

## NOTICE OF SPECIAL RESOLUTION

**THAT Methodist Ladies College Foundation Inc do repeal all the provisions of its Constitution and replace them with the provisions in the Schedule to this resolution.**

### SCHEDULE

#### **MLC FOUNDATION (INC)**

#### **CONSTITUTION**

1. NAME

1.1 The name of the Foundation is MLC Foundation (Inc).

2. DEFINITIONS & INTERPRETATION

2.1 Definitions

In this Constitution, unless inconsistent with the context:

“**Act**” means the Associations Incorporation Act 1987;

“**Board**” means the board of management of the Foundation;

“**Chairperson**” means the chairperson of the Foundation elected in accordance with clause 11.1;

“**College**” means Methodist Ladies’ College, Claremont;

“**College Council**” means the Council of the College;

“**Deductible Gift Recipient Funds**” means each of the funds administered by the Foundation for which tax deductible receipts have been issued and for which rules as to administration of the fund have been adopted by the Foundation to comply with taxation laws;

“**Financial Year**” means each calendar year commencing on 1 January and ending on 31 December.

“**Foundation**” means this incorporated association;

“**General Meeting**” means any general meeting of the Foundation including an annual General Meeting;

“**Member**” means any person who is a member of the Foundation;

“**Objects**” means the objects of the Foundation;

“**Office**” means the reception office from time to time of the College;

**“Ordinary Member”** means all those persons who are members of the Foundation at the time of adoption of this Constitution whose membership does not cease in accordance with this Constitution at any time thereafter (for the avoidance of doubt upon the commencement of this Constitution all Members who hold that position ex officio shall cease to be Members);

**“Register”** means the register of the members of the Foundation kept in accordance with clause 8;

**“Secretary”** means the secretary of the Foundation elected in accordance with this Constitution;

**“Special Resolution”** means a resolution passed by a majority of not less than three fourths of the Trustee Members eligible to vote and present in person or by proxy at a General Meeting of which notice specifying the intention to propose the resolution as a special resolution has been given in accordance with this Constitution.

**“Trustee Member”** means a person appointed as a trustee member under clause 6.

## 2.2 Interpretation

In the interpretation of this Constitution, unless manifestly inconsistent with its context:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) headings are used for reference only and shall not be used in the interpretation or construction of this Constitution;
- (d) references to clauses are references to clauses of this Constitution;
- (e) a reference to any legislation includes any amendment to the legislation or re-enactment for the time being in force and includes all regulations and orders made under the legislation for the time being in force;
- (f) “including” and similar expressions are not words of limitation.

## 3. PURPOSE AND OBJECTS

3.1 The purpose of the Foundation is to provide for the advancement of education of girls in Western Australia by promoting and providing financial support for education at the College.

3.2 The objects of the Foundation are:

- (a) to raise funds by any lawful means in order to provide gifts, loans or other financial assistance to the College, students of the College and parents and guardians of students of the College;
- (b) to establish and administer separate trusts and funds for the long term endowment of the College or for specific scholarships, bursaries, prizes, buildings and other educational purposes associated with the College;
- (c) to promote and encourage philanthropic support for the activities of the College, particularly the equipping of young women for future roles in the community;
- (d) to facilitate and coordinate fundraising activities for the support of the College;
- (e) to invest and manage funds for the purposes of the Foundation set out in clause 3.1 on its own behalf and on behalf of the College (without fee, other than the recovery of costs).

#### 4. POWERS

4.1 The Foundation has power to do all such things as are necessary, incidental or conducive to the attainment of the Objects including to:

- (a) purchase, take on lease or otherwise acquire real or personal property;
- (b) erect, maintain, alter, repair, amend and pull down any building for the purposes of the Foundation;
- (c) sell, exchange, lease, mortgage, hire, dispose of, hold maintain, repair or otherwise deal with the said real or personal property of the Foundation;
- (d) invest and deal with the money of the Foundation upon such security and in such manner as may be determined by the Board;
- (e) subject to a Special Resolution of a General Meeting, borrow or raise or secure the payment of money including by way of any mortgage, charge or debenture over all or any of the property of the Foundation and repay, redeem or pay off any security;
- (f) enter into, rescind or vary contracts or otherwise deal with any person;
- (g) make arrangements with the College to found, maintain and terminate scholarships, bursaries, exhibitions or other assistance for students of the College, intending students of the College,

parents and guardians of students or intending students of the College;

- (h) enter into contracts of employment on such terms as the Board considers appropriate; and
- (i) provide monies to, or in order to benefit directly, the College by way of donation, gift, loan or payment in discharge of obligations,

provided that no such power shall be exercised other than in accordance with the policies of the College Council adopted from time to time.

