

CONSTITUTION

of

**ASCHAM SCHOOL LIMITED
(ACN 000 036 788)**

The Company is a company limited by guarantee
that is taken to be registered in New South Wales.

This Constitution was last amended on 9 May 2018

A COMPANY LIMITED BY GUARANTEE
CONSTITUTION
OF
ASCHAM SCHOOL LIMITED

DEFINED TERMS

1. In this Constitution unless there is something in the subject matter or context inconsistent therewith:

"ACNC Act" means the Australian Charities and Not-for-profits Commission Act 2012 (Cth), or any other legislation relating to the establishment or operation of an Australian charities commission and/or a national regulatory framework and/or a national education body or otherwise for the not-for-profit sector, as modified or amended from time to time and includes any regulations made under that Act or any other such legislation and any rulings or requirements of the Commissioner of the Australian Charities and Not-for-profits Commission under that Act, or any commissioner or body under any other such legislation, having application to the Company.

"Applicable Not-for-profit Laws" means any law relating to the regulation of charities or not-for-profit entities applicable to the Company, including the Tax Act and the ACNC Act.

"Articles of Association" means the Articles of Association dated 16th April 1937 which were adopted by the Company on incorporation.

"Auditor" means the Company's auditor or Reviewer, as the case may be.

"Governor" means a member of the Council of Governors.

"Historical Provisions" means the provisions in the Memorandum of Association and the Articles of Association which provide the historical context of the Company but which no longer have any operative effect. These provisions have been moved into Schedule 1.

"Imported Provisions" means the following provisions of the Corporations Act:

- (i) s 248D (*use of technology – meeting of Governors*);
- (ii) s 249S (*use of technology – meeting of members*);
- (iii) Division 6 (*proxies*) of the Corporations Act.

"In writing" and **"written"** include printing lithography and other modes of reproducing or representing words in a visible form.

"Memorandum of Association" means the Memorandum of Association dated 16th April 1937 pursuant to which the Company was incorporated.

"Nominations Committee" means the Council committee which develops policies and strategies for managing Company and Council membership, nominates and reviews candidates and recommends potential Governors and Company members for Council approval.

“Qualified Person” means a person who has been recommended to the Council as such by the Nominations Committee.

"Registered Entity" means a body corporate registered under the ACNC Act.

"Reviewer" means a reviewer under the ACNC Act.

"Tax Act" means the *Income Tax Assessment Act 1997* (Cth) as amended from time to time and includes any regulations made under that Act and any rulings or requirements of the Commissioner of Taxation of the Commonwealth of Australia having application to the Company.

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

"The Company" means Ascham School Limited.

"The Council" means the members for the time being of the Council of Governors hereby constituted.

INTERPRETATION

2. Words importing the singular number only include the plural and vice versa. Words importing the masculine gender only include the feminine and vice versa. Words importing persons include firms, corporations or associations. A reference to a statute, ordinance, code or other law includes regulations and other instruments made under it and consolidations, amendments, re-enactments or replacements of any of them.
3. If, while the Company is a Registered Entity, the Corporations Act operates such that an Imported Provision does not apply to the Company because the Company is a Registered Entity:
 - (i) a clause in the same terms as the Imported Provision, along with any relevant definitions in the Corporations Act, is deemed to be included in the provisions of this Constitution and to apply to the Company to the extent the Imported Provision would have applied to the Company were the Company not a Registered Entity (**Equivalent Clause**); and
 - (ii) a reference in the provisions of this Constitution to an Imported Provision is deemed to be a reference to the Equivalent Clause.

Notwithstanding the above, the provisions of the Corporations Act that apply to certain companies as replaceable rules are displaced by the provisions of this Constitution in their entirety and do not apply to the Company. For the purposes of the provisions of this Constitution, if the provisions of the Corporations Act or the ACNC Act conflict with the provisions of this Constitution on the same matter, the provisions of the relevant Act prevail to the extent of the conflict.

OBJECTS AND POWERS

4. The name of the Company is "Ascham School Limited."
5. The registered office of the Company will be situated in Sydney or in such other place in New South Wales as may be determined.

6. The objects for which the Company is established are as follows:

- (i) To provide instruction and education for girls, together with physical and moral training and to provide for the delivery and holding of lectures, concerts, exhibitions, public meetings, classes and conferences calculated directly or indirectly to advance the cause of education whether general, professional or technical.
- (ii) Subject to Article 7, to establish and carry on at any place or places which may be thought fit any branch or branches or subsidiary, affiliated or other schools for the education of girls whether in connection with the abovementioned school or otherwise and for such purposes or any of them to make such arrangements financial and otherwise as may be necessary or expedient.
- (iii) Subject to Article 7, to establish and carry on or to become associated with the carrying on of finishing schools in Great Britain, Europe or elsewhere for students leaving Ascham School.
- (iv) To acquire or construct, establish, maintain and subsidise boarding houses hostelries and other premises for mistresses, teachers, students and, subject to Article 7, others connected with or attending any branch or branches or subsidiary, affiliated or other schools.
- (v) To erect, construct, lay down, enlarge, alter and maintain any buildings, works, machinery and plant necessary or convenient for the Company's business.
- (vi) To grant and establish bursaries, exhibitions, scholarships, prizes and gratuities to or for students and past students and to make payments towards the expenses of teachers, students or, subject to Article 7, scholars by way of travelling grants, or for research or otherwise.
- (vii) To print, publish, buy and sell books, magazines and other publications and generally school and educational requisites of every description relating to or for the purposes of the Company or, subject to Article 7, of education generally.
- (viii) To carry on any other trade or business in furtherance of the Company's educational activities and as permitted by Applicable Not-for-profit Laws which can in the opinion of the Council be advantageously carried on by the Company in connection with or as ancillary to the general business of the Company.
- (ix) To purchase and sell school clothing, uniform equipment and all other materials of every description relating to or for the purposes of the Company and also to provide meals and refreshments for day students.
- (x) To provide means for training teachers and students in the theory and practice of education.

7. Notwithstanding any other provision of this Constitution, the Company's property and assets shall not be used for any purpose other than the operation of Ascham School, except that the Company may lease or hire its property or assets to third parties provided:

- (i) the property and assets must not be used in any way which would result in the Company operating 'for profit' within the meaning of the Education Act, 1990 (NSW);
- (ii) it does so in accordance with Applicable Not-for-profit Laws;

- (iii) any income derived from such lease or hire is used exclusively for the operation of Ascham School; and
- (iv) any income derived from such lease or hire is used to further the Company's charitable purpose of advancing education.

8. The Company shall use reasonable efforts to procure that Ascham School:
- (i) is non-selective yet consistently achieves outstanding results for girls of all abilities;
 - (ii) has a unique learning environment based on the philosophy of the Dalton Plan; and
 - (iii) is without religious affiliation and is committed to developing confident, healthy, socially responsible girls with strong values and a sense of purpose.

Notwithstanding any provisions of this Constitution relating to the manner and form in which amendments to this Constitution may be made, any one or more of sub-paragraphs (i) to (iii) above may be amended or augmented at any time and from time to time by resolution of the Council.

INCOME AND PROPERTY

9. The income and property of the Company will only be applied towards the promotion of the objects of the Company set out in Article 6.
10. Subject to Articles 47 to 53 (inclusive) and to Applicable-Not-for-profit Laws, no income or property will be paid, distributed or transferred directly or indirectly to any Member of the Company except for payments to a Member:
- (i) in return for any services properly rendered or goods supplied in the ordinary and usual course of business to the Company;
 - (ii) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent; or
 - (iii) as reimbursement of expenses properly incurred by the Member on behalf of the Company.

MEMBERSHIP

11. The liability of the members is limited.
12. Every member of the Company undertakes to contribute to the assets of the Company in the event of the same being wound up during the time that he is a member or within one year afterwards for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member and of the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves such amount as may be required not exceeding \$4.00.
13. If upon the winding up or dissolution of the Company there remains after the satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid or distributed among the members of the Company but shall be given or transferred to some other charitable institution or institutions having objects similar to the objects of the Company and which shall prohibit the distribution of its or their income and property

amongst its or their members to an extent at least as great as is imposed on the Company under or by virtue of Article 10 hereof such institution or institutions to be determined by the members of the Company at or before the time of dissolution or in default thereof by the Chief Judge in Equity of the Supreme Court of New South Wales or such other Judge of that Court as may have or acquire jurisdiction in the matter and if and so far as effect cannot be given to the aforesaid provision then to some charitable object.

14. Such old girls of Ascham School and other natural persons as shall be admitted to membership in accordance with the provisions of this Constitution shall be members of the Company and shall be entered in the register of members accordingly.
15. A person is eligible to be admitted to membership of the Company if the person:
 - (i) is a natural person;
 - (ii) is over the age of twenty-one years;
 - (iii) has never been a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW);
 - (iv) has never been convicted of an indictable offence;
 - (v) is not an undischarged bankrupt;
 - (vi) is not mentally incapacitated and whose estate is not liable to be dealt with in any way under the laws relating to mental or physical incapacity; and
 - (vii) is recommended by the Nominations Committee.
16. Every candidate for membership of the Company shall be proposed by one and seconded by another member of the Company to both of whom the candidate shall be personally known. The application for membership of every such candidate shall be made in writing, in a form approved by the Council in its absolute discretion and shall be signed by the applicant and by the persons proposing and seconding the candidature.
17. The Council may refuse to approve of any applicant for membership without assigning any reason therefor.
18. The rights and privileges of any member shall be personal to such member and shall not be transferred or transmissible either by such member or by operation of law and shall cease on the death of the member or upon his resignation or expulsion as hereinafter provided.
19. Any member may resign his membership of the Company by giving to the Company a written notice to that effect and such resignation shall take effect upon it being received at the registered office of the Company.
20. If any member shall refuse or neglect to comply with the provisions of the Constitution of the Company or regulations or by-laws of the Company or shall in the opinion of the Council be guilty of any conduct that renders it undesirable that the member continue to be a member, such member shall be liable to suspension or expulsion by resolution of three-quarters of the Governors present and voting at a meeting of the Council provided that at least one week before the meeting of the Council at which such resolution is passed he or she shall have had notice thereof and of the intended resolution for his expulsion. Such member may attend the meeting and be heard thereat, but shall not be present

at the voting or take part in the proceedings other than as the Council shall allow.

