

4 May 2016

Constitution

Korowal School Limited ACN 001 581 693

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1. Defined terms

1.1 In this Constitution unless the contrary intention appears:

Auditor means the Company's auditor.

Company means Korowal School Limited ACN 001 581 693.

Constitution means the constitution of the Company as amended from time to time.

Corporations Act means the *Corporations Act 2001* (Cth) as modified or amended from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Company.

Director includes any person occupying the position of director of the Company.

Directors means all or some of the Directors acting as a board.

Member means a member under clause 7.

Existing Members means the members of the Company as at the date of the adoption of this Constitution.

Register means the register of Members of the Company.

Seal means the Company's common seal (if any).

Secretary means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of those joint secretaries.

School means **Korowal School**

1.2 In this Constitution, except where the context otherwise requires, an expression in a clause of this Constitution has the same meaning as in the Corporations Act. Where the expression has more than one meaning in the Corporations Act and a provision of the Corporations Act deals with the same matter as a clause of this Constitution, that expression has the same meaning as in that provision.

2. Interpretation

In this Constitution, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Constitution, and a reference to this Constitution includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (f) a reference to time is a reference to Eastern Standard Australia time; and
- (g) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions.

2.2 Headings are for ease of reference only and do not affect interpretation.

- 2.3 For the purposes of this Constitution, if the provisions of the Corporations Act and this Constitution conflict on the same matter, the provisions of the Corporations Act prevail.

3. Replaceable rules

The provisions of the Corporations Act that apply to certain companies as replaceable rules are displaced by this Constitution in their entirety and do not apply to the Company.

Objects

4. Objects

- 4.1 The Company is established for the object of operating a [*co-educational*] school for children, irrespective of their social, religious or cultural background (**the School**), the Education at Korowal is inspired by the following principles:
- (a) The quality of human relationships is the heart of the educational process. Committed, mutually respectful relationships between students, teachers and parents are crucial to educational happiness and success.
 - (b) The student is educated in a balanced and integrated way: intellectually, creatively, socially, physically, emotionally, ethically and spiritually.
 - (c) The aim of education is to develop full human potential.
 - (d) The values of compassion, tolerance, equity, respect, empathy, commitment, resilience, and critical thinking are consciously fostered.
 - (e) The value of the individual is found within the context of the group.
- 4.2 The Company may only exercise the powers granted in section 124(1) of the Corporations Act to:
- (a) carry out the Objects set out in this clause; and
 - (b) do all things incidental or convenient in relation to the exercise of power under clause 4.2(a).

Income and property of Company

5. Income and property of Company

- 5.1 The income and property of the Company will only be applied towards the promotion of the Objects of the Company set out in clause 4.
- 5.2 No income or property will be paid or transferred directly or indirectly to any Member of the Company except for payments to a Member:
- (a) in return for any services rendered or goods supplied in the ordinary and usual course of business to the Company; or
 - (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent.

Membership

6. Membership

- 6.1 Notwithstanding anything else in this Constitution, membership of the Company is limited to 400 Members.
- 6.2 All Existing Members shall be deemed to be Members from the date of the adoption of this Constitution.

7. Admission

- 7.1 The Members of the Company are:
- (a) the Existing Members of the Company who are deemed to have given their agreement to become members of the Company; and
 - (b) any other eligible persons whom the Directors admit to membership in accordance with this Constitution and who agree to become members of the Company.
- 7.2 A person is eligible to be admitted to membership if the person:
- (a) is a natural person;
 - (b) has never been a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW) nor ever been convicted of an indictable offence;
 - (c) is not an undischarged bankrupt;
 - (d) is in a parent like relationship with a student enrolled at the School;
 - (e) or who is employed by the school in any capacity, whether full or part time;
 - (f) or who is appointed as a Member by the Board.
- 7.3 Applications for membership of the Company must be in writing, signed by the applicant, be nominated and seconded by an existing member, and be in a form approved by the Directors in their absolute discretion.
- 7.4 The Directors will consider each application for membership at the next meeting of Directors after the application is received. In considering an application for Membership, the Directors may:
- (a) accept the application, if such acceptance will not lead to the membership exceeding the limits imposed by clause 6.1;
 - (b) reject the application; or
 - (c) ask the applicant to give more evidence of eligibility or suitability for membership.
- 7.5 If the Directors ask for more evidence under clause 7.4, their determination of the application for membership is to be deferred until the evidence is given.
- 7.6 The Directors do not have to give any reason for rejecting an application for Membership.
- 7.7 The rights and privileges of every Member are personal to each Member and are not transferable by the Member's own act or, to the extent permitted by law, by operation of law.
- 7.8 The Directors may define the duration of the appointment of Members as defined by clause 7.2 (f), which cannot exceed three years.