## 5. NON-PROFIT PURPOSES

- 5.1 The income and property of the Foundation is to be applied solely for the promotion of the Objects and no part is to be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of pecuniary profit to the Members of the Foundation, provided that remuneration (including superannuation) may be made or provided in good faith to officers and servants of the Foundation or to other persons in return for services rendered to the Foundation.

## 6. MEMBERS

- 6.1 The Members of the Foundation shall be the Trustee Members and the Ordinary Members.
- 6.2 The Trustee Members shall be those persons appointed from time to time by the College Council and the Board of the Foundation in accordance with this clause.
- 6.3 Each of the College Council and the Board of the Foundation shall appoint 4 Trustee Members who shall remain as Members for the term of their appointment which shall not be less than one year or more than three years.
- 6.4 Trustee Members shall be eligible for reappointment.
- 6.5 The Trustee Members shall at all times exercise their rights as Trustee Members in the interests of the Foundation and shall not act at the direction of the College Council or the Board of the Foundation.
- 6.6 The Trustee Members once appointed shall only cease to be Trustee Members in accordance with the provisions of this Constitution. No Trustee Member may be removed from membership by the College Council or the Board.
- 6.7 Ordinary Members shall be entitled to:
  - (a) attend any general meeting of the Foundation;

- (b) speak at any general meeting of the Foundation;
- (c) request a copy of the most recent financial statements and annual report of the Foundation.

## 7. CESSATION OF MEMBERSHIP

7.1 A person ceases to be a Trustee Member or Ordinary Member if:

- (a) in the case of a Trustee Member, the term of appointment of the person as a Trustee Member comes to an end;
- (b) in the case of a Trustee Member, the person ceases to be mentally capable of performing the duties and responsibilities of a Trustee Member;
- (c) the person ceases to hold the office under which the person is entitled to be a Member unless the person otherwise qualifies to be a Member under this Constitution;
- (d) the person resigns as a Member;
- (e) the person dies; or
- (f) the person becomes bankrupt or disqualified from being an officer of a company.

7.2 A person ceases to be an Ordinary Member if that person fails to register his or her membership within 3 calendar months of a notice being published by the Secretary on the website of the College and in the public notice section of a newspaper circulating in Western Australia informing all Ordinary Members that they must register their membership to continue as Ordinary Members of the Association.

## 8. A REGISTER OF MEMBERS

- 8.1 The Secretary must keep and maintain in an up to date condition a Register of the Members of the Foundation and the address of each Member for receipt of notices under this Constitution.
- 8.2 The Secretary shall make the Register available for inspection upon the request of a Member of the Foundation and the Member may make a copy of, or take an extract from, the Register but shall have no right to remove the Register for that purpose.
- 8.3 The Register of Members shall be kept at the premises of the College.
- 8.4 The Secretary must cause the name of any person who ceases to be a Member to be removed from the Register of Members.

## 9. GENERAL MEETINGS

### 9.1 Annual General Meeting

The Foundation shall hold an Annual General Meeting at least once in each calendar year within 4 months after the end of the Foundation's Financial Year.

### 9.2 Special General Meetings

A General Meeting may be called by a resolution of the Board or by requisition of three Trustee Members.

### 9.3 Notice

- (a) Each notice of a General Meeting shall:
  - (i) specify the place, day and hour of meeting;
  - (ii) specify the nature of the business to be conducted at the meeting;
  - (iii) be published on the website of the College;
  - (iv) be delivered to each Trustee Member at the address shown in the Register of the Members; and
  - (v) be delivered to the Chairperson of the Council of the College and the Chairperson of the Board.
- (b) The accidental omission to give notice of any Meeting to any Ordinary Member, shall not invalidate the proceedings at, or any resolution passed at, any General Meeting.
- (c) Not less than 7 days notice shall be given for each General Meeting but, where a Special Resolution is proposed to be put, not less than 14 days notice shall be given.