21. A member's membership of the Company will immediately cease 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 or physical incapacity;
 - (iii) is a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW) or similar legislation;
 - (iv) is convicted of an indictable offence either before or after becoming a member of the Company;
 - (v) files or is the subject of a petition for bankruptcy.
22. Until the Company in General Meeting otherwise determines there shall be no subscription payable by members.

GENERAL MEETINGS

23. The Company shall, in addition to any other meetings held by it, hold a general meeting to be called the 'Annual General Meeting', at least once in every calendar year and within five months of the close of the financial year.
24. While the Company is a Registered Entity, the Chair of the Annual General Meeting must allow a reasonable opportunity for the members as a whole at the meeting to ask questions about, and make comments on, the management of the Company.
25. The Council may convene a General Meeting whenever it thinks fit.
26. The Council shall forthwith convene a General Meeting on the requisition of not less than five (5) per centum of members.
27. A requisitioned meeting shall be held as soon as practicable, and in any case not later than two (2) months after the receipt by the Company of the requisition.

When a meeting is requisitioned the following provisions shall have effect:

- (i) The requisition shall state the objects of the meeting and must be signed by the requisitionists and deposited at a registered office of the Company and may consist of several documents in like form each signed by one or more requisitionists.
- (ii) If the Council does not within twenty-one days from the date of the requisition being so deposited duly proceed to convene the meeting to be held the requisitionists or any of them representing more than fifty per cent may themselves convene the meeting but any meeting so convened shall not be held after the expiration of three months from the date of such deposit.
- (iii) In the case of a meeting at which a resolution is to be proposed as a Special Resolution the Council shall be deemed not to have duly convened the meeting if it does not give fourteen days' notice of such resolution.
- (iv) Any meeting convened under this Article by the requisitionists shall be convened in the same manner or as nearly as possible as that in which the meetings are convened by the Council.

- (v) Any reasonable expenses incurred by the Requisitionists in convening any such meeting shall be repaid to the requisitionists by the Company.
28. Fourteen days' notice specifying the place, day and hour of the meeting and in case of special business the general nature of that business shall be given in the manner hereinafter provided to all members of the Company but the meeting shall not be invalidated by reason only of the accidental omission to give notice of the meeting to or the non-receipt of the notice of the meeting by any member.

PROCEEDINGS AT GENERAL MEETINGS

29. The business of any Annual General Meeting shall be to receive and consider the annual financial statement, directors' statement and Auditor's report (if any) and to elect the members of the Council and to appoint an Auditor or Auditors. All other business transacted at the Annual General Meeting and all business transacted at a General Meeting shall be deemed special.
30. The quorum for a General Meeting shall be ten members personally present.
31. No business shall be transacted at any General Meeting unless the quorum requisite shall be present at the commencement of the business.
32. The Chair of the Council or in his or her absence, the Deputy Chair, shall be entitled to take the chair at every general meeting. If neither the Chair nor the Deputy Chair are present within fifteen (15) minutes after the time appointed for the holding of such meeting, or are unable or unwilling to act, the Governors' present may choose a Chair and in default of their so doing, the members present shall choose one of the Governors present to be Chair, but if no Governor present be willing to take the Chair, they shall choose one of their number to be Chair.
33. The general conduct of each general meeting of the Company and the procedures to be adopted at the meeting will be determined by the Chair.
34. If within fifteen minutes after the time appointed for the meeting a quorum is not present the meeting if convened upon such requisition as aforesaid shall be dissolved but in any other case it shall stand adjourned to the same day in the next week at the same time and place or to such other day time and place as the Council may by notice to the shareholders appoint. If at such adjourned meeting a quorum is not present any two or more members who are present shall be a quorum and may transact the business for which the meeting was called.
35. Every question submitted to a meeting shall be decided by a show of hands and in the case of an equality of votes the Chair shall have a casting vote in addition to the vote to which he or she may be entitled as a member. Any member present at the meeting in person or by proxy may demand a poll.
36. At any General Meeting a declaration by the Chair that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority and an entry to that effect in the book of proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
37. In case of any dispute as to the admission or rejection of a vote the Chair shall determine the same and such determination shall be made in good faith and shall be final and conclusive.

38. The Chair of a General Meeting may with the consent of the meeting adjourn the same from time to time and from place to place 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.

VOTES OF MEMBERS

39. (i) Every member may vote in person or by proxy at a general meeting of the company.
- (ii) A person appointed as a proxy may but need not be a member of the company.
- (iii) Each member has one vote, both on a show of hands and on a poll.
- (iv) (a) An instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing.
- (b) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.
- (c) An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- (d) An instrument appointing a proxy shall be in the following form or in a form that is as similar to the following form as the circumstances allow:

ASCHAM SCHOOL LIMITED

I, _____, of _____, being a member of the abovenamed Company hereby appoint _____ of _____ or, in his absence, _____ of _____ as my proxy to vote for me on my behalf at the general meeting of the Company to be held on the _____ day of _____ 19____ and at any adjournment of that meeting.

*This form is to be used ** in favour of the resolution/s to
** against

Signed this _____ day of _____

** Strike out whichever is not desired

* To be inserted if desired

- (e) An instrument appointing a proxy shall not be treated as valid unless the instrument and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, is or are deposited, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, at the registered office of the Company or at such other place within the State as is specified for that purpose in the notice.
- (f) A vote given in accordance with the terms of an instrument of proxy or of a

power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal, the revocation of the instrument (or of the authority under which the instrument was executed) or of the power, in respect of which the instrument or power is given if no intimation in writing of the death, unsoundness of mind or revocation has been received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

COUNCIL OF GOVERNORS

40. The Company shall be governed and its affairs administered by a Council of Governors.
41.
 - (i) Until otherwise determined by the Company in General Meeting, the Council shall consist of not less than ten and no more than fifteen Governors.
 - (ii) Not less than eight weeks prior to the Annual General Meeting the Governors shall determine the number of Governors to hold office for the ensuing year, being no less than ten, and in the event of their failure to so do such number shall be the number of Governors holding office eight weeks prior to the date of the Annual General Meeting.
 - (iii) Where less than fifteen Governors hold office following the Annual General Meeting in any year, the Council may appoint additional Governors in accordance with Article 43, provided always the total number of Governors holding office shall not exceed fifteen.
 - (iv) The Governors must be members of the Company.
42. Not less than three of the Governors shall be old girls or former students of Ascham School, who shall be called Old Girls Governors. The remaining Governors shall be called Ordinary Governors.
43. The Council shall have power at any time and from time to time to appoint any other Qualified Person as a Governor either to fill a casual vacancy or as an addition to the Council but so that the total number of the Governors shall not at any time exceed the maximum number fixed. But any Governor so appointed shall subject to Article 55 hold office only until the next following Annual General Meeting of the Company and shall then be eligible for re-election.
44. Subject to Article 46, a Governor may retire from his or her office upon giving one week's notice in writing to the Company of his or her intention to do so and such resignation shall take effect upon the expiration of such notice or its earlier acceptance.
45. The continuing Governors may act notwithstanding any vacancy in their body but so that if the number falls below the minimum above fixed the Council shall not, except in emergencies or for the purpose of filling up vacancies, act so long as the number is below the minimum.
46. The office of a Governor shall *ipso facto* be vacated if he or she:
 - (i) becomes bankrupt or suspends payment or compounds with his or her creditors;
 - (ii) has 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 Governors incapable of performing his or her duties;

- (iii) ceases to be a member of the Company;
- (iv) absents himself or herself from the meetings of the Council for a continuous period of six calendar months without special leave of absence from the Council and the Council resolves that his or her office be vacated;
- (v) by notice in writing to the Company, resigns his or her office;
- (vi) is removed under Article 60;
- (vii) becomes ineligible to be a Governor under the ACNC Act while the Company is a Registered Entity;
- (viii) is prohibited from holding office or is removed from the office of Governor by an order made under the Act;
- (ix) is or becomes a registrable person for the purposes of the *Child Protection (Offenders Registration) Act 2000* (NSW) or any similar legislation;
- (x) is convicted of an indictable offence either before or after becoming a Governor; or
- (xi) is not or is no longer a fit and proper person as required under section 47 of the Education Act, 1990 (NSW) including that the Governor cannot make a statutory declaration that he or she is a fit and proper person as required, gives a statutory declaration that the Chair determines is false or misleading, or engages in conduct such that he or she is no longer able to make such a statutory declaration.

A Governor may hold any other office under the Company (except that of Auditor) in conjunction with the office of Governor and on such terms as to remuneration and otherwise as the Council may arrange.

GOVERNORS' INTERESTS

- 47. As required by the Corporations Act, a Governor must give the Council notice of any material personal interest in a matter that relates to the affairs of the Company.
- 48. No contract made by a Governor with the Company and no contract or arrangement entered into by or on behalf of the Company in which any Governor may be in any way interested is avoided or rendered voidable merely because of the Governor holding office as a governor or because of the fiduciary obligations arising out of that office.
- 49. No Governor 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 Governor holding office as a governor or because of the fiduciary obligations arising out of that office.
- 50. A Governor is not disqualified merely because of being a governor from contracting with the Company in any respect.
- 51. Subject to Article 98, a Governor or a body or entity in which a Governor has a direct or indirect interest may:
 - (i) enter into any agreement or arrangement with the Company;
 - (ii) hold any office or place of profit other than as auditor in the Company;

(iii) act in a professional capacity other than as auditor for the Company,

and the Governor 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.

52. A Governor who has a material personal interest in a matter that is being considered at a Council meeting must not:

(i) be present while the matter is being considered at the meeting;

(ii) vote on the matter,

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

(iii) be counted in determining whether or not a quorum is present at any Council meeting considering that contract or arrangement or proposed contract or arrangement;

(iv) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and

(v) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

53. A Governor 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 Governor as a director or officer of, or from having an interest in, that body corporate.

RETIREMENT OF GOVERNORS

54. At the Annual General Meeting to be held in the year 1949 and at every succeeding Annual General Meeting the following Governors shall retire, namely - one of the Old Girls Governors and two of the Ordinary Governors. Subject to the approval of the Nominations Committee, any retiring Governor shall be eligible for re-election.

55. The Governors of each class to retire as aforesaid at the Annual Meeting in the year 1949 shall unless they agree among themselves be determined by lot but in every subsequent year the Governor of each class who has been longest in office shall retire. As between two or more who have been in office an equal length of time the Governor to retire shall in default of agreement between them be determined by lot. The length of time a Governor has been in office shall be computed from his or her last election or appointment where he or she has previously vacated office. Subject to the approval of the Nominations Committee, a retiring Governor shall be eligible for re-election and shall act as a Governor throughout the meeting at which he or she retires.

56. The Company at any General Meeting at which any Governor retires in manner aforesaid may fill up the vacated office by electing a Qualified Person of the same class to be a Governor.

57. No person not being a retiring Governor shall be eligible for election to the office of Governor at any General Meeting unless he or she or some other member intending to propose him or her has at least twenty-eight clear days before the meeting left at the office

of the Company a notice in writing, duly signed, signifying his or her candidature for the office or the intention of such member to propose him or her provided that in the case of a person recommended by the Council for election twenty-four clear days' notice only shall be necessary. Notice of each and every candidature shall fourteen days previously to the meeting at which the election is to take place be given to the members of the Company.

58. Where there are insufficient nominations to fill any vacancies in the Council of Governors, those persons nominated shall be declared appointed and the members present at the Annual General Meeting may with the consent of the candidate or candidates elect an eligible candidate or eligible candidates to fill the remaining vacancy or vacancies at the case may be.
59. Notwithstanding any decision of the Council determining the number of positions to be filled pursuant to Article 41, the Company at the Annual General Meeting may subject to Article 41 (i) increase or reduce the number of members of the Council and any further vacancies so created by such a decision shall be filled at that meeting.
60. Without derogating from Article 46 (xi), a Subject to the provisions of any agreement for the time being subsisting, the Company may by Ordinary Resolution remove any Governor before the expiration of his or her period of office and may by ordinary resolution appoint another Qualified Person of the same class in his or her stead.
61. The person so appointed shall hold office during such time only as the Governor in whose place they are appointed would have held the same if they had not been removed.
62. A Governor may be suspended or expelled from the Council in accordance with section 203D of the Act if a majority of three-quarters of the Governors present and voting at a meeting of the Council in their absolute discretion, first resolves that the conduct or position of the Governor renders it undesirable for that Governor to continue in office.

PROCEEDINGS OF THE COUNCIL OF GOVERNORS

63. The Council of Governors may meet together for the dispatch of business, adjourn and otherwise regulate its meetings and proceedings as it thinks fit and may determine the quorum necessary for the transaction of business provided that the Council shall meet at least once in each school term. Until otherwise determined, three Governors shall be a quorum.
64. A Governor may at any time and the Secretary upon the request of a Governor shall convene a meeting of the Council.
65. Questions arising at any meeting shall be decided by a majority of votes and in case of an equality of votes the Chair shall have a second or casting vote.
66. The Council may elect a Chair and a Deputy Chair and determine the period for which such offices shall be held. Unless otherwise provided by the Council, the Chair and Deputy Chair will be elected annually. The Chair shall preside at all meetings of the Council and the Company or in his or her absence the Deputy Chair shall preside. If the Chair and Deputy Chair are both absent at the time appointed for the meeting or are unwilling or unable to act, the Governors present shall choose one of their number to be Chair of the meeting.
67. A meeting of the Council for the time being at which a quorum is present shall be

competent to exercise all or any of the authorities, powers and discretions by or under the regulations of the Company for the time being vested in or exercisable by the Council generally.