8. Ceasing to be a Member

8.1 A Member's membership of the Company will immediately cease:

- (a) if the Member gives the Secretary written notice of resignation, from the date of receipt of that notice by the Secretary;
- (b) if a majority of three-quarters of the Directors present and voting at a meeting of Directors by resolution terminate the membership of a Member:
 - (i) whose conduct in their opinion renders it undesirable that that Member continue to be a Member of the Company; and
 - (ii) who has been given at least 21 days' notice of the resolution and has had the opportunity to be heard at the meeting at which the resolution is proposed; or
- (c) if the Member:
 - (i) dies;
 - (ii) becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health;
 - (iii) is a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW) or is convicted of an indictable offence;
 - (iv) files or is the subject of a petition for bankruptcy;
 - (v) ceases to meet the requirements for eligibility for membership set out in clause 7.

9. Powers of attorney

- 9.1 If a Member executes or proposes to execute any document or do any act by or through an attorney which affects the Company or the Member's membership in the Company, that Member must deliver the instrument appointing the attorney to the Company for notation.
- 9.2 If the Company asks the Member to file with it a certified copy of the instrument for the Company to retain, the Member will promptly comply with that request.
- 9.3 The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

General meetings

10. Calling general meeting

- 10.1 Any three Directors may, at any time, call a general meeting.
- 10.2 The Directors must call and arrange to hold a general meeting on the request of:
- (a) at least 25 Members who are entitled to vote at the general meeting.
- 10.3 A Member may not request or call and arrange to hold a general meeting except under section 249E or 249F of the Corporations Act.

11. Notice of general meeting

- 11.1 Subject to the provisions of the Corporations Act allowing general meetings to be held with shorter notice, at least 21 days written notice (exclusive of the day on which the notice is served

or deemed to be served and of the day for which notice is given) must be given to Members of any general meeting.

11.2 A notice calling a general meeting:

- (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this; and
- (b) must state the general nature of the business to be transacted at the meeting; and
- (c) may specify a place, facsimile number and electronic address for the purposes of proxy appointment.

11.3 A notice of an annual general meeting need not state that the business to be transacted at the meeting includes:

- (a) the consideration of the annual financial report, Directors' report and the Auditor's report;
- (b) the election of directors; or
- (c) the appointment and fixing of the remuneration of the Auditor.

11.4 The Directors may postpone or cancel any general meeting whenever they think fit (other than a meeting called as the result of a request under clause 10.2).

11.5 The Directors must give notice of the postponement or cancellation of a general meeting to all persons referred to in clause 46.1 entitled to receive notices from the Company.

11.6 The failure or accidental omission to send a notice of a general meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

Proceedings at general meetings

12. Member

12.1 In clauses 13, 14, 16 and 20, **Member** includes a Member present in person or by proxy or attorney.

13. Quorum

13.1 No business may be transacted at a general meeting unless a quorum of Members is present when the meeting proceeds to business.

13.2 A quorum of Members is any 12 Members.

13.3 If a quorum is not present within 30 minutes after the time appointed for a general meeting:

- (a) if the general meeting was called on the requisition of Members, it is automatically dissolved; or
- (b) in any other case:
 - (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
 - (ii) if at the adjourned general meeting a quorum is not present within 30 minutes after the time appointed for the general meeting, the general meeting is automatically dissolved.

14. Chairperson

- 14.1 The chairperson, or in the chairperson's absence the deputy chairperson, of Directors' meetings will be the chairperson at every general meeting.
- 14.2 The Directors present may elect a chairperson of a general meeting if:
- (a) there is no chairperson or deputy chairperson; or
 - (b) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the general meeting; or
 - (c) the chairperson and deputy chairperson are unwilling to act as chairperson of the general meeting.
- 14.3 If the Directors make no election under clause 14.2 when they are entitled to do so, then:
- (a) the Members may elect one of the Directors present as chairperson; or
 - (b) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.
- 14.4 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

15. Adjournment

- 15.1 The chairperson of a general meeting at which a quorum is present:
- (a) in his or her discretion may adjourn the general meeting with the meeting's consent; and
 - (b) must adjourn the general meeting if the meeting directs him or her to do so.
- 15.2 An adjourned general meeting may take place at a different venue to the initial general meeting.
- 15.3 The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.
- 15.4 Notice of an adjourned general meeting must only be given in accordance with clause 11.1 if a general meeting has been adjourned for more than 21 days.

