity to show why the application should not be rejected or the membership should not be terminated.
- (c) Also, the Board who rejected the application or terminated the membership must be given a full and fair opportunity to show why the application should be rejected or the membership should be terminated.
- (d) An appeal must be decided by a majority vote of the members present and eligible to vote at the meeting.

- (e) If a person whose application for membership has been rejected does not appeal against the decision within 1 month after receiving written notice of the decision, or the person appeals but the appeal is unsuccessful, the secretary must, as soon as practicable, refund the membership fee paid by the person.

17.6 Liability for subscription fees and other amounts following cessation of Membership

Notwithstanding that the Member ceases to be a Member of the Company, the Member shall continue to be liable for:

- (a) all annual subscription fees or other amounts owing by the Member to the Company which are due and unpaid as at the date that the Member ceases to be a Member; and
- (b) any amount which the Member is or may become liable to pay to the Company under rule 4.2.

18. MEETINGS OF MEMBERS

18.1 Calling Meetings of Members

A meeting of Members:

- (a) may be convened at any time by the Board or a Director; and
- (b) must be convened by the Board when required by section 249D of the Act or by order made under section 249G of the Act.

18.2 Notice of Meetings of Members

Subject to rule 18.3, at least 21 days' written notice of a meeting of Members must be given individually to each Member entitled to vote at the meeting, to each Director (other than an Alternate) and to the Auditor (if any). The notice of meeting must comply with section 249L of the Act and may be given in any manner permitted by section 249J(3) of the Act.

18.3 Short Notice

Subject to section 249H(4) of the Act:

- (a) if the Company has elected to convene a meeting of Members and all the Members entitled to attend and vote agree; or
- (b) otherwise, if Members who together have power to cast at least 95% of the votes that may be cast at the meeting agree,

a resolution may be proposed and passed at a meeting of which less than 21 days' notice has been given.

18.4 Postponement or Cancellation

Subject to section 249D(5) of the Act, the Board may postpone or cancel a meeting of Members by written notice given individually to each person entitled to be given notice of the meeting.

18.5 Fresh Notice

If a meeting of Members is postponed or adjourned for one month or more, the Company must give a new notice of the resumed meeting.

18.6 Technology

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

18.7 Accidental Omission

The accidental omission to give notice to, or the non-receipt of notice by, any of those entitled to it does not invalidate any resolution passed at a meeting of Members.

19. PROCEEDINGS AT MEETINGS OF MEMBERS

19.1 Member Present at Meeting

If a Member has appointed a proxy or attorney or (in the case of a Member which is a body corporate) a representative to act at a meeting of Members, that Member is taken to be present at a meeting at which the proxy, attorney or representative is present.

19.2 Quorum

Subject to section 249B of the Act, the quorum for a meeting of Members is two Voting Members. Each individual present may only be counted once toward a quorum. If a Member has appointed more than one proxy or representative only one of them may be counted toward a quorum.

19.3 Quorum Not Present

If a quorum is not present within 15 minutes after the time for which a meeting of Members is called:

- (a) if called as a result of a request of Members under section 249D of the Act, the meeting is dissolved; and
- (b) in any other case:
 - (i) the meeting is adjourned to the day, time and place that the Board decides and notifies to Members, or if no decision is notified, to the same time on the same day in the next week at the same place; and
 - (ii) if a quorum is not present at the adjourned meeting, the meeting is dissolved.

19.4 Chairing Meetings of Members

If the Board has appointed a Director to chair Board meetings, that Director may also chair meetings of Members. If:

- (a) there is no Director who the Board has appointed to chair Board meetings for the time being; or
- (b) the Director appointed to chair Board meetings is not present at the time for which a meeting of Members is called or is not willing to chair the meeting,

the Voting Members present must elect a Member or Director present to chair the meeting.

19.5 Adjournments

Subject to rule 18.5, the chair of a meeting of Members at which a quorum is present:

- (a) may, with the consent of the meeting; and
- (b) must, if directed by Ordinary Resolution of the meeting, adjourn it to another time and place.

