

# CONSTITUTION

Methodist Ladies' College  
ACN 003 036 979

## TABLE OF CONTENTS

<b>1.</b>	<b>PREAMBLE .....</b>	<b>5</b>
<b>2.</b>	<b>PURPOSE AND POWERS .....</b>	<b>5</b>
<b>2.1</b>	<b>Purpose .....</b>	<b>5</b>
<b>2.2</b>	<b>Powers.....</b>	<b>5</b>
<b>2.3</b>	<b>Application of income and property.....</b>	<b>6</b>
<b>2.4</b>	<b>Distribution of property on winding up.....</b>	<b>6</b>
<b>2.5</b>	<b>Remuneration of Directors .....</b>	<b>7</b>
<b>3.</b>	<b>MEMBERS .....</b>	<b>7</b>
<b>3.1</b>	<b>Composition of Membership .....</b>	<b>7</b>
<b>3.2</b>	<b>Eligibility, application and admission.....</b>	<b>7</b>
<b>3.3</b>	<b>Election of Stakeholder Members .....</b>	<b>8</b>
<b>3.4</b>	<b>Term of Membership .....</b>	<b>8</b>
<b>3.5</b>	<b>Cessation of Membership.....</b>	<b>9</b>
<b>3.6</b>	<b>Casual vacancies in Stakeholder Membership .....</b>	<b>9</b>
<b>3.7</b>	<b>Discipline of Members.....</b>	<b>9</b>
<b>4.</b>	<b>MEETINGS OF MEMBERS.....</b>	<b>10</b>
<b>4.1</b>	<b>Proceedings of Members .....</b>	<b>10</b>
<b>4.2</b>	<b>Convening a General Meeting .....</b>	<b>11</b>
<b>4.3</b>	<b>Changes to General Meeting arrangements.....</b>	<b>11</b>
<b>4.4</b>	<b>Entitlement to receive notice.....</b>	<b>11</b>
<b>4.5</b>	<b>Content of notice of General Meeting .....</b>	<b>11</b>
<b>4.6</b>	<b>Timing of notice.....</b>	<b>12</b>
<b>4.7</b>	<b>Chair of General Meetings .....</b>	<b>12</b>
<b>4.8</b>	<b>Role of Chair of General Meeting .....</b>	<b>12</b>
<b>4.9</b>	<b>Proxies .....</b>	<b>12</b>
<b>4.10</b>	<b>Quorum of General Meeting .....</b>	<b>13</b>
<b>4.11</b>	<b>Adjournment of General Meeting .....</b>	<b>13</b>

4.12	Seconding .....	13
4.13	Voting .....	13
4.14	Conduct of elections .....	14
4.15	Use of technology in meetings.....	15
4.16	Meetings conducted by electronic means.....	15
5.	<b>DIRECTORS</b> .....	15
5.1	Composition of the Board.....	15
5.2	Eligibility .....	16
5.3	Election of Directors .....	16
5.4	Term.....	16
5.5	Cessation of Directorship.....	17
5.6	Casual vacancies in Ordinary Director positions .....	17
5.7	Casual vacancies in the position of Chair.....	18
5.8	Office Bearers .....	18
5.9	Power of Directors.....	19
5.10	Delegation of powers .....	19
5.11	Defects in appointment.....	20
5.12	Officers: indemnities and insurance.....	20
5.13	Duties of Directors .....	20
5.14	Directors' conflict of interests.....	20
6.	<b>THE NOMINATIONS COMMITTEE</b> .....	21
6.1	Composition .....	21
6.2	Powers and duties of the Nominations Committee.....	21
7.	<b>THE PRINCIPAL</b> .....	22
7.1	Appointment and Removal of Principal.....	22
7.2	Principal as Director.....	23
8.	<b>RESOLUTIONS AND MEETINGS OF THE BOARD</b> .....	23
8.1	Regulation of proceedings .....	23
8.2	Convening Board meetings .....	23