16. Decision on questions

- 16.1 Subject to the Corporations Act in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.
- 16.2 Where a resolution is proposed for changes to this Constitution the quorum for the meeting shall be 35. The resolution will be carried if more than 75 percent of the votes cast by Members present at the meeting are in favour of the resolution.
- 16.3 A resolution put to the vote of a meeting is to be decided on a show of hands unless a poll is demanded in accordance with the Corporations Act.
- 16.4 Unless a poll is demanded:
- (a) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
 - (b) an entry to that effect in the minutes of the meeting,
- are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

- 16.5 The demand for a poll may be withdrawn.
- 16.6 A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the general meeting was not entitled to do so.

17. Taking a poll

- 17.1 If a poll is demanded under clause 16.2, a poll will be taken when and in the manner that the chairperson directs.
- 17.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.
- 17.3 The chairperson may determine any dispute about the admission or rejection of a vote.
- 17.4 The chairperson's determination, if made in good faith, will be final and conclusive.
- 17.5 A poll demanded on the election of the chairperson or the adjournment of a general meeting must be taken immediately.
- 17.6 After a poll has been demanded at a general meeting, the general meeting may continue for the transaction of business other than the question on which the poll was demanded.

18. Casting vote of chairperson

- 18.1 The chairperson does not have a casting vote in addition to the chairperson's votes as a Member, proxy or attorney.

19. Offensive material

- 19.1 A person may be refused admission to, or required to leave and not return to, a meeting if the person:
- (a) refuses to permit examination of any article in the person's possession; or
 - (b) is in possession of any:
 - (i) electronic or recording device;
 - (ii) placard or banner; or
 - (iii) other article,

which the chairperson considers to be dangerous, offensive or liable to cause disruption.

Votes of Members

20. Entitlement to vote

- 20.1 Subject to this Constitution, on a show of hands and on a poll every Member has one vote.
- 20.2 No member shall be entitled to vote at any general meeting if any tuition fees payable by that person shall be more than one month in arrears at the date of the meeting without special arrangements having been approved.

21. Objections

- 21.1 An objection to the qualification of a voter may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote.

- 21.2 An objection must be referred to the chairperson of the general meeting, whose decision is final.
- 21.3 A vote which the chairperson does not disallow because of an objection is valid for all purposes.

22. Votes by proxy

- 22.1 If a Member appoints a proxy, proxies or an attorney, the proxy, proxies or attorney may not vote on a show of hands.
- 22.2 A proxy must be a Member.
- 22.3 A proxy may demand or join in demanding a poll.
- 22.4 A proxy or attorney may vote on a poll.
- 22.5 A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If a proxy votes at all, the proxy will be deemed to have voted all directed proxies in the manner directed.

23. Document appointing proxy

- 23.1 An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the information required by subsection 250A(1) of the Corporations Act. The Directors may determine that an appointment of proxy is valid even if it only contains some of the information required by section 250A(1) of the Corporations Act.
- 23.2 For the purposes of clause 23.1, an appointment received at an electronic address will be taken to be signed by the Member if:
- (a) a personal identification code allocated by the Company to the Member has been input into the appointment; or
 - (b) the appointment has been verified in another manner approved by the Directors.
- 23.3 A proxy's appointment is valid at an adjourned general meeting.
- 23.4 A proxy or attorney may be appointed for all general meetings or for any number of general meetings or for a particular purpose.
- 23.5 Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney and [*subject to clause* **Error! Reference source not found.**], the appointment of the proxy or the attorney will be taken to confer authority:
- (a) to vote on:
 - (i) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and
 - (ii) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting,even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
 - (b) to vote on any motion before the general meeting whether or not the motion is referred to in the appointment.
- 23.6 If a proxy appointment is signed by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either cast as proxy or complete the appointment by inserting the name or names of one or more Directors or the Secretary.