19.6 Business at Adjourned Meetings

The only business that may be transacted at a meeting resumed after an adjournment is the business left unfinished immediately before the adjournment.

20. PROXIES, ATTORNEYS AND REPRESENTATIVES

20.1 Appointment of Proxies

A Member may appoint not more than two proxies to attend and act for the Member at a meeting of Members. An appointment of proxy must be made by written notice to the Company that complies with section 250A(1) of the Act or in any other form and mode that is signed or acknowledged by the Member in a manner satisfactory to the Board. If a Member appoints two proxies and the appointment does not specify the proportion or number of the Member's votes each proxy may exercise, each proxy may exercise half of those votes.

20.2 Member's Attorney

A Member may appoint an attorney to act, or to appoint a proxy to act, at a meeting of Members. If the appointor is an individual, the power of attorney must be signed in the presence of at least 1 witness.

20.3 Form of a Proxy

A proxy must be in the form contained in Schedule 1.

20.4 Manner in Which Proxy Is to Vote

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 is not entitled to vote on the resolution except as specified in the instrument.

20.5 Authority of Proxy

An instrument appointing a proxy is deemed to confer authority to speak on behalf of the appointor to the extent permitted by law and demand, or join in demanding, a poll.

20.6 Deposit of Proxy Forms and Powers of Attorney

An appointment of a proxy for a meeting of Members or for the taking of a poll is only effective if the following documents are received by the Company at least 48 hours before the meeting or the time appointed for taking the poll (as appropriate):

- (a) the proxy's appointment; and

- (b) if the appointment is signed by the appointor's attorney — the authority under which the appointment was signed or a certified copy of the authority.

20.7 Validity of proxies

A vote in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal or the revocation of the instrument (or of the authority under which the instrument was executed) or of the power, if no limitation in writing of the death, unsoundness of mind or revocation has been received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

21. ENTITLEMENT TO VOTE

21.1 Number of Votes

- (a) Subject to any rights or restrictions:
- (i) at meetings of Members, each Member entitled to vote may vote in person or by proxy or attorney or (in the case of a Member which is a body corporate) by its representative;
 - (ii) on a show of hands every person present who is a Member or a proxy, attorney or representative of a Member has one vote except where a proxy has two or more appointments that specify different ways to vote on a resolution, in which case the proxy cannot vote; and
 - (iii) on a poll every Member present in person or by proxy, attorney or representative has one vote.
- (b) The chair of a meeting of Members does not have a second or casting vote and if an equal number of votes is cast for and against a resolution the matter is decided in the negative.

21.2 Voting Restrictions

If a 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 committee or trustee of the Member or such other person as properly has the management of the Member's estate may exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.

22. HOW VOTING IS CARRIED OUT

A resolution put to the vote at a meeting of Members must be decided on a show of hands unless a poll is demanded under either before or on the declaration of the result of the vote on a show of hands. Unless a poll is demanded, the chair's declaration of a decision on a show of hands is final.

23. RESOLUTIONS WITHOUT MEETINGS

23.1 Written Resolutions

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

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

23.2 Signature of Resolutions

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

24. SECRETARY

24.1 Requirement for Secretary

The Company must have at least one Secretary.

24.2 Appointment of Secretary

The Secretary must be appointed by the Board.

24.3 Terms and Conditions of Office

A Secretary holds office on the terms that the Board decides. The Board may vary any decision previously made by it in respect of a Secretary.

24.4 Cessation of Secretary's Appointment

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

- (a) is not permitted by the Act (or an order made under the Act) to be a Secretary of a company;
- (b) becomes disqualified from managing corporations under Part 2D.6 and is not given permission or leave to manage the Company under section 206F or 206G of the Act;
- (c) becomes of unsound mind or is physically or mentally incapable of performing the functions of that office;
- (d) resigns by notice in writing to the Company; or
- (e) is removed from office under rule 24.5.