8.3	Changes to Board meeting arrangements.....	23
8.4	Entitlement to receive notice of Board meeting.....	23
8.5	Content of notice of Board meeting.....	23
8.6	Timing of notice of Board meeting.....	23
8.7	Chair of Board meetings .....	23
8.8	Role of Chair .....	24
8.9	Quorum .....	24
8.10	Voting .....	24
8.11	Use of technology in meetings.....	24
8.12	Meetings conducted by electronic means.....	24
8.13	Resolutions without meetings.....	25
9.	ADMINISTRATION .....	25
9.1	Minutes.....	25
9.2	Notice .....	26
9.3	Register of Members .....	26
9.4	Member access to documents .....	26
9.5	Execution of documents with a seal .....	27
9.6	Execution of documents without a seal.....	27
9.7	Accounts .....	27
9.8	Liability of Members .....	27
9.9	Winding up.....	28
9.10	Contribution of Members on winding up.....	28
9.11	Financial year.....	28
9.12	Audit .....	28
9.13	Alteration of Constitution .....	28
10.	INTERPRETATION .....	28
10.1	Exclusion of replaceable rules .....	28
10.2	Definitions.....	28
10.3	Interpretation .....	29

## **1. PREAMBLE**

Methodist Ladies' College (MLC) was founded by the Methodist Church in 1882 as a 'modern school of the first order'. The goal of its founders was to provide a high- class Christian education for girls.

In 1982, the College was incorporated as a public company for educational purposes in connection with the Uniting Church in Australia Synod of Victoria.

Over time, the College has forged its own independent identity. Amendments have been made to its Memorandum and Articles in 1982, 1997 and 2008.

This Constitution was adopted on 10 June 2015 and amended on 19 November 2020.

With the adoption of this Constitution as the College's governing document, the process of becoming independent of the Uniting Church is completed. However, the original College motto 'Deo Domuique' - For God and for Home - remains, as an ongoing reminder of the heritage and continuing ethos of the College.

## **2. PURPOSE AND POWERS**

### **2.1 Purpose**

The College is established for the following charitable purposes only:

- (a) to provide for the students of the College a good education specifically oriented towards girls based on Christian teaching which will present religion as a personal search for faith;
- (b) to facilitate each student reaching her optimum in academic achievement and in particular by improving skills in reading, writing, speaking, listening and numeracy and by developing processes for analysing information and to provide courses which will cater for the future academic or career goals and the future lifestyles and life pursuits of each student and to provide opportunities for participation in wide ranging educational recreational and cultural activities and social service projects to develop in each student a deeper and better understanding of life; and
- (c) to create a harmonious community atmosphere in which staff are mutually supportive and stimulating and caring for the students and in which the students can grow as persons developing a feeling of self worth, a high level of personal integrity, a sincere respect of others, an increasing sense of individual responsibility and competence to form mature moral judgements and an ability to establish constructive relationships.

### **2.2 Powers**

Solely for the purpose of furthering its Purpose, the College:

- (a) may do all things incidental or conducive to furthering the Purpose;
- (b) has the capacity and powers of a company under the Act subject to this Constitution; and
- (c) without limiting the generality of paragraphs (a) or (b) of this sub-clause,

the College may conduct an early learning centre which is a feeder for enrolments at the College in accordance with the requirements for school registration in Victoria as published by the Victorian Registration and Qualifications Authority on 4 June 2020.

### **2.3 Application of income and property**

- (a) The income and property of the College must be applied solely towards the Purpose.
- (b) No portion of the profits, income or property of the College may be paid or transferred directly or indirectly to Members by way of dividend, bonus or otherwise in their capacity as Members.
- (c) Sub-clauses 2.3(b) and 2.5 do not prevent a payment made in good faith to any Member or Director of the College in carrying out the College's Purpose. This includes payments which may be made:
  - (i) in return for goods or services a Member or Director has provided (excluding services as a Director), or expenses a Member or Director has properly incurred in connection with the affairs of the Company;
  - (ii) by way of interest on money borrowed from any Member or Director of the College at a rate not exceeding the rate for the time being fixed by the Board; and
  - (iii) for reasonable and proper rent for premises demised or let by any Member or Director of the College; and
  - (iv) for premiums on contracts of insurance for Directors to the extent permitted by law and this Constitution.
- (d) Any payment made to a Director under this sub-clause must be approved by the Directors.

### **2.4 Distribution of property on winding up**

- (a) This sub-clause applies in the event of the winding up or dissolution of the College.
- (b) If there is a surplus of assets after satisfying all of the College's liabilities and expenses, the surplus:
  - (i) must not be paid or distributed to the Members; and
  - (ii) must be given or transferred to one or more entities each of which:
    - (A) is charitable at law;
    - (B) has similar objects to those of the College as described in this Constitution; and
    - (C) prohibits the distribution of profit or gain to its Members in their capacity as Members.