### 9.4 Quorum

No business shall be transacted at any General Meeting unless at least 4 Trustee Members are present in person or by proxy at and from the time when the meeting proceeds to business including at least two Trustee Members appointed by each of the College Council and the Foundation.

9.5 Business

The business of a General Meeting shall be as specified in the notice convening that meeting but, in the case of an annual General Meeting, shall include the consideration of the annual financial statements of the Foundation and the election of members of the Board.

9.6 Resolution proposed by Trustee Member

No Trustee Member shall be at liberty to move at any General Meeting any resolution which has not been specified in the notice convening that meeting unless the Trustee Member has given not less than 14 days prior written notice of the Trustee Member's intention to move the resolution at that meeting by leaving the notice and a signed copy of the resolution at the Office, whereupon the Secretary shall immediately notify the Members if the notice convening the meeting has then been dispatched, but otherwise notice of that resolution shall be included with the notice convening the General Meeting.

9.7 The Chairperson

The Chairperson shall be entitled to take the chair at every General Meeting. If the Chairperson is not present within 15 minutes after the time appointed for the holding of the meeting, then the Trustee Members present shall choose one of their number to be chairperson of that meeting.

9.8 Adjournment of Meetings

The chairperson of a meeting at which the requisite quorum is present may, with the consent of the meeting, adjourn the meeting from time to time and from place to place as the meeting shall determine, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

9.9 Voting

Each Trustee Member present in person or by proxy at a General Meeting shall have one vote. Ordinary Members shall not be entitled to vote at a General Meeting. Unless otherwise provided in this Constitution, resolutions of a General Meeting shall be decided by a majority of those present and voting (including proxies).

9.10 Proxy

A Trustee Member may appoint any other Trustee Member as his or her proxy. Every instrument of proxy shall be in such usual or common form as the Board may approve from time to time. The instrument

appointing a proxy shall be in writing under the hand of the appointor and must be delivered to the Secretary before the commencement of the meeting at which the proxy is authorised to vote.

#### 9.11 Voting Rights of Proxies

An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of the 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. Any proxy may be revoked at any time by written notice to the Foundation. The proxy holder must be present at the meeting in order to vote as proxy.

### 10. BOARD OF MANAGEMENT

10.1 The affairs of the Foundation shall be conducted and managed by the Board.

10.2 The Board shall be constituted as follows:

- (a) the Chairperson of the College Council for the time being, or the nominee of the Chairperson;
- (b) the Principal of the College for the time being, or the nominee of the Principal; and
- (c) up to 8 persons appointed by the Foundation in General Meeting after taking advice (which shall not be binding) from the Board as to appropriate appointees.

10.3 Each of the members appointed under clause 10.2(c) shall be a member of the Board until the next annual General Meeting following his or her appointment, or until his or her vacation of office whichever occurs first.

10.4 A member appointed under clause 10.2(c) above may serve as a member of the Board for up to 6 consecutive annual General Meetings following initial appointment but thereafter must retire for at least one year before being eligible for re-appointment.

10.5 The Board and each member of the Board shall comply with this Constitution and uphold the values of the College and act in accordance with the call, purpose, tradition and objectives of the College including those set out in the preamble to the Constitution of the College.

10.6 Without limiting clause 10.1, the Board may:



- (a) open and maintain bank or building society accounts for the Foundation, to be operated in a manner to be determined from time to time by the Board;
  - (b) appoint officers to assist the Board in the administration of the affairs of the Foundation;
  - (c) from time to time, appoint, employ, pay and superannuate, officers, employees and servants of the Foundation and suspend or dismiss those persons;
  - (d) make arrangements with the College for employees of the College to provide services to assist the Board in the administration of the affairs of the Foundation;
  - (e) make, amend and repeal policies, by-laws and regulations for the Foundation in accordance with the terms of this Constitution;
  - (f) call General Meetings as and when required by law and otherwise as the Board may determine from time to time;
- 10.7 Each member of the Board has and may exercise one vote and, in the case of an equality of votes the Chairperson may have a second or casting vote.
- 10.8 Questions arising at any Board meeting will be decided by a majority of the Board members present and voting.
- 10.9 The Board may make decisions by circular or electronic poll of the members of the Board. A decision of such a poll becomes effective upon the receipt of the affirmative votes of 5 members of the Board provided there have been no dissenting votes received prior to those affirmative votes.
- 10.10 The Board may co-opt such persons as the Board thinks fit to assist at its deliberations and who may join in debate but who shall not be entitled to vote on any matter.
- 10.11 The Board at any time may appoint a person to be a member of the Board to fill a casual vacancy occurring in the elected membership of the Board until the next annual General Meeting.
- 10.12 The Board shall meet at least 4 times each year and whenever called upon to hold a meeting by the Chairperson or by 3 members of the Board.
- 10.13 A quorum of the Board shall be 4 members of the Board present in person.