24.5 Removal from Office

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

25. COMPANY SEALS

25.1 Common Seal

The Board:

- (a) may decide whether or not the Company has a common seal; and

-
- (b) is responsible for the safe custody of that seal (if any) and any duplicate seal it decides to adopt under section 123(2) of the Act.

25.2 Other Seals

The Company may have for use in place or its common seal outside the jurisdiction in which its common seal is kept one or more official seals, each of which shall be a facsimile of the common seal with the addition on its face of the name of every place where it is to be used.

25.3 Use of Seals

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

25.4 Fixing Seals to Documents

The fixing of the common seal or other seal is affixed to a document must be signed by a director and be countersigned by another director, a secretary or another person appointed by the directors to countersign that document or a class of documents in which the document is included.

26. FINANCIAL RECORDS & AUDIT

26.1 Minutes

The Company must keep a minute book of Members' meetings and Board Meetings and subject to rule 26.2, allow access to minute books for the meeting of Members in accordance with the Act.

26.2 Inspection of records

The Board shall decide whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of Members (other than those who are also directors).

26.3 Financial records

The Company must:

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

27. CERTIFICATE

27.1 Issue of Certificates

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

27.2 Title to the Certificates

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

27.3 Lost and Worn Out Certificates

If a certificate:

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

28. WINDING UP

28.1 Surplus assets not to be distributed to members

If the Company is wound up, any surplus assets must not be distributed to a member or a former member of the company, unless that member or former member is a charity described in rule 28.2.

28.2 Distribution of surplus assets

- (a) Subject to the Act and any other applicable act, and any court order, any surplus assets that remain after the company is wound up must be distributed to one or more charities:
 - (i) with charitable purpose(s) similar to, or inclusive of, the Objects; and
 - (ii) which also prohibit the distribution of any surplus assets to its members to at least the same extent as the Company.
- (b) The decision as to the charity or charities to be given the surplus assets must be made by a special resolution of members at or before the time of winding up. If the members do not make this decision, the company may apply to the Supreme Court to make this decision.

29. REVOCATION

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

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

30. AMENDING THE CONSTITUTION

30.1 Special Resolution

Subject to the Act, the Company may modify or repeal this Constitution or a provision of this Constitution by Special Resolution.

30.2 Effective Date

A Special Resolution modifying or repealing this Constitution takes effect:

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

31. NOTICES

31.1 Notices by Company

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

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

31.2 Overseas Members

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

31.3 When Notice is Given

A notice to a person by the Company is regarded as given and received:

- (a) if it is delivered personally or sent by fax or electronic message:
 - (i) by 5 pm (local time in the place of receipt) on a business day – on that day;
 - (ii) after 5 pm (local time in the place of receipt) on a business day, or on a day that is not a business day – on the next business day; and
- (b) if it is sent by mail:
 - (i) within Australia – on the second business day after posting; or
 - (ii) to a place outside Australia – on the seventh business day after posting.

A certificate in writing signed by a Director or Secretary stating that a notice was sent is conclusive evidence of service.

31.4 Business Days

For the purposes of rule 31.3, a business day is a day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent.

31.5 Counting Days

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

Schedule 1

Proxy Form

(rule 20.3)

I/We

--

[Insert full name]

Being a Member of Ambrose Treacy College Foundation Limited (**Company**) entitled to attend and vote at the meeting, hereby

Appoints

--

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

Voting on Business of the General Meeting

Resolution 1

[INSERT]

FOR

7

AGAINST

7

ABSTAIN

☐

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

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

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

If you mark the abstain box for a particular item, you are directing your proxy not to vote on that item on a show of hands or on a poll and that your shares are not to be counted in computing the required majority on a poll. Signed this _____ day of _____, 2024.

INDIVIDUAL

SIGNED by [Name of Party]:

Signature of Member

Name of Member (BLOCK LETTERS)

COMPANY

SIGNED by [Name of Party]:

Signature of Director

Signature of Director/Company Secretary

Sole Director and Sole Company Secretary