

**CORPORATIONS ACT
A COMPANY LIMITED BY SHARES**

CONSTITUTION OF

UNSW GLOBAL PTY LIMITED (ACN 086 418 582)

1. Definitions and Interpretation

1.1. Definitions

1.1.1. In this Constitution:

Company means UNSW Global Pty Limited (ACN 086 418 582);

Corporations Act means *Corporations Act* 2001 (Cth);

Council means the Council of UNSW;

External Director means a person appointed as a director who is not an employee or student of the Company or UNSW nor a member of the UNSW Council and is otherwise free of any interest, position or relationship that might influence, or reasonably be perceived to influence, in a material respect their capacity to bring an independent judgement to bear on issues before the board;

Internal Director means a person appointed as a director who is an employee or student of the Company or UNSW or a member of the UNSW Council.

Member means UNSW;

Office means the registered office of the Company;

Register means the register of members of the Company kept by the Company under the Corporations Act;

Related Body Corporate has the same meaning as in section 50 of the Corporations Act;

Seal means the common seal of the Company, if any;

Secretary means a person appointed to perform the duties of a secretary of the Company;

UNSW means the University of New South Wales; and

Voluntary Code means the Voluntary Code of Best Practice for the Governance of Australian Universities approved by the Ministerial Council for Tertiary Education and Employment in July 2011, as amended from time to time.

1.1.2. Where a word or phrase is given a defined meaning any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

1.2. References to sections, the constitution and positions

A reference to:

- (a) a section of the Corporations Act includes any amendment, extension or re-enactment and any corresponding section for the time being in force;
- (b) this constitution, where amended, means this constitution as so amended;
- (c) a position or office at UNSW which is abolished, restructured or renamed (previous position) shall be taken to be a reference to the position or office which is the principal successor to the functions of the previous position.

1.3. Presumptions of Interpretation

Unless the context otherwise requires a word which denotes:

- (a) the singular denotes the plural and vice versa;
- (b) any gender denotes the other genders; and
- (c) a person denotes an individual and a body corporate.

1.4. Replaceable rules excluded

To the extent permitted by law, the replaceable rules in the Corporations Act do not apply to the Company.

1.5. References to and calculations of time

- 1.5.1. Where a period of time is specified and is to be calculated before or after a given day, act or event it must be calculated without counting that day or the day of that act or event.
- 1.5.2. A provision of this constitution which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.

1.6. Business Day

A reference to a business day means a business day defined in the Corporations Act.

2. Purpose

2.1. Objects

- 2.1.1. The objects for which the Company is established are to:
 - (a) establish and operate courses and programs to provide regular and continuing higher education, instruction and training services by appropriately qualified persons to international and other students, with a commitment to academic freedom and free intellectual inquiry;
 - (b) conduct educational and training courses and programs;
 - (c) facilitate the international education activities of UNSW;
 - (d) conduct research associated with any of the objects specified in paragraphs (a) - (c);

- (e) provide education and administrative services for UNSW and its Related Bodies Corporate;
- (f) make donations to UNSW of such amounts and at such times as the Company may determine; and
- (g) generally do all other things that appear to the Company to be incidental or conducive to the attainment of any of the objects specified in paragraphs (a) - (h).

2.1.2. In recognition of the obligations placed on the Council under:

- (a) the University of New South Wales Act 1989; and
- (b) the Voluntary Code,

in relation to establishing systems of control and accountability over, and protocols for reporting by, the Company as a controlled entity of UNSW, the Company must do all things necessary in relation to the timely and regular provision of such Company information and reports as will enable the Council to perform its functions under the University of New South Wales Act 1989 and comply with the Voluntary Code.

2.2. Powers

2.2.1. The Company can only exercise the powers in section 124(1) of the Corporations Act to:

- (a) carry out the objects in clause 2.1.1 and act in accordance with clause 2.1.2; and
- (b) do all things incidental or convenient in relation to the exercise of the power under clause 2.2.1(a).

2.2.2. The Company must not exercise any function or engage in any activity that UNSW is not authorised by or under the University of New South Wales Act 1989 to exercise or engage in.

3. Share capital

The Company is a company limited by shares and:

- (a) the sole shareholder is the Member; and
- (b) the Member holds 1 share.