- (c) The identity of the entity or entities that will receive a distribution under this clause will be decided by the Members by ordinary resolution on or before the time of such winding up or dissolution. If the Members fail to decide, the entity or entities shall be determined by application to the Supreme Court in the State of incorporation.

## **2.5 Remuneration of Directors**

A Director may not be paid any remuneration for services as a Director.

## **3. MEMBERS**

### **3.1 Composition of Membership**

- (a) The Membership of the College consists of a maximum of 20 persons as follows:
  - (i) 10 Stakeholder Members;
  - (ii) 9 Ordinary Directors; and
  - (iii) the Chair.
- (b) The Stakeholder Members consist of the following categories:
  - (i) Parent Members;
  - (ii) Alumni Members; and
  - (iii) Additional Stakeholder Members.
- (c) The number of positions within each category of Stakeholder Members is as follows:
  - (i) three Parent Member positions;
  - (ii) three Alumni Member positions;
  - (iii) four Additional Stakeholder Member positions.
- (d) The Principal is not a Member.
- (e) The minimum number of Members is three, comprised of one Parent Member, one Alumni Member, and one Additional Stakeholder Member.
- (f) The rights of any Member are not transferable.

### **3.2 Eligibility, application and admission**

Any natural person committed to the Purpose of the College may be a Member provided:

- (a) the person agrees in writing to provide a guarantee of the Guaranteed Amount to defray any liabilities and expenses of the College upon its winding up or dissolution; and
- (b) in the case of a Stakeholder Member:

- (i) the person is not a Director;
  - (ii) the person is not, at the time of election or appointment, an employee of the College;
  - (iii) an application for Membership is made in the form determined by the Nominations Committee; and
  - (iv) the person has been nominated by the Nominations Committee for a position as a Stakeholder Member.
- (c) in the case of a Parent Member, the person is a parent or guardian of a student of the College at the time that the person submits the application; and
  - (d) in the case of an Alumni Member, the person is a former student of the College; and
  - (e) in the case of an Additional Stakeholder Member, the person is either:
    - (i) a former student of the College; or
    - (ii) a parent or guardian of a student of the College at the time of application; or
    - (iii) a person with a connection to the College whom the Nominations Committee considers would be a suitable candidate; and
  - (f) in the case of a person who is a Director, the person is either an Ordinary Director or the Chair.

### **3.3 Election of Stakeholder Members**

- (a) Elections for Stakeholder Members will be held at each November Extraordinary General Meeting.
- (b) The number of Stakeholder Members to be elected will correspond with the number of vacancies in each category.
- (c) For the purposes of determining the number of vacancies to be filled under this sub-clause, a position will be deemed to be vacant if, pursuant to the provisions of this Constitution, the position will become vacant on 1 January in the following year.

### **3.4 Term of Membership**

- (a) A person who is an Ordinary Director or the Chair will be a Member for the duration of their term of office as Director.
- (b) Stakeholder Members are elected for three year terms.
- (c) At the expiry of his or her term, or any time thereafter, a person may be re-elected as a Stakeholder Member, subject to the following paragraph.
- (d) A person may serve as a Stakeholder Member for a maximum of eleven

years and six months including any time served filling a casual vacancy.

- (e) The term of office of person elected as a Stakeholder Member commences on the first day of January immediately following that person's election, except in the case of a person elected to fill a casual vacancy.
- (f) A person elected or appointed to fill a casual vacancy will commence office as a Stakeholder Member on the date of his or her election or appointment.

### **3.5 Cessation of Membership**

A person ceases to be a Member on:

- (a) expiry of their term of Membership under sub-clause 3.4; or
- (b) in the case of an Ordinary Director or Chair, the person ceases to be a Director; or
- (c) resignation; or
- (d) death; or
- (e) becoming bankrupt or insolvent or making an arrangement or composition with creditors of the person's joint or separate estate generally; or
- (f) the termination of the person's Membership in accordance with this Constitution.

### **3.6 Casual vacancies in Stakeholder Membership**

If a person ceases to be a Stakeholder Member before the expiry of their three year term:

- (a) the Board may appoint another person to fill the vacancy until the next General Meeting, subject to the following paragraph;
- (b) the Members may at a General Meeting elect a person as Member to occupy the vacant position for the balance of the original term;
- (c) the person to be appointed or elected must meet the eligibility criteria set out in sub-clause 3.2; and
- (d) the ordinary course of rotation of Members by retirement and election shall not be disrupted as a result of the vacancy.

### **3.7 Discipline of Members**

- (a) The Members may, by resolution passed at a General Meeting with a two-thirds majority, expel a Member from the College if, in their absolute discretion, they decide it is not in the interests of the College for the person to remain a Member.
- (b) The Board may by resolution passed at a Board meeting suspend a Member of the College for a period of up to three months if the Member has, in the opinion of the Board, acted in a manner which is prejudicial

to the interests of the College.

- (c) Prior to a meeting at which a resolution to suspend or expel a Member is considered, the Board must give the Member written notice:
  - (i) stating the date, place and time of the meeting;
  - (ii) setting out the intended resolution and the grounds on which it is based; and
  - (iii) informing the Member that he or she may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.
- (d) Any person expelled from membership of the College may at any time apply to be readmitted as a Member.

#### **4. MEETINGS OF MEMBERS**

##### **4.1 Proceedings of Members**

- (a) A meeting of the Members is a General Meeting.
- (b) At least two General Meetings must be held each year. They are:
  - (i) the Annual General Meeting; and
  - (ii) the November Extraordinary General Meeting.
- (c) The business of the Annual General Meeting is:
  - (i) the consideration of the financial statements which may include an annual financial report, Directors' declaration, Directors' report and auditor's report; and
  - (ii) when necessary, the appointment of the auditor, and/or the fixing of the auditor's remuneration; and
  - (iii) any other business of which notice is given in accordance with this Constitution.
- (d) The Annual General Meeting must be held once in every calendar year, and within five months of the end of the financial year, at such time and place as may be determined by the Board.
- (e) The business of the November Extraordinary General Meeting is:
  - (i) the election of the Members and Directors (including the Chair, where applicable) in accordance with this Constitution; and
  - (ii) any other business of which notice is given in accordance with this Constitution.
- (f) The November Extraordinary General Meeting must be held no later than 31 December in every Calendar Year at such time and place as may be determined by the Board.

#### **4.2 Convening a General Meeting**

A General Meeting may only be called:

- (a) by three Directors; or
- (b) by a resolution of the Board; or
- (c) in any of the circumstances permitted by Part 2G.2 of the Act, even if that Part of the Act does not apply by force of law to the Company as a result of the ACNC Legislation.<sup>1</sup>

#### **4.3 Changes to General Meeting arrangements**

- (a) The Board may change the venue for, postpone or cancel a General Meeting, subject to this sub-clause.
- (b) If a General Meeting was not called by a Directors' resolution then it may not be postponed or cancelled without the prior written consent of the persons who called or requisitioned the meeting.
- (c) If the venue of a General Meeting is changed, or if the General Meeting is cancelled or postponed under this sub-clause:
  - (i) Notice of the change, cancellation or postponement must be given to all persons entitled to receive notices of a General Meeting under this Constitution.
  - (ii) A notice of postponement must specify the date, time and place to which the General Meeting has been postponed.
  - (iii) To avoid ambiguity, the provisions of sub-clause 4.6 ("Timing of notice") do not apply to notice of postponement, cancellation or change of venue under this sub-clause.
  - (iv) In the case of a General Meeting called under a provision of Part 2G.2 of the Act, the General Meeting may not be postponed beyond the date by which meetings called under such provision are to be held.
- (d) The only business that may be transacted at a General Meeting which is postponed is the business specified in the notice convening the meeting at first instance.

#### **4.4 Entitlement to receive notice**

In the case of a General Meeting, notice must be given:

- (a) to every Member; and
- (b) to every Director and the auditor for the time being of the College.

#### **4.5 Content of notice of General Meeting**

A notice of a General Meeting must:

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<sup>1</sup> Part 2G.2 of the Act enables a General Meeting to be convened by or at the request of Members.

- (a) specify the place, the day and the 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) specify the general nature of the business to be transacted at the meeting; and
- (c) if a special resolution is to be proposed at the meeting-set out the wording of the resolution and state that it is proposed as a special resolution; and
- (d) include the information in sub-clause 4.9 (“Proxies”); and
- (e) include a form for the appointment of a Proxy which has been approved by the Board for the purpose.

#### **4.6 Timing of notice**

- (a) In the case of a General Meeting, at least 21 days’ notice must be given unless:
  - (i) in the case of an Annual General Meeting, all the Members entitled to attend and vote agree beforehand; and
  - (ii) in the case of any other General Meeting, if Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- (b) A General Meeting cannot be called with fewer than 21 days’ notice if it is of a kind where a resolution will be moved to remove a Director or auditor, notwithstanding the preceding paragraph.

#### **4.7 Chair of General Meetings**

- (a) The Chair shall preside as chair at every General Meeting.
- (b) If there is no Chair, or the Chair is not present within 15 minutes after the time appointed for the holding of the General Meeting, or the Chair is unwilling to act as chair for all or part of the General Meeting, then:
  - (i) if there is a Deputy Chair, the Deputy Chair will chair the General Meeting; and
  - (ii) if there is not a Deputy Chair present, willing and able to chair all or part of the General Meeting, the persons present may elect one of their number to be chair of such meeting or part of it.

#### **4.8 Role of Chair of General Meeting**

The chair of a General Meeting has discretion to determine the general conduct of the meeting and the procedures to be adopted at the meeting, subject to any resolutions of the meeting directing the chair in respect of any particular matter.

#### **4.9 Proxies**

- (a) A Member may appoint another Member as proxy to attend a General Meeting in the first Member’s place.

- (b) A proxy has the same rights as the Member who appointed the proxy, unless the Member directs otherwise in the proxy appointment document.
- (c) The appointment of a proxy must be in writing and signed by the Member making the appointment.
- (d) Notice of a proxy must be given to the Company at least 24 hours prior to the commencement of a meeting.

#### **4.10 Quorum of General Meeting**

- (a) No business may be transacted at any General Meeting, other than the election of a chair or adjournment of a meeting, unless a quorum is present at the time the meeting proceeds to business.
- (b) A quorum is such number as is the nearest whole number above one half of the total number of persons eligible to vote at the General Meeting.
- (c) For the purpose of determining whether a quorum is present at a General Meeting, a person attending by proxy is deemed to be present.
- (d) If a quorum is not present within 15 minutes from the time appointed for the General Meeting and the meeting was called by, or at the request of Members under Part 2G.2 of the Act, then the meeting shall be dissolved.

#### **4.11 Adjournment of General Meeting**

- (a) The chair of a General Meeting may at any time, and must if so directed by the meeting, adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting.
- (b) Only unfinished business is to be transacted at a General Meeting resumed after an adjournment.
- (c) It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more.
- (d) A meeting adjourned under this sub-clause stands adjourned to such day, and at such time and place, as the Directors present decide or, if no determination is made by the Directors, to the same day in the next week at the same time and place.

#### **4.12 Seconding**

It is not necessary for a proposed resolution to be seconded in order to be put to a vote.

#### **4.13 Voting**

- (a) Each Member has one vote and any Member holding a proxy has as many additional votes as the Member holds proxies. A Member who is

suspended is not entitled to vote during the period of suspension.

- (b) Questions arising for determination shall be decided by a majority of votes of Members present and voting, unless otherwise provided in this Constitution or the Act.
- (c) In a case of an equality of votes cast on a motion, the chair of the General Meeting does not have a casting vote.
- (d) At a General Meeting, voting will occur by show of hands or voices or such other method as the chair determines, unless a poll is demanded.
- (e) A poll can be demanded by a Member (including a Member who is suspended) at any time prior to a vote being taken, or immediately after the declaration of a result of a vote conducted by show of hands or voices. The demand for a poll may be withdrawn.
- (f) If a poll is duly demanded, it shall be taken in such a manner as the chair directs. A poll demanded on the election of the chair of the meeting or on a question of adjournment of a meeting must be taken immediately.
- (g) A declaration by the chair of the meeting that a resolution has been carried or lost, and an entry to that effect in the minutes is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (h) An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered. Any such objection shall be referred to the chair of the meeting whose decision is final. A vote not disallowed pursuant to such an objection is valid for all purposes.

#### **4.14 Conduct of elections**

- (a) Unless provided otherwise in this Constitution, a ballot may be held for the election of Members or Directors in such manner as is determined by the Board and in the absence of direction by the Board, as determined by the Chair.
- (b) In the case of the election of Directors:
  - (i) if desired, a single ballot may be held to fill all of the Ordinary Director positions; and
  - (ii) a separate ballot shall be held for the election of a person to the position of Chair.
- (c) In the case of the election of Members, a separate ballot shall be held in each of the following cases:
  - (i) to fill any vacant Parent Member positions;
  - (ii) to fill any vacant Alumni Member positions;
  - (iii) to fill any vacant Additional Stakeholder Member positions;

subject to this Constitution.

- (d) If the number of eligible candidates is less than or equal to the number of vacancies, it is not necessary to hold an election and the nominated candidates will fill the vacancies.

#### **4.15 Use of technology in meetings**

- (a) A person may attend, speak, vote or otherwise participate in a General Meeting through the use of technology that enables them to communicate clearly and simultaneously with other persons present at the meeting.
- (b) To avoid ambiguity, this sub-clause is intended to regulate the means by which a person may exercise rights conferred by this Constitution to attend, speak, vote or otherwise participate at a General Meeting (such as Members, Directors and auditors) and not confer additional rights on any other person.

#### **4.16 Meetings conducted by electronic means**

- (a) The Company may hold a general meeting at 2 or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate, including to hear and be heard.
- (b) Where clause 4.16(a) applies:
  - (i) a Member who participates in such a meeting is taken to be present in person at the meeting;
  - (ii) all provisions of this Constitution relating to general meetings apply, as far as they can and with any necessary changes, to such a meeting; and
  - (iii) the meeting is taken as held at the place where the Chair is present, or such other place as the meeting determines, as long as at least one of the Members was at that place for the duration of the meeting.
- (c) If the technology used for a general meeting encounters a technical difficulty, whether before or during the meeting, and as a result a Member is not able to participate in the meeting, the Chair may:
  - (i) allow the meeting to continue, if a quorum of Members remains able to participate in the meeting; or
  - (ii) adjourn the meeting either for a reasonable period to fix the technology or to another time and location that the Chair decides,unless otherwise required by the Corporations Act.

## **5. DIRECTORS**

### **5.1 Composition of the Board**

The Board will consist of 11 persons as follows:

- (a) 9 Ordinary Directors;

- (b) the Chair; and
- (c) the person who occupies the office of Principal, subject to that person giving written, signed consent to act as Director.

## **5.2 Eligibility**

Any natural person committed to the Purpose is eligible to be an Ordinary Director or Chair provided:

- (a) the person is not a Stakeholder Member; and
- (b) the person is not, at the time of appointment or election, an employee of the College;
- (c) an application for Directorship is made in the form determined by the Nominations Committee;
- (d) the person has been nominated by the Nominations Committee for a position as a Director; and
- (e) the person is not disqualified by the Act or prohibited by the ACNC Legislation from being a Director, to the extent that either applies.

## **5.3 Election of Directors**

- (a) Elections for Ordinary Directors and the Chair (where applicable) will be held at each November Extraordinary General Meeting.
- (b) The number of Directors to be elected will correspond with the number of vacancies in the Ordinary Director and Chair positions.
- (c) For the purposes of determining the number of vacancies to be filled under this sub-clause, a position will be deemed to be vacant if, pursuant to the provisions of this Constitution, the position will become vacant on 1 January in the following year.
- (d) A person elected as Ordinary Director or Chair under this sub-clause will also be a Member for the period that the person holds office as Ordinary Director or Chair, according to the provisions of clause 3.

## **5.4 Term**

- (a) Ordinary Directors are elected for three year terms.
- (b) The Chair is elected for a five year term, unless the Members by resolution extend the term by one year due to exceptional circumstances.
- (c) At the expiry of his or her term, or any time thereafter, a person may be re-elected as a Director, subject to the following tenure limits:
  - (i) Directors (other than the Principal) are subject to a maximum tenure of eleven years and six months.
  - (ii) A person may not occupy the position of Chair for a period of more than six years.

- (d) Any period of time served filling a casual vacancy is to be included when calculating the period for which a person has held office under sub-clauses 5.4(c)(i) and (ii).
- (e) The term of office of a Director who is an Ordinary Director or Chair commences on the first day of January immediately following the person's appointment or election as Director, except in the following cases:
  - (i) An Ordinary Director appointed or elected to fill a casual vacancy under sub-clause 5.6 will commence office as an Ordinary Director on the date of his or her appointment or election, subject to the person having given written, signed consent to act as Director.
  - (ii) A person appointed or elected to fill a casual vacancy in the position of Chair under sub-clause 5.7 will commence office as Chair on the date of his or her appointment or election, subject to the person having given written, signed consent to act as a Director.