- 10.14 Meetings of the Board shall be chaired by the Chairperson and, if he or she is unable or unwilling to act, by a person elected at that Board meeting to act as chairperson of the meeting.
- 10.15 Reasonable notice of each Board meeting shall be given to each member of the Board and delivered to the address supplied by each member of the Board to the Foundation for service of notices.
- 10.16 The non-receipt by any member of the Board of a notice of meeting will not invalidate the meeting of the Board.
- 10.17 All acts done at any meeting of the Board, notwithstanding that it is afterwards discovered that there was some defect in the appointment or continuance and office of any member of the Board, shall be valid as if every such person has been duly appointed or had duly continued in office and was qualified to be a member of the Board and was entitled to vote.
- 10.18 A person ceases to be a member of the Board automatically if:
- (a) the person dies;
  - (b) the person is absent from 3 consecutive meetings of the Board without the approval of the Board;
  - (c) the person is declared bankrupt or disqualified from being an officer of a company;
  - (d) the person is convicted of an offence of dishonesty;
  - (e) the person resigns as a member of the Board;
  - (f) the person ceases to be qualified to remain as a member of the Board under this Constitution; or
  - (g) the person is removed by resolution of a General Meeting.

## 11. OFFICERS

- 11.1 At the first meeting of the Board after the adoption of this constitution and thereafter at the first meeting of the Board after each annual General Meeting, the members of the Board shall elect by majority of the members of the Board present and voting:
- (a) the Chairperson; and
  - (b) the Secretary;
- of the Foundation.

- 11.2 The Board shall appoint from time to time such persons, who may be members of the Board or employees of the Foundation or the College, as it considers appropriate to be responsible for maintaining the accounts of the Foundation and reporting to the Foundation as to the state of its financial affairs.

12. INVESTMENT POLICY

- 12.1 The Board shall adopt and maintain at all times a policy concerning the investment of monies held by the Foundation.
- 12.2 The monies of the Foundation shall be invested solely in accordance with the requirements of the investment policy adopted by the Board.
- 12.3 The Board shall review by meeting annually (not by circular resolution) the investment policy of the Board and shall ratify or amend the investment policy.
- 12.4 The Board shall include a statement summarising its investment policy in its annual financial statements.
- 12.5 The annual financial statements presented to the annual General Meeting shall include a report of investment performance by reference to the approved investment policy.

13. MINUTES

- 13.1 The Secretary, or an assistant to the Board to whom this duty is delegated, will take and retain in a file to be maintained for the purpose, minutes of all meetings of the Board and of the Foundation in General Meeting.
- 13.2 All minutes taken will be confirmed by the next succeeding meeting of the Board or Foundation in General Meeting as the case may be and will be signed by the person presiding as Chairperson of that succeeding meeting.

14. DELEGATION

- 14.1 The Board may from time to time delegate any of its powers or authorities to a committee of the Board and may:
- (a) determine the manner in which the committee will conduct its proceedings;
  - (b) dissolve the committee or suspend or withdraw any powers or authorities of the committee as the Board thinks fit; and
  - (c) remove from office any member of a committee.

14.2 The Board may from time to time delegate any of its powers or authorities to employees of the Foundation (or employees of the College who have been authorised by the Principal of the College to undertake such duties).

14.3 With respect to all committees:

- (a) the Chairperson and the Principal (or their nominees) will be ex-officio members;
- (b) a member of the Board will be the chairperson of the committee;
- (c) members of the committee may include persons other than the members of the Board and may include staff of the College; and
- (d) reports to the Board will be made periodically or as requested by the Board.

#### 15. CONFLICT OF INTEREST

The Board will create and implement a policy to manage any conflict of interest that may arise from time to time between the interests or duties of any member of the Board or any member of any committee of the Board and the affairs of the Foundation.

#### 16. COOPERATION WITH COLLEGE COUNCIL

16.1 The Board shall provide regular reports to the College Council on the activities of the Foundation.

16.2 The Board shall provide to the College Council all such information concerning the affairs of the Foundation as the College Council may request from time to time.

16.3 The Board shall provide the College Council with a copy of its approved investment policy and any revisions to that policy forthwith after their adoption by the Board.

#### 17. RECORDS

Proper books and accounts and records of the income, expenditure and assets of the Foundation are to be kept and full minutes of all meetings.

#### 18. ANNUAL ACCOUNTS

18.1 A copy of the audited financial statements made up to 31 December each year including balance sheets and profit and loss accounts together with an Auditor's report are to be forwarded forthwith to the College Council and a copy of the most recent financial statements of the Foundation shall be provided at any time upon request by the College Council.

18.2 The Board shall submit at each annual General Meeting the accounts showing the financial position of the Foundation at the end of the immediately preceding Financial Year.

19. AUDIT

The accounts of the Foundation are to be audited each year at the expense of the Foundation by such auditors as are from time to time appointed by the Foundation at a General Meeting.

20. BY-LAWS AND REGULATIONS

The Board has power to make, amend and repeal by-laws and regulations as regards the management of the affairs of the Foundation but no by-laws or regulations may contravene a provision of this Constitution or be beyond the Objects.

21. CUSTODY OF THE COMMON SEAL

21.1 The Foundation shall have a Common Seal.

21.2 The Common Seal of the Foundation is to be kept in the custody of the Secretary or such other person as the Board may determine from time to time.

21.3 Any Deed and any document relating to any property held by the College or relating to any matter which, if made or executed by an individual could be or would be required to be in writing and under seal, may be made or executed under the Common Seal of the Foundation.

21.4 The Common Seal is not to be affixed to any document other than in accordance with the resolution of the Board and its affixation must be witnessed by two members of the Board.

21.5 The Secretary shall maintain a register listing all documents to which the Common Seal of the Foundation has been affixed.

22. CUSTODY OF DOCUMENTS

The Secretary shall be responsible for the safekeeping of documents belonging to the Foundation.

23. INSPECTION OF BOOKS

Each of the following documents shall be made available for inspection by any Member upon request:

- (a) the Register of Members;
- (b) this Constitution;

- (c) the record of the members of the Board; and
- (d) the register of documents to which the Common Seal has been affixed.

#### 24. NOTICES

- 24.1 All notices required to be given to members of the Board or Members shall be delivered to one address specified in the record of members of the Board or the Register of Members as the case may be.
- 24.2 Subject to clause 24.3, in all cases the address for service of notices shall be an electronic address and notices shall be deemed to be given at the time of sending.
- 24.3 In the case of those persons who are Members at the time of adoption of this constitution the address for notices shall be the postal address specified in the Register of Members, if any, unless and until the Foundation is advised of an electronic address by the Member.

#### 25. AMENDMENTS TO THIS CONSTITUTION

- 25.1 No amendment or variation of the terms of this Constitution shall be valid or effectual unless:
  - (a) made pursuant to a Special Resolution at a General Meeting; and
  - (b) ratified by the College Council within 3 months of the holding of the General Meeting at which the resolution was passed.
- 25.2 No amendment or variation to this Constitution shall take effect until registered in accordance with the requirements of the Act.

#### 26. DISSOLUTION

- 26.1 The Foundation may not be dissolved except by a Special Resolution at a General Meeting, which is subsequently ratified by resolution of College Council.
- 26.2 If upon the winding up of the Foundation there remains after satisfaction of all debts and liabilities any property whatsoever, the same shall not be paid or distributed amongst the members or former members, but shall be given or transferred:
  - (a) to another association under the Act which has similar objects; or
  - (b) for charitable purposes

which association or purposes, as the case requires, shall be determined by resolution of the members and shall be an association or

purposes to which income tax deductible gifts may be made as approved by the Commissioner of Taxation.

26.3 In addition to cl 26.2, upon the winding up of the Foundation:

- (a) to the extent possible, property that remains after satisfaction of all debts and liabilities shall be transferred to the College, or if the College has ceased to exist, to some other college or institution of the Uniting Church in Australia or its successor in title in the State of Western Australia with objects similar to or compatible with the objects of the College, and which also prohibits the distribution of its income and property amongst its members; and
- (b) Deductible Gift Recipient Funds administered by the Foundation shall be dealt with in accordance with the relevant rules of each fund.