4. Resolutions

In accordance with section 249B of the Corporations Act, the Company may pass a resolution by the Member recording the resolution and signing the record.

5. Appointment and retirement of directors

5.1. Number and qualifications of directors

5.1.1. Subject to clause 5.1.2, there shall be no fewer than 3 and no more than 7 directors.

- 5.1.2. The Council may amend the number of directors.
- 5.1.3. Subject to clause 5.1.1, two (2) External Directors must be appointed at any given time, except that an External Director cannot be appointed if to do so would result in the number of External Directors being equal to or exceeding the number of Internal Directors.
- 5.1.4. Persons appointed as directors must be fit and proper persons and meet all eligibility requirements for directors under the Corporations Act and any other applicable laws.
- 5.1.5. Collectively, the directors must have expertise in corporate governance, financial monitoring, planning, risk management and oversight of higher education quality.
- 5.1.6. Alternate directors are not to be treated as directors for the purpose of determining the minimum or maximum number of directors holding office.
- 5.1.7. At least 2 directors must be ordinarily resident in Australia.

5.2. Appointment of directors and Chairperson

- 5.2.1. Subject to clause 5.2.2, the Council must appoint the number of directors from time to time determined in accordance with clause 5.1 for such period of time as the Council may determine.
- 5.2.2. The Council shall appoint one of the directors as Chairperson of the Board, who shall hold office, subject to remaining a director, for such period as Council determines.

5.3. Retirement of Directors

A director may retire from office by giving notice to the Company of the director's intention to retire. A notice of resignation takes effect at the time which is the later of:

- (a) the time of giving the notice to the Company; or
- (b) the expiration of the period, if any, specified in the notice.

5.4. Casual vacancies

UNSW may at any time appoint a person to be a director to fill a casual vacancy. The total number of directors may not exceed the maximum number permitted under this constitution.

5.5. Removal from office

The Council may remove and replace a director appointed by it at any time by notice to that director.

5.6. Vacation of office

In addition to the circumstances in which the office of a director becomes vacant by virtue of the Corporations Act or another provision of this constitution, the office of director becomes vacant if the director:

- (a) becomes an insolvent under administration;
- (b) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (c) is absent without the consent of the directors from the meetings of the directors

held during a continuous period of 6 months and the board resolves that the office of that director be vacated; or

- (d) becomes prohibited from being a director by reason of an order made under the Corporations Act.

6. Directors' remuneration

6.1. Fees

6.1.1. Subject to this constitution, the directors and alternate directors, other than independent directors appointed under clause 5.2.2(d), must not be paid remuneration for their services as directors of the Company.

6.1.2. Independent directors appointed under clause 5.2.2(d) may be paid remuneration at market rates as determined by the directors.

6.2. Payment for expenses

The directors must, on resolution of the Company, be paid all travelling, accommodation and other expenses properly incurred by them in attending and returning from meetings of the directors or any committee of the directors or otherwise in the execution of their duties as directors.

6.3. Payment for extra services

6.1.3. A director who is called upon to perform extra services or to make a special exertion or to undertake executive or other work for the Company beyond the director's ordinary duties may be paid reasonable fees for those services, exertions or work.

6.1.4. The amount may be paid either by fixed sum or salary determined by the directors.

7. Powers and duties of directors

7.1. Management of the Company

7.1.1. The business of the Company is to be managed by the directors who may exercise all those powers of the Company as are not, by the Corporations Act or by this constitution, required to be exercised by the Member.

7.1.2. Without limiting the powers of management conferred on the directors by any other provision of this constitution, the directors may exercise all the powers of the Company to:

- (a) borrow money;
- (b) mortgage or charge any property or business of the Company or all or any of its uncalled capital;
- (c) issue debentures; and
- (d) give any other security for any debt, liability or obligation of the Company or of any other person.

7.2. Consideration of interests of UNSW

7.2.1. Subject to clause 7.2.2, the directors must, in considering any matter, making any decision or determination, passing any resolution or doing any other act,

matter or thing, act in the best interests of UNSW.

- 7.2.2. The duty of the directors under clause 7.2.1 does not apply to the extent that that duty or its application is inconsistent with or conflicts with the duty of the directors under any applicable laws or the application of those duties.