24. Lodgement of proxy

- 24.1 The written appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:
- (a) the time for holding the general meeting or adjourned general meeting at which the appointee proposes to vote; or
 - (b) the taking of a poll on which the appointee proposes to vote.
- 24.2 The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:
- (a) the Company's registered office;
 - (b) a facsimile number at the Company's registered office; or
 - (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

25. Validity

- 25.1 A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:
- (a) died;
 - (b) became mentally incapacitated; or
 - (c) revoked the proxy or power,
- unless any written notification of the death, unsoundness of mind or revocation was received by the Company before the relevant general meeting or adjourned general meeting.

Directors

26. Directors

- 26.1 The Directors and Secretary in office on the date this Constitution becomes effective, continue in office subject to this Constitution.
- 26.2 The Board of Directors shall be referred to as the Korowal School Council.
- 26.3 The office bearers of the Company shall consist of a Chair and a Deputy Chair, elected by the Korowal School Council from within the Council membership.

27. Appointment and removal of Directors

- 27.1 Subject to the Corporations Act, the Company may by resolution passed at a general meeting increase the minimum number of Directors or increase or reduce the maximum number of Directors.
- 27.2 Unless the Company resolves otherwise in accordance with clause 27.1, the Company shall have a minimum of 6 and a maximum of 8 Directors.
- 27.3 The Directors must be Members of the Company and shall comprise:
- (a) at least 5 but no more than 8 Directors elected by the Members of the Company; and
 - (b) a maximum of 3 Directors appointed by the Board, if required.

- 27.4 There shall be an annual election to fill vacancies in the membership of the Korowal School Council. Successful candidates will be elected for a term of two years.
- 27.5 The Korowal School Council shall appoint a returning officer to conduct nomination and election procedures for membership of the Council. The procedures will be as follows:
- (a) Nominations will be declared open at least 42 days before the Annual General Meeting. Nominations must reach the returning officer at or before the close of nominations, which will be 28 days before the Annual General Meeting. The close of the ballot shall be at the Annual General Meeting, after members present have had an opportunity to ask questions of the candidates.
 - (b) The nomination must specify the full names and the residential addresses of the nominators and be signed by them. The nominators must be Ordinary members of the Company. The nomination must include written consent to the nomination signed by the nominee. Once an effective nomination reaches the returning officer, the nominee becomes a candidate for election.
 - (c) A person who is nominated for election may submit material of no more than 500 words relevant to the person's candidature.
 - (d) If there is to be a ballot, the returning officer is to prepare a candidate information sheet. The returning officer must base the information in that sheet on what has been set out in the declarations received by the returning officer before the close of nominations.
 - (e) If a ballot is to be held, the returning officer is to notify the Company Secretary of that fact. The Company Secretary is to deliver to the returning officer a roll that sets out (as at the close of nominations) the full name of each Association member and the address to which that member's ballot-paper is to be sent.
 - (f) The returning officer is to determine the order of candidates on the ballot-papers for an election. This is to be done at the office of the returning officer at the time, and on the date, last fixed for the determination by notice of the election. The persons who are entitled to be present at the determination are the candidates (or their agents), the returning officer and any staff to whom any functions of the returning officer have been delegated. The determination is to be carried out in the following manner for both categories of candidates. The returning officer must:
 - (i) in front of everyone present, make out in respect of each candidate a slip bearing the name under which the candidate has been nominated,
 - (ii) then deposit all the slips in a box,
 - (iii) then shake the box and turn it upside down several times, and allow anyone else present to do the same,
 - (iv) then open the box and take out and open each slip one by one,
 - (v) then announce to everyone present, and record, the name of the candidate whose name appears on the slip first taken from the box and, in consecutive order, the name of the candidate whose name appears on the slip enclosed in the container next taken from the box, and so on until all the slips have been examined,
 - (vi) then sign the record and allow anyone else present to do the same.
 - (g) The name of the candidate which has been first taken from the ballot-box in the determination of the order of names is to be shown closest to the top of the ballot-papers. The name of the candidate which has been next taken from the ballot-box is to be shown immediately below the name of the candidate which has been first taken and so on.

- (h) The ballot-paper must contain the names of the candidates with a small square opposite each and the directions required by this clause as to the manner in which a vote is to be recorded on the ballot-paper. It must also contain directions as to how the ballot-paper is to be returned to the returning officer.
- (i) The directions to members must include directions to the effect that the member must record a vote for the number of candidates corresponding with the maximum number of vacancies to be filled, by placing a cross in the square opposite the name of each candidate for whom the member wishes to give his or her vote.
- (j) The returning officer is to have the ballot-papers printed. The returning officer must send to each member a ballot-paper initialled by the returning officer. The returning officer must send to each member also: an unsealed declaration envelope addressed to the returning officer and bearing on the back the words "Name and address of member" and "Signature of member", together with appropriate spaces for the insertion of the name, address and signature, and a copy of the candidate information sheet. The ballot paper and information must be sent to all members at least 14 days before the close of the ballot.
- (k) The returning officer may, at any time before the close of the ballot, send or deliver to a member a new ballot-paper if the member satisfies the returning officer that the member's previous ballot-paper in the election has been spoilt, lost or destroyed, and that the member has not already voted at the election. The returning officer must maintain a record of all ballot-papers sent or delivered to members under this clause. The returning officer may, at the request of a member, send or deliver to the member a duplicate of a declaration envelope or candidate information sheet.
- (l) A member who wishes to vote is to: (i) record a vote on the ballot-paper sent or delivered to the member, doing so in accordance with the directions shown on it, and (ii) place the completed ballot-paper in the declaration envelope, and (iii) seal the envelope, and (iv) state his or her full name and full address on the back of the envelope and sign it, and (v) send or deliver the envelope (with its contents) to the returning officer so that it is received by the returning officer at or before the close of the ballot. The declaration envelope may be sent or delivered to the returning officer inside a further envelope supplied by the member.
- (m) The returning officer must reject any declaration envelope that the officer receives after the close of the ballot or that is unsealed. The returning officer must examine the name on the back of a declaration envelope and if satisfied that a person of that name is a member, must accept the envelope without opening it, or if not so satisfied, or if a name, address or signature does not appear on the back of the envelope, must reject the envelope.
- (n) If it appears to the returning officer that the signature on the back of a declaration envelope is not the signature of the person whose name and address are there, the returning officer may make such inquiries as the returning officer thinks fit. If, after making those inquiries, the returning officer is satisfied that the signature is not the signature of that person, the officer must reject the envelope. If a declaration envelope is to be rejected, its contents must also be rejected and the returning officer must not open it.
- (o) Each candidate is entitled to appoint a scrutineer to represent the candidate in respect of a ballot. A scrutineer is entitled to be present at any proceeding in the election (for which the person who appointed the scrutineer is a candidate)
- (p) The returning officer is to take the following steps after examining the declaration envelopes: (i) produce the unrejected declaration envelopes, open each one and take out any ballot-paper inside, (ii) place the ballot-papers and envelopes in separate piles or containers, (iii) examine each ballot-paper and reject it if it is informal, (iv) count the

votes on the formal ballot-papers, and ascertain the result of the election, (v) declare the result of the election.

- (q) Whenever 2 or more candidates have an equal number of votes, the returning officer will arrange when necessary for the candidates names to be drawn from a container.
- (r) A ballot-paper of an elector is informal if: (i) it has not been completed in accordance with the directions on it, or (ii) it has not been initialled by the returning officer, or (iii) it contains a mark or writing which, in the returning officer's opinion, would enable the elector to be identified. However, a ballot-paper is not informal just because of the existence of marks or writing on the paper that are not in accordance with the directions for its completion if, in the opinion of the returning officer, the member's intention is clearly indicated on the ballot-paper. A ballot paper is informal if it indicates a number of votes in excess of the number of vacancies indicated on the ballot paper directions.
- (s) Proxies cannot be used for any poll to elect the Korowal School Council members.

27.6 Subject to applicable law, if the Board considers in its discretion, acting reasonably, that the conduct or position of any Director is such that continuance in office is likely to be prejudicial to the interests of the Company, the Board, at a meeting of the Directors specifically called for that purpose, may suspend that Director. The relevant Director will not be eligible to vote on the resolution.

27.7 As soon as possible after the suspension (subject to the notice provisions in the Corporations Act and this Constitution), the Directors must call a general meeting, at which the Members may either confirm the suspension and remove the Director from office or annul the suspension and reinstate the Director.

28. Retirement

28.1 All Directors, may not serve more than 4 consecutive terms (8 years).

28.2 Subject to clause 28.3, a retiring Director is eligible for re-election or re-appointment.

28.3 Subject to clause 28.4, any person (including the appointees) who has been a Director for [*eight*] consecutive years is not eligible to be a Director for a period of [*two*] years after those [*eight*] years' service.

28.4 The Directors may, by a two-thirds majority, resolve that a person is eligible to be a Director if that person would otherwise not be eligible solely by operation of clause 28.3.

29. Vacation of office

29.1 A person immediately ceases to be a Director if he or she:

- (a) ceases to be a Director by virtue of the Corporations Act;
- (b) is prohibited by the Corporations Act from holding office or continuing as a Director;
- (c) is prohibited from holding or is removed from the office of Director by an order made under the Corporations Act;
- (d) is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Directors incapable of performing his or her duties;
- (e) resigns by notice in writing to the Company;

- (f) is removed by a resolution of the Company;
- (g) becomes bankrupt or makes any general arrangement or composition with his or her creditors;
- (h) is absent from Directors' meetings for 6 consecutive months without leave of absence from the Directors;
- (i) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the Corporations Act;
- (j) is or becomes a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW); or
- (k) ceases to be a Member of the Company.

30. Additional and casual Directors

- 30.1 Subject to clause 27, the Directors may appoint any person as a Director to fill a casual vacancy or as an addition to the existing Directors so that the total number of Directors of the Board shall not at any time exceed the number fixed in accordance with clause 27.2.
- 30.2 A person is only eligible for appointment to fill a casual vacancy in the following offices if:
- (a) They are a Member of the company or
 - (b) Agree to join the company as a Member.
- 30.3 A Director appointed under clause 30.1 ceases to be a Director at the conclusion of the next annual general meeting of the Company but is, subject to clause 28.3, eligible for re-election or re-appointment as a Director.

31. Powers and duties of Directors

- 31.1 The business of the Company is managed by the Directors who may exercise all powers of the Company that this Constitution and the Corporations Act do not require to be exercised by the Company in general meeting.
- 31.2 Without limiting the generality of clause 31.1, the Directors may exercise all the powers of the Company to:
- (a) borrow money;
 - (b) charge any property or business of the Company;
 - (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
 - (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.
- 31.3 The Korowal School Council will adopt a governance role in the affairs of Korowal School. It will ensure that the day-to-day operation of the school is managed by the executive. The Korowal School Council will set overall policy and oversee the management to ensure that the school is run properly and consistently with our human centred philosophy.

To achieve this the Korowal School Council will act according to the following general principles:

- (a) Provide effective and ethical leadership for the school;

- (b) Set strategic direction;
- (c) Define policy;
- (d) Ensure the school is well managed with appropriate organisational structure;
- (e) Ensure ethical behaviour throughout the school;
- (f) Ensure that staff receive adequate training to discharge their responsibilities;
- (g) Ensure compliance with all statutory requirements;
- (h) Ensure appropriate risk management, particularly in the relation to financial reporting, internal control, fraud control, loss control and prevention, insurance performance and contractual exposure; and
- (i) Ensure that the Council regularly reviews its own conduct, particularly in striving to achieve consensus and being consistent with our philosophy.

31.4 The Korowal School Council shall be responsible for the formulation and implementation of education policy at Korowal School.

31.5 The Korowal School Council shall be responsible for the employment and dismissal of the Principal of Korowal School.

32. Directors' meetings

32.1 A Director may at any time, and the Secretary must on the request of a Director, call a meeting of the Korowal School Council.

32.2 A Council meeting must be called on at least 48 hours written notice of a meeting to each Director.

32.3 It is not necessary to give notice of a meeting of the Directors to an Australian resident whom the Secretary, when giving notice to the other Directors, reasonably believes to be temporarily outside Australia.

32.4 Subject to the Corporations Act, a Korowal School Council meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.

32.5 The Directors need not all be physically present in the same place for a Korowal School Council meeting to be held.

32.6 Subject to clause 35, a Director who participates in a meeting held in accordance with this Constitution is taken to be present and entitled to vote at the meeting.

32.7 Clauses 32.4 to 32.5 apply to meetings of Committees as if all committee members were Directors.

32.8 The Directors may meet together, adjourn and regulate their meetings as they think fit.

32.9 A quorum for Korowal School Council meeting is not less than a 50% of current Directors of the company plus one, rounded up to the nearest whole number.

32.10 Where a quorum cannot be established for the consideration of a particular matter at a meeting of the Korowal School Council, the chairperson may call a general meeting to deal with the matter.

32.11 Notice of a meeting of the Korowal School Council may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

33. Decision on questions

33.1 Subject to clause **Error! Reference source not found.**, questions arising at a meeting of the Korowal School Council are to be decided by not less than a 50% of those present plus one, rounded up to the nearest whole number, subject to clause 35, each Director has one vote.

If any Council member is excluded from voting on a matter because of a material personal interest, that matter can be decided by a simple majority.

33.2 The chairperson of a meeting does not have a casting vote in addition to his or her deliberative vote.

34. Payments to Directors

34.1 No payment will be made to any Director of the Company other than payment:

- (a) of out of pocket expenses incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;
- (b) for any service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Directors of the Company and where the amount payable is approved by the Directors of the Company and is not more than an amount which commercially would be reasonable payment for the service;
- (c) of any salary or wage due to the Director as an employee of the Company where the terms of employment have been approved by the Directors of the Company;
- (d) of any honorarium as contemplated by section 21A(3) of the *Education Act 1990* (NSW) and
- (e) relating to an indemnity in favour of the Director and permitted by section 199A of the Corporations Act or a contract of insurance permitted by section 199B of the Corporations Act.

35. Directors' interests

35.1 As required by the Corporations Act, a Director must give the Directors notice of any material personal interest in a matter that relates to the affairs of the Company.

35.2 No contract made by a Director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.

35.3 No Director contracting with or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.

35.4 A Director is not disqualified merely because of being a Director from contracting with the Company in any respect.

35.5 Subject to clause 34, a Director or a body or entity in which a Director has a direct or indirect interest may:

- (a) enter into any agreement or arrangement with the Company;

- (b) hold any office or place of profit other than as auditor in the Company; and
- (c) act in a professional capacity other than as auditor for the Company,

and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.

35.6 A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter,

unless permitted by the Corporations Act to do so, in which case the Director may:

- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
- (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
- (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

35.7 A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise and is not accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.

36. Remaining Directors

36.1 The Directors may act even if any of the directors' positions are vacant.

36.2 If the number of Directors is not sufficient to constitute a quorum at a Korowal School Council meeting, the Directors may act only to:

- (a) appoint a Director; or
- (b) call a general meeting.

37. Chairperson

37.1 The Directors may by simple majority appoint, remove and replace a Director as chairperson of Directors' meetings and may determine the period for which the chairperson shall hold office (save that any chairperson shall cease to be chairperson if they cease to be a Director).

37.2 If no chairperson is appointed or if the chairperson is not present at any Directors' meeting within ten minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.

37.3 The Directors may elect a Director as deputy chairperson to act as chairperson in the chairperson's absence.

38. Delegation

38.1 The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to a committee or committees (each a **Committee**).

- 38.2 The Directors may at any time revoke any delegation of power to a Committee.
- 38.3 At least one member of each Committee must be a Director.
- 38.4 A Committee must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.
- 38.5 A Committee may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.
- 38.6 Meetings of any Committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each member was a Director.

39. Written resolutions

- 39.1 The Directors may pass a resolution without a Korowal School Council 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. The resolution is passed when the last Director signs.
- 39.2 For the purposes of clause 39.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 39.3 Any document referred to in this clause may be in the form of a facsimile or electronic transmission.
- 39.4 The minutes of Korowal School Council meetings must record that a meeting was held in accordance with this clause.
- 39.5 This clause applies to meetings of Directors' committees as if all members of the committee were Directors.

40. Validity of acts of Directors

- 40.1 If it is discovered that:
- (a) there was a defect in the appointment of a person as a Director or member of a Committee; or
 - (b) a person appointed to one of those positions was disqualified,
- all acts of the Directors or the Committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

41. Minutes and Registers

- 41.1 The Directors must cause minutes to be made of:
- (a) the names of the Directors present at all Korowal School Council meetings and meetings of Directors' committees;
 - (b) all proceedings and resolutions of general meetings, Korowal School Council meetings and meetings of Directors' committees;
 - (c) all resolutions passed by Directors in accordance with clause 39;
 - (d) all appointments of officers;
 - (e) all orders made by the Directors and Directors' committees; and

- (f) all disclosures of interests made under clause 35.
- 41.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body.
- 41.3 The Company must keep all registers required by this Constitution and the Corporations Act, including a register of Members (**Register**).

42. Appointment of attorneys and agents

- 42.1 The Directors may from time to time by resolution or power of attorney executed in accordance with section 127 of the Corporations Act appoint a person in accordance with clause 42.2 to be the attorney or agent of the Company:
- (a) for the purposes;
 - (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
 - (c) for the period; and
 - (d) subject to the conditions,
- determined by the Directors.
- 42.2 An appointment by the Directors of an attorney or agent of the Company may be made in favour of:
- (a) any company;
 - (b) the members, directors, nominees or managers of any company or firm; or
 - (c) any fluctuating body of persons whether nominated directly or indirectly by the Directors.
- 42.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.
- 42.4 An attorney or agent appointed under this clause may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

Secretary

43. Secretary

- 43.1 If required by the Corporations Act, there must be at least one secretary of the Company appointed by the Directors for a term and at remuneration and on conditions determined by them.
- 43.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.
- 43.3 The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

Inspection of records

44. Inspection of records

- 44.1 Except as otherwise required by the Corporations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and

other documents of the Company or any of them will be open for inspection by Members other than Directors.

- 44.2 Except as otherwise required by the Corporations Act, a Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.

Notices

45. Service of notices

- 45.1 Notice may be given by the Company to any person who is entitled to notice under this Constitution:
- (a) by serving it on the person; or
 - (b) by sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person.
- 45.2 A notice sent by post is taken to be served:
- (a) by properly addressing, prepaying and posting a letter containing the notice; and
 - (b) on the day after the day on which it was posted.
- 45.3 A notice sent by facsimile transmission or electronic notification is taken to be served:
- (a) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
 - (b) on the day of its transmission except if transmitted after 5.00pm in which case is taken to be served on the next day.
- 45.4 If a Member does not have an address recorded in the Register a notice will be taken to be served on that Member 24 hours after it was posted on a notice board at the Company's registered office.
- 45.5 A Member whose address recorded in the Register is not in Australia may specify in writing an address in Australia to be taken to be the Member's for the purposes of clause 45.
- 45.6 A certificate in writing signed by a Director, Secretary or other officer of the Company that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 45.7 Subject to the Corporations Act the signature to a written notice given by the Company may be written or printed.
- 45.8 All notices sent by post outside Australia must be sent by prepaid airmail post.

46. Persons entitled to notice

- 46.1 Notice of every general meeting must be given to:
- (a) every Member;
 - (b) every Director; and
 - (c) any Auditor.
- 46.2 No other person is entitled to receive notice of a general meeting.

Audit and accounts

47. Audit and accounts

- 47.1 The Directors must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the Corporations Act.
- 47.2 The Directors must cause the financial records of the Company to be audited in accordance with the requirements of the Corporations Act.

Winding up

48. Winding up

- 48.1 If the Company is wound up:
- (a) each Member; and
 - (b) each person who has ceased to be a Member in the preceding year,
- undertakes to contribute to the property of the Company for the:
- (c) payment of debts and liabilities of the Company (in relation to clause 48.1(b), contracted before the person ceased to be a Member) and payment of costs, charges and expenses of winding up; and
 - (d) adjustment of the rights of the contributories amongst themselves,
- the amount of \$2.00.
- 48.2 If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed amongst Members, but will be given or transferred to a corporation to which income tax deductible gifts can be made and which, by its constitution, is:
- (a) required to pursue similar charitable purposes to those pursued by the Company;
 - (b) required to apply its profits (if any) or other income in promoting its objects; and
 - (c) prohibited from making any distribution to its members or paying fees to its directors (other than in circumstances contemplated by clause 34),
- such corporation to be determined by the Members at or before the winding up and, in default, by application to the Supreme Court of New South Wales for determination.

Indemnity

49. Indemnity

- 49.1 To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act the Company indemnifies every person who is or has been an officer of the Company against:
- (a) any liability (other than for legal costs) incurred by that person as an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment); and
 - (b) reasonable legal costs incurred in defending an action for a liability incurred by that person as an officer of the Company (including legal costs incurred by the officer as an

officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).

- 49.2 The amount of any indemnity payable under clauses 49.1(a) or 49.1(b) will include an additional amount (**GST Amount**) equal to any GST payable by the officer being indemnified (**Indemnified Officer**) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.
- 49.3 The Directors may agree to advance to an officer an amount which the Company might otherwise be liable to pay to the officer under clause 49.1(b) on such terms as the Directors think fit but which are consistent with this clause, pending the outcome of any findings of a relevant court or tribunal which would have a bearing on whether the Company is in fact liable to indemnify the officer under clause 49.1(b). If after the Company makes the advance, the Directors form the view that the Company is not liable to indemnify the officer, the Company may recover any advance from the officer as a debt due by the officer to the Company.
- 49.4 For the purposes of this clause, **officer** means:
- (a) a Director; or
 - (b) a Secretary.