## **5.5 Cessation of Directorship**

- (a) A person ceases to be a Director if the person:
  - (i) resigns by notice in writing to the College;
  - (ii) becomes subject to an order of a Court for the person to receive treatment or have their finances managed by another person, such as an administrator or guardian, due to the person being of unsound mind or having a mental illness;
  - (iii) is absent without the consent of the Directors from three consecutive meetings of the Board or four meetings over 12 months;
  - (iv) ceases to occupy the office of Principal;
  - (v) is removed by resolution of the Members under the Act; or
  - (vi) ceases to be a Director in any other circumstances prescribed by the Act or ACNC Legislation.
- (b) The minimum number of Directors is three. If the number of Directors falls below three, the Directors may not act other than to increase the number of Directors to at least three.

## **5.6 Casual vacancies in Ordinary Director positions**

If an Ordinary Director ceases to be a Director before the expiry of his or her term of office:

- (a) the Board may appoint another person to fill the vacancy until the conclusion of the next General Meeting, subject to the following paragraph;

- (b) the Members may at a General Meeting elect a person as an Ordinary Director to occupy the vacant position for the balance of the original term;
- (c) for clarity, if the Members elect a person as an Ordinary Director under sub-clause 5.6(b), that person will replace any person appointed by the Board under sub-clause 5.6(a);
- (d) the person to be appointed or elected must meet the eligibility criteria for the position of Director in sub-clause 5.2;
- (e) a person appointed or elected as Ordinary Director under this sub-clause will also be a Member for the period that the person holds office as Ordinary Director, according to the provisions of clause 3; and
- (f) the ordinary course of rotation of Ordinary Directors by retirement and election shall not be disrupted as a result of the vacancy.

### **5.7 Casual vacancies in the position of Chair**

If a Chair ceases to be a Director before the expiry of his or her term of office:

- (a) the Board may appoint another person to fill the vacancy until the thirty first day of December of that year, subject to the following paragraph;
- (b) the Members may at a General Meeting elect a person as Chair to occupy the vacant position until the thirty first day of December of that year;
- (c) for clarity, if the Members elect a person as Chair under sub-clause 5.7(b), that person will replace any person appointed by the Board under sub-clause 5.7(a);
- (d) the person to be appointed or elected must meet the eligibility criteria for the position of Director in sub-clause 5.2;
- (e) the person appointed or elected as Chair under this sub-clause will also be a Member for the period that the person holds office as Chair, according to the provisions of clause 3;
- (f) the position of Chair shall be filled according to the usual provisions of this Constitution for the period commencing the first day of January in the following year; and
- (g) a person elected or appointed as Chair under this sub-clause may be re-appointed or elected as Chair for the period commencing the first day of January in the following year in accordance with the usual provisions of this Constitution.
- (h) In this sub-clause “the usual provisions of this Constitution” shall be taken to mean the provisions of this Constitution other than this sub-clause 5.7.

### **5.8 Office Bearers**

- (a) Office Bearers of the College other than the Chair may be elected by the Board from among the Board for a period determined by the Board.

- (b) The description, number and duties of the Office Bearers other than Chair shall be determined by the Board from time to time.
- (c) An Office Bearer may be elected for more than one successive term.
- (d) The Board may, upon resolution passed by not less than two-thirds of the Directors present, remove or suspend the person from the above offices (excluding Chair) provided that not less than 21 days' notice in writing of an intention to move for such removal or suspension is given to the Secretary by the person intending to move that motion.

### **5.9 Power of Directors**

- (a) The Directors are responsible for the management of the business of the College and may exercise all the powers of the College that are not, by the Act or by this Constitution, required to be exercised by the Members.
- (b) The Board has power to make regulations or by-laws for the general conduct and management of the College and the business of the Board and to revoke and to alter such by-laws or regulations as the Board sees fit.
- (c) Without limiting the generality of sub-clause 5.9(a), the Directors may exercise all the powers of the College to borrow money, to charge any property or business of the College or give any other security for a debt, liability or obligation of the College or of any other person.
- (d) The Directors may, by power of attorney, appoint any person or persons (either by name or by reference to position or office held) to be the attorney or attorneys of the College for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- (e) Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him or her.
- (f) All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the College, shall be signed, drawn, accepted, endorsed, executed, as the case may be in such manner as the Directors determine.