7.3. Attorneys

- 7.3.1. The directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the Corporations Act appoint any person to be the attorney or attorneys of the Company.
- 7.3.2. The attorney may be granted all powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under this constitution) for the period and subject to the terms which the directors think fit.
- 7.3.3. A power of attorney may contain any provisions for the protection and convenience of persons dealing with the attorney which the directors think fit. It may also authorise the attorney to delegate all or any of the powers, authorities, and discretions vested in him under the power of attorney.

8. Proceedings of directors

8.1. Convening of directors' meetings

A director may at any time, and a Secretary must on the requisition of a director, convene a meeting of the directors.

8.2. Mode of meeting for directors

- 8.2.1. The directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they see fit.
- 8.2.2. The directors are to be treated as present together when in communication by telephone or other means of audio or audio visual communication if each of the directors participating in the communication is able to hear each of the other participating directors.

8.3. Quorum at directors' meetings

At a meeting of directors, a quorum is present if there is present at the meeting 3 directors.

8.4. Voting at directors' meetings

- 8.4.1. Questions arising at a meeting of directors must be decided by a majority of votes of directors present and voting. A decision of the majority is for all purposes a decision of the directors.
- 8.4.2. Each director present has 1 vote at the meeting of directors.

8.5. Appointment of deputy chairperson of directors

- 8.5.1. The directors may elect one of their number as deputy chairperson and determine the period for which the person elected is to hold office.
- 8.5.2. If at any meeting the chairperson is not present within 10 minutes after the time appointed for holding the meeting or is unwilling to act, the deputy chairperson must chair the meeting.

- 8.5.3. If, for the purposes of clause 8.5.2, a deputy chairperson has not been elected under clause 8.5.1 or if at the meeting the deputy chairperson is not present within 10 minutes after the time appointed for holding the meeting or is unwilling to act,

8.6. Chairperson's vote at directors' meetings

The chairperson and deputy chairperson and any other person who chairs a meeting of directors pursuant to clause 8.5.3 are not entitled to a second or casting vote.

8.7. Disclosure of director's interests

- 8.7.1. A director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company must declare the nature of the director's interest at a meeting of the directors in accordance with section 191 of the Corporations Act.

- 8.7.2. The Secretary must record every declaration of interest in the minutes of the meeting at which it is made.

- 8.7.3. A director is not to be treated as interested or to have been interested in a contract or proposed contract merely because:

- (a) where the contract or proposed contract relates to a loan to the Company, the director has guaranteed or joined in guaranteeing the repayment of the loan or a part of the loan; or
- (b) where the contract or proposed contract has been or will be made with or for the benefit of or on behalf of a body corporate which by virtue of the Corporations Act is treated as related to the Company, the director is a director of that body corporate.

8.8. Director's contracts

- 8.8.1. Despite a failure by a director to declare the nature of the director's interest as required by this constitution and the Corporations Act:

- (a) a director or intending director is not disqualified by holding office as director from contracting or entering into any arrangement with the Company, whether as vendor, purchaser or otherwise;
- (b) a contract or arrangement entered into by or on behalf of the Company in which a director is in any way, whether directly or indirectly, interested, is not liable to be avoided; and
- (c) a director is not liable to account to the Company for a profit realised from that contract or arrangement by reason of the director holding that office.

- 8.8.2. Nothing in this constitution authorises a director or a firm in which the director is interested to act as auditor of the Company.

8.9. Participation where directors interested

- 8.9.1. A director may vote in respect of a contract or proposed contract with the Company in which the director is directly or indirectly interested if the director declares the nature of the interest as required by this constitution and the Corporations Act.

- 8.9.2. A director may be counted in the quorum at a meeting at which there is considered a matter in which the director is, directly or indirectly, interested and in respect of which the director is entitled to vote.

- 8.9.3. A director may attest the affixing of the Seal to a contract or arrangement entered

into by the director or in which the director is, directly or indirectly, interested.

8.10. Delegation of powers to committee

- 8.10.1. The directors may delegate any of their powers to committees consisting of directors or other persons as they think fit to act in Australia or elsewhere.
- 8.10.2. The exercise of a power by a committee in accordance with this constitution is to be regarded as the exercise of that power by the directors.
- 8.10.3. Any committee so formed must, in the exercise of the powers so delegated, conform to any rules and regulations that may be imposed on it by the board from time to time.

8.11. Proceedings of committees

Except as provided in a direction of the directors, the meetings and proceedings of a committee formed by the directors must be governed by the provisions of this constitution, insofar as they are applicable, as if meetings and proceedings of the committee are meetings and proceedings of the directors.

8.12. Validity of acts of directors

All acts done by a meeting of the directors or of a committee of directors or by a person acting as a director are valid even if it is later discovered that there is a defect in the appointment of a person to be a director or a member of the committee or that they or any of them were disqualified or were not entitled to vote.

8.13. Minutes

- 8.13.1. The directors must cause all resolutions made under clause 4 and minutes of all proceedings of meetings of directors and of committees formed by the directors to be entered, within one month after the relevant meeting is held, in books kept for the purpose.
- 8.13.2. The directors must cause all minutes, except resolutions made under clause 4 and resolutions in writing treated as determinations of directors, to be signed by the chairperson of the meeting where the proceedings took place or by the chairperson of the next succeeding meeting.

8.14. Resolution in writing

- 8.14.1. The directors may pass a resolution without a directors' meeting being held if all the directors 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.
- 8.14.2. The resolution is passed when the last director signs.

8.15. Form of resolution in writing

- 8.15.1. A resolution in writing may consist of several documents in like form, each signed by one or more directors and if so signed it takes effect on the latest date on which a director signs one of the documents.
- 8.15.2. If a resolution in writing is signed by an alternate director, it must not also be signed by the appointer of the alternate director and vice versa.

8.15.3. In relation to a resolution in writing:

- (a) a document generated by electronic means which purports to be a facsimile of a resolution of directors is to be regarded as a resolution in writing; and
- (b) a document bearing a facsimile of a signature is to be regarded as signed.

9. Executive directors

9.1. Appointment of executive directors

- 9.1.1. The directors may appoint one or more of their number to hold any executive office of the Company, including that of chief executive officer.
- 9.1.2. A director appointed to an executive office of the Company is referred to in this constitution as an executive director.
- 9.1.3. The appointment of a director to an executive office may be for the period and on the terms determined by the directors, subject to the provisions of the Corporations Act.

9.2. Termination of appointment of executive directors

The directors may revoke or terminate any appointment of a director to an executive office, but without affecting any claim for damages for breach of any employment contract between the director and the Company.

9.3. Remuneration of executive directors

- 9.3.1. Subject to the terms of any agreement entered into between the Company and an executive director, that executive director is entitled to receive the reasonable remuneration determined by the directors.
- 9.3.2. The remuneration of an executive director may be paid by way of salary, commission, or participation in profits, or partly in one way and partly in another as determined by the directors.

9.4. Powers of executive directors

- 9.4.1. The directors may entrust to and confer on an executive director any of the powers exercisable by them on the terms and with the restrictions determined by the directors.
- 9.4.2. The powers conferred on an executive director may be conferred on terms that they are to be exercised either concurrently with or to the exclusion of the director's own powers.
- 9.4.3. The directors may revoke, withdraw, alter or vary from time to time all or any of the powers of an executive director.

10. Alternate directors

10.1. Appointment of alternate directors

- 10.1.1. Subject to clause 10.1.2, a director may appoint a person to be an alternate director in the director's place, during the period that the director thinks fit.
- 10.1.2. Only persons approved by the Council are eligible to be appointed as alternate directors under clause 10.1.1.

10.1.3. The appointment of an alternate director must be in writing, signed by the director.

10.1.4. The appointment of an alternate director takes effect immediately on the signing of the notice of appointment by the director.

10.2. Powers of alternate director

10.2.1. An alternate director is subject in all respects to the terms applying to the other directors except:

- (a) the provisions of this constitution which relate to the election of directors, remuneration and the power to appoint an alternate director; and
- (b) as expressly provided in this constitution.

10.2.2. An alternate director is entitled to:

- (a) perform all the duties of a director while the director who appointed the alternate director is not exercising or performing them;
- (b) receive notice of meetings of the directors; and
- (c) attend and vote at meetings of the directors if the director who appointed the alternate director is not present.

10.2.3. Termination of appointment of alternate director

The appointment of an alternate director is immediately terminated if:

- (a) the director who appointed the alternate director ceases to be a director; or
- (b) the director who appointed the alternate director gives notice of termination of the appointment to the Company.

11. Secretary

11.1. Appointment of secretaries

The directors may appoint one or more Secretaries and may at any time terminate the appointment or appointments.

11.2. Term of appointment of secretaries

The directors may determine the terms of appointment of a Secretary, including remuneration.

11.3. Secretaries may act separately

Any one of the Secretaries may carry out any act or deed required by this constitution, the Corporations Act or by any other statute to be carried out by the Secretary of the Company.

12. Seal

12.1. Common Seal

If the Company has a Seal:

- (a) the directors must provide for the safe custody of the Seal;

- (b) the Seal may only be used by the authority of the directors; and
- (c) every document to which the seal is affixed must be signed by 2 directors, a director and the Secretary or by 2 persons appointed by the directors to countersign that document or a class of documentation in which that document is included.

12.2. Duplicate Seal

If the Company has a Seal, the Company may have one or more duplicate Seals of the Seal which must:

- (a) be a facsimile of the Seal with the addition on its face of the words "Duplicate Seal"; and
- (b) only be used with the authority of the directors or a directors' committee.

13. Notices

13.1. Persons authorised to give notices

- 13.1.1. A notice under this constitution must be in writing and may be given on behalf of the Company or the Member by a solicitor, director or Secretary of the Company or the Member.
- 13.1.2. The signature of a person on a notice given by the Company may be written, inserted electronically, printed or stamped.

13.2. Method of giving notices

In addition to the method for giving notices permitted by statute, a notice under this constitution may be given to the addressee by:

- (a) delivering it to a street address of the addressee;
- (b) sending it by prepaid registered post to the address of the addressee;
- or
- (c) sending it by email to the email address of the addressee.

13.3. Addresses for giving notice to the Member

- 13.3.1. The street address or postal address of the Member is the street or postal address of the Member shown in the Register.
- 13.3.2. The email address of the Member is the address which the Member may specify by notice to the Company as the email address to which notices may be sent to the Member.

13.4. Address for giving notices to the Company

- 13.4.1. The street and postal address of the Company is the Office.
- 13.4.2. The email address of the Company is the address which the Company may specify by notice to the Member as the email address to which notices may be sent to the Company.

13.5. Time notice is given

A notice given in accordance with this constitution is deemed to have been received:

- (a) if delivered to the street address of the addressee, at the time of delivery;
- (b) if sent by post to the street or postal address of the addressee, on the business day after posting; or
- (c) if sent before 5.00pm by email to the email address of the addressee, on the day the email is sent, or if sent after 5.00pm, the next business day.

14. Winding up

If there is any surplus from the winding up of the Company, the surplus must be paid or distributed to UNSW.

15. Indemnity

15.1. Costs and expenses

Every officer of the Company is indemnified by the Company against a liability for costs and expenses incurred by that person as an officer:

- (a) in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
- (b) in connection with any application in relation to those proceedings in which the Court grants relief to the person under the Corporations Act.

15.2. Liabilities to third parties

Every officer of the Company is indemnified against a liability incurred by that person as an officer to a person other than the Company or a Related Body Corporate, except a liability which arises from conduct that involves a lack of good faith.

15.3. Insurance premiums

The Company may pay the premium on a contract insuring a person who is or has been an officer of the Company against:

- (a) a liability for costs and expenses incurred by the person in defending proceedings arising out of the person's conduct as an officer, whether civil or criminal and whatever the outcome; and
- (b) other liability incurred by the person as an officer of the Company except a liability which arises from conduct that involves a wilful breach of duty in relation to the Company or a contravention of sections 182 and 183 of the Corporations Act.

16. Variation

This constitution may only be varied with the prior written approval of the Council.

17. Interests of Holding Company

A director is deemed to act in the best interests of the Company if:

- (a) the Company makes a donation to the University of New South Wales in accordance with clause 2.1.1(f);
- (b) the director acts in good faith and in the best interests of the University of New South Wales; and
- (c) the Company is not insolvent at the time the director acts and does not become insolvent because of the director's act.