68. The Council may delegate any of its powers to committees consisting of such members or member of its body as it thinks fit and may from time to time revoke such delegation. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may from time to time be imposed upon it by the Council. The meetings and proceedings of any such committee consisting of two or more members shall be governed by the provisions herein contained for regulating the meetings and proceedings of the Council so far as the same are applicable thereto and are not superseded by any regulations made by the Council under this Article.
69. All acts done by any meeting of the Council or by a Committee of the Council or by any person acting as a Governor shall notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of the members of the Council or Committee or persons acting as aforesaid or that they or any of them were disqualified be as valid as if every such person had been duly appointed and was qualified to be a member of the Council.
70. A resolution in writing signed by all the Governors shall be as valid and effectual as if it had been passed at a meeting of the Council duly called and constituted.
71. At all times while the Company is a Registered Entity, each Governor is subject to, and must comply with, the following duties:
 - (i) to exercise the Governor's powers and discharge the Governor's duties with the degree of care and diligence that a reasonable individual would exercise if they were a governor of the Company;
 - (ii) to act in good faith in the Company's best interests, and to further the purposes of the Company;
 - (iii) not to misuse the Governor's position;
 - (iv) not to misuse information obtained in the performance of the Governor's duties as a Governor of the Company;
 - (v) to disclose perceived or actual material conflicts of interest of the Governor;
 - (vi) to ensure that the Company's financial affairs are managed in a responsible manner;
 - (vii) not to allow the Company to operate while insolvent; and
 - (viii) to comply with the duties described in governance standards 5 of the regulations made under the ACNC Act.

NOMINATIONS COMMITTEE

72. The Nominations Committee will include the Chair of Council (ex officio) and at least three other Governors appointed by the Council, one of whom shall be designated by the Council to be the Chair of the Committee.
73. The functions of the Nominations Committee in relation to the Council include the following:

- (i) To recommend guidelines for the length of term and for the method of election of Governors;
- (ii) To recommend the skill set and experience which should be represented on the Council and desirable attributes for Governors;
- (iii) To review the current composition of the Council and the likely future composition of the Council, in the light of (i) and (ii) above, and ensure there is adequate succession planning;
- (iv) To evaluate potential future Governors for fitness and interest; and
- (v) To recommend “Qualified Persons” to be considered by Council as candidates for Governor.

74. The functions of the Nominations Committee in relation to Company members include the following:

- (i) To recommend to Council policies as to Company membership and the role of the Company and its members;
- (ii) To determine for review by Council the necessary attributes of members;
- (iii) To identify potential candidates for membership and recommend to Council, candidates who qualify for membership;
- (iv) If candidates for membership are nominated from outside the Nominations Committee, to vet these nominations and report to Council; and
- (v) To formulate methods to ensure appropriate engagement with the members.

MINUTES

75. The Council shall cause minutes to be duly entered in books provided for the purpose:

- (i) of all appointments of officers.
- (ii) of the names of the Governors present at each meeting of the Council and of any Committee of the Council.
- (iii) of all orders made by the Council and Committees of the Council.
- (iv) of all resolutions and proceedings of General Meetings and of meetings of the Council and Committees.

And any such minutes of any meeting of the Council or of any Committee or of the Company if purporting to be signed by the Chair of such meeting or by the Chair of the next succeeding meeting shall be receivable as *prima facie* evidence of the matters stated in such minutes.

POWERS OF THE COUNCIL OF GOVERNORS

76. The management of the business of the Company shall be vested in the Council and the Council may exercise all such powers and do all such acts and things as the Company is by its Constitution or otherwise authorised to exercise and do and are not hereby or by Statute directed or required to be exercised or done by the Company in

General Meeting but subject nevertheless to the provisions of the Act and of these presents and to any regulations not being inconsistent with these presents from time to time made by the Company in General Meeting. Provided that no such regulation shall invalidate any prior act of the Council which would have been valid if such regulation had not been made. Provided further that any sale or disposal by the Council of the Company's main undertaking shall be subject to ratification by the Company in General Meeting.

BORROWING POWERS

77. The Council may from time to time at their discretion raise or borrow or secure the payment of any sum or sums of money for the purposes of the Company.
78. The Council may raise or secure the payment or repayment of such moneys in such manner and upon such terms and conditions in all respects as they think fit notwithstanding the generality of the foregoing it may issue debentures or debenture stock (terminable or perpetual) of the Company charged upon all or any part of the property and assets of the Company (both present and future).
79. Debentures, debenture stock or other securities may be made assignable free from any equities between the Company and the person to whom the same may be issued.
80. Any debentures, debenture stock or other security may be issued at a discount, premium or otherwise and with any special privileges as to redemption, surrender, drawings, attending and voting at General Meetings of the Company, appointment of Governors and otherwise and any debenture or debentures may be re-issued notwithstanding that it or they may have been paid off or satisfied.

SEAL

81. The Council shall provide for the safe custody of the seal and the seal shall never be used except by the authority of the Council or of a Committee of the Council previously given and in the presence of two Governors at the least who shall sign every instrument to which the seal is affixed and every such instrument shall be countersigned by the Secretary or some other person appointed by the Council.

AUTHENTICATION OF DEEDS AND DOCUMENTS

82. The following provisions shall have effect:
 - (i) All deeds executed on behalf of the Company may so far as the same are within the powers and authorities of the Council be in such form and contain such powers, provisions, conditions, covenants, clauses and agreements as the Council shall think fit.
 - (ii) All bills of exchange, promissory notes or other negotiable instruments shall be accepted, made drawn or endorsed for and on behalf of the Company and all cheques or orders for payment shall be signed on behalf of the Company by such persons as the Council shall appoint.
 - (iii) Cheques or other negotiable instruments paid to the Company's bankers for collection and requiring endorsement of the Company may be endorsed on its behalf in such manner as the Council may from time to time direct. All moneys belonging to the Company shall be paid to such bankers or others as the Council shall from time to time in writing or by resolution of the Council appoint and all receipts for money paid to the Company shall be signed by such officers as the Council may appoint for that purpose and such receipt shall be an effectual

discharge for the money therein stated to be received.

83. Any instrument bearing the common seal of the Company and issued for valuable consideration shall be binding on the Company notwithstanding any irregularity touching the authority of the Council to issue the same.

ACCOUNTS

84. The Council shall cause true accounts to be kept of the sums of money received and expended by the Company and the matters in respect of which such receipt and expenditure take place and of all sales and purchases of goods by the Company and of the assets, credits and liabilities of the Company.
85. The books of account shall be kept at the registered office of the Company or at such other place or places as the Council think fit.
86. No member (not being a Governor) shall have any right of inspecting any account or book or document of the Company except as conferred by Statute (and in particular, under the Act) or authorised by the Council.
87. The Council shall cause proper accounts and records to be kept with respect to the financial affairs of the Company in accordance with the law.
88. The Council shall, on request by a member, send or email a copy of all accounts that are to be laid before the Company at the meeting, accompanied by a copy of the directors' statement and a copy of the Auditor's report or reports (if any), to that member, provided the request is made at least three business days prior to the meeting.

AUDIT

89. Auditors shall be appointed and their duties regulated in accordance with the law.

NOTICES

90. A notice shall be served by the Company upon any member either personally or by sending it through the post in a prepaid letter envelope or wrapper addressed to such member at his registered place of address.
91. Each member whose registered place of address is not in the Commonwealth of Australia may from time to time notify in writing to the Company an address in the Commonwealth of Australia which shall be deemed his registered place of address within the meaning of the last preceding clause.
92. As regards those members who have no registered place of address in the Commonwealth of Australia, a notice posted up in the office shall be deemed to be well served on such members at the expiration of twenty-four hours after it is so posted up.
93. Any notice sent by post shall be deemed to have been served on the day following that on which the letter envelope or wrapper containing same is posted and in proving such service it shall be sufficient to prove that the letter envelope or wrapper containing the notice was properly addressed and put into the post office. A certificate in writing signed by the secretary or other officer of the Company that the letter envelope or wrapper containing the notice was so addressed and posted shall be conclusive evidence thereof.
94. Any notice or document sent by post to or left at the registered address of any member shall be deemed to have been duly served and such service shall for all purposes of these presents be deemed a sufficient service of such notice or document on him.

95. The signature to any notice to be given by the Company may be written or printed.
96. Where a given number of days' notice or notice extending over any other period is required to be given the day of service shall unless it is otherwise provided be counted in such number of days or other period.

OFFICERS OF THE COMPANY

97. Subject to Article 98, the Council shall appoint a Secretary or Honorary Secretary and may appoint a Treasurer or Honorary Treasurer and such other officers and employees of the Company as it shall think fit and in the case of employees may determine the conditions of their employment, the term of their engagement and their remuneration. It may also remove any such Secretary, Honorary Secretary, Treasurer, Honorary Treasurer or other officer from such office and appoint another person in his or her place.
98. No payment will be made to any Governor of the Company other than a payment approved by the other Governors:
- (i) for of out of pocket expenses incurred by the Governor in performance of any duty as Governor where the amount payable does not exceed an amount previously approved by the Governors;
 - (ii) for any services rendered to the Company by the Governor in a professional or technical capacity, other than in the capacity as Governor, where the provision of the service has the prior approval of the Governors and where the amount payable is approved by the Governors and is not more than an amount which commercially would be reasonable payment for the service;
 - (iii) of any salary or wage due to the Governor as an employee of the Company where the terms of employment have been approved by the Governors, and
 - (iv) relating to an indemnity in favour of the Governor and permitted by section 199A of the Act or a contract of insurance permitted by section 199B of the Act .

INDEMNITY AND INSURANCE

99. To the extent permitted by law and subject to the restrictions in section 199A of the Act and any other applicable statutory restrictions, the Company indemnifies every person who is or has been an officer of the Company against:
- (i) any and all liabilities (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);
 - (ii) any and all reasonable legal costs 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); and
 - (iii) any and all reasonable legal costs incurred by that person 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).

100. To the extent permitted by law and subject to the restrictions in section 199B of the Act, the Company may, and may agree (by deed or otherwise) to:
- (i) enter into a contract insuring a person who is or has been an officer of the Company against liabilities incurred by the person as an officer of the Company; and
 - (ii) pay the premium under any such contract.
101. Subject to the Act and without limiting a person's rights under Articles 99 and 100, the Company may enter into an agreement (including a deed) with a person who is or agrees to become or has been an officer of the Company to give effect to the rights of the person under Article 99 and 100, or to the exercise of a discretion under Articles 99 and 100, on any terms and conditions that the Governors think fit. Any such agreement may also give the person rights to inspect and obtain copies of the books of the Company for the purposes, and on such other terms and conditions, as the Governors decide.
102. For the avoidance of doubt, the Governors may authorise the Company to enter into any agreement (including a deed) permitted by Articles 99, 100 or 101.
103. The amount of any indemnity payable under paragraph (i), (ii) or (iii) of Article 99 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.
104. If, for any reason and by any means, any tax is or would be imposed on a person in respect of any sum paid or payable to the person under Articles 99, 100 or 101 (**Indemnity Payment**), then the amount of any indemnity payable under Articles 99, 100 or 101 will include any additional amount required to ensure that the total amount retained by the person (after allowing for the amount of such tax and after taking into account any tax deduction of tax benefit available to the person, at any time, that is attributable to the liability or legal costs to which the Indemnity Payment relates) is equal to the amount that would have been retained by the person if such tax was not imposed in respect of the Indemnity Payment. Payment of any such additional amount is conditional on the person providing the Company with all information and assistance reasonably required to enable the Company to calculate and verify the amount.
105. For the purposes of Articles 99 to 103 inclusive, **officer** has the meaning given to that term in section 9 of the Act and includes any Auditor and any person who is not a Governor but who is, or has been, a member of a committee to which the Governors delegate any of their powers pursuant to Article 68.

SCHEDULE 1

HISTORICAL PROVISIONS

Nothing in the Historical Provisions affects the construction of any provision of the Constitution.

1. The original objects for which the Company was established included the following:
 - (1) To take over and continue with an improved constitution the Ascham School for Girls which has been for many years past carried on by Miss Margaret Ann Bailey at Darling Point near Sydney in the State of New South Wales and to develop and extend the same and for such purposes or any of them to make all such arrangements financial and otherwise as may be necessary or expedient.
 - (2) To enter into and carry into effect with or without modification:
 - (a) an agreement expressed to be made between Miss Margaret Ann Bailey as vendor of the one part and Walter Stuart Godfrey of 31 Hunter Street, Sydney, on behalf of the Company therein mentioned (namely this Company) as purchaser of the other part being an agreement for the purchase of the assets therein mentioned; and
 - (b) an agreement expressed to be made between Walter Stuart Godfrey of 31 Hunter Street, Sydney on behalf of the Company therein mentioned (namely this Company) of the one part and the said Miss Margaret Ann Bailey of the other part being an agreement appointing her Headmistress of the said school. Copies of the said two agreements have for the purposes of identification been respectively signed by Messrs. Minter, Simpson & Company of Sydney, Solicitors.
2. The Company shall forthwith enter into agreements with Miss Margaret Ann Bailey in the terms of the draft Vendor's Agreement and the draft Service Agreement referred to in clause 3 of the Memorandum of Association and the Council of Governors shall carry the same into effect with or without modification as they shall think fit. The basis on which the Company is established is that the Company shall acquire the property comprised in the said Vendor's Agreement on the terms therein set forth subject to any such modifications (if any) as aforesaid and that Miss Margaret Ann Bailey the Vendor therein named is to be an ex-officio member of the Council of Governors and accordingly it shall be no objection to the said agreement that the said Vendor as a promoter and member of the Council of Governors stands in a fiduciary position towards the Company or that the Council of Governors do not in the circumstances constitute an independent Council and every member of the Company present and future is to be deemed to join the Company on this basis.
3. Miss Margaret Ann Bailey shall be a Governor and shall hold such office until her death or resignation.

The original subscribers to the Company's Memorandum of Association were:

Names, Addresses and Description of Subscribers	Names, Addresses and Description of Witnesses to Signatures
MARGARET ANN BAILEY Principal of School Ascham, Edgecliff	ANNE CAROLINE WEEKES Stenographer 7 Wunulla Road Point Piper
EDWARD HOWARD LEA Clerk in Holy Orders St. Mark's Rectory Darling Point	JOHN LEA Student at Law St. Mark's Rectory Darling Point
THEA MILNER STEPHEN Spinster 1 Rosemont Avenue Woollahra	EDGAR H.M. STEPHEN Medical Practitioner 135 Macquarie Street
GEORGE HENRY STANDISH LIGHTOLLER Medical Practitioner 143 Macquarie Street, Sydney	I.R. LIGHTOLLER 235 New South Head Road Edgecliff
ALBERT LITTLEJOHN Merchant 9/13 Young Street City, Sydney	ANNE CAROLINE WEEKES Stenographer 7 Wunulla Road Point Piper
WILLIAM ARTHUR PARKER Master in Equity Supreme Court, Sydney	R.T.C. STOREY J.P. Chief Clerk in Equity Supreme Court, Sydney
GEORGE WASHINGTON WADDELL Solicitor 31 Hunter Street, Sydney	MURIEL WINIFRED BERESFORD Stenographer 31 Hunter Street, Sydney

DATED this sixteenth day of August 1937.