### **5.10 Delegation of powers**

- (a) The Board may delegate any of its powers to one or more Directors, a committee (whether comprised of Directors, non-Directors or a combination), an employee or any other person.
- (b) The delegation must be recorded in the College's minute book.
- (c) The Board may revoke a delegation.
- (d) The Board may specify terms, including the power to further delegate.

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

### **5.11 Defects in appointment**

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

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or doing the thing.<sup>2</sup>

### **5.12 Officers: indemnities and insurance**

- (a) The College indemnifies every person who is or has been an officer of the College, or of a wholly-owned subsidiary, against any liability (including without limitation liability for legal costs) incurred as a result of their position as officer (other than to the College or a related body corporate) to the full extent permitted by law.
- (b) The College may pay, or agree to pay, a premium in respect of a contract insuring its officers, to the extent permitted by law.

### **5.13 Duties of Directors**

Directors must comply with any duties imposed on them by law, which may include duties under the Act, and/or duties under the ACNC Legislation.

### **5.14 Directors' conflict of interests**

- (a) A Director who has a material personal interest in a matter that relates to the affairs of the College must:
  - (i) give the Board notice of the interest, to the extent and in the manner required by the Act;<sup>3</sup> and
  - (ii) must not be present while the matter is being considered at a Board meeting, or vote on the matter, unless permitted by the Act;<sup>4</sup> and
- (b) Provided the Director complies with the previous paragraph, a Director may:
  - (i) hold any other position in the College, except that of auditor, unless being or becoming a Director would breach any law by

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<sup>2</sup> Sections 128-130 of the Act contain specific provisions which deal with assumptions people are entitled to make when dealing with the company and its officers.

<sup>3</sup> Sections 191 and 192 of the Act deal with disclosure of material personal interests.

<sup>4</sup> Section 195 of the Act deals with circumstances when Directors may be present and vote, and circumstances where the absence of a Director by virtue of this clause means that there is an insufficient quorum of Directors present for the Board to deal with the matter.

reason of holding that office;

- (ii) hold any office or place of profit in any other entity promoted by the College or in which it has an interest of any kind;
- (iii) enter into a contract or arrangement with the College;
- (iv) participate in any association, institution, fund, trust or scheme for past or present employees or Directors of the College or persons dependent on or connected with them;
- (v) act in a professional capacity (or be a Member of a firm which acts in a professional capacity) for the College, except as auditor;
- (vi) sign or participate in the execution of a document by or on behalf of the College; and
- (vii) do any of the above despite the fiduciary relationship of the Director's office:
  - (A) without any liability to account to the College for any direct or indirect benefit accruing to the Director; and
  - (B) without affecting the validity of any contract or arrangement.

## **6. THE NOMINATIONS COMMITTEE**

### **6.1 Composition**

- (a) The Board must establish a Nominations Committee comprised of four persons as follows:
  - (i) the Chair;
  - (ii) a Member of the College who is a Parent Member;
  - (iii) a Member of the College who is an Alumni Member;
  - (iv) the Principal; and
- (b) In addition, the Board may at its discretion appoint a fifth person, being a Member of the College, to the Nominations Committee.

### **6.2 Powers and duties of the Nominations Committee**

- (a) The Board must develop terms of reference for the Nominations Committee which set out the functions of the Nominations Committee.
- (b) The functions to be conferred on the Nominations Committee by the terms of reference:
  - (i) must include identifying and nominating suitable candidates for election or appointment as Stakeholder Members and Directors (including to the position of Chair);
  - (ii) may, if desired by the Board, include developing and

implementing a structured process for evaluation of Board performance and Board renewal; and

- (iii) may include any other function thought desirable or convenient by the Board.
- (c) In assessing the suitability of candidates for election or appointment as Directors, the Nominations Committee must:
  - (i) ensure that among the Board members there is a desirable combination of skills, qualifications and experience; and
  - (ii) satisfy itself that a candidate is not prohibited by the Act or ACNC Legislation from acting as a Director.<sup>5</sup>
- (d) The Nominations Committee has absolute discretion in all of its functions, subject only to the direction of the Board, the provisions of this Constitution and the law.
- (e) The Nominations Committee may decline to nominate any person for election or appointment as a Stakeholder Member or a Director (including the Chair) and is not bound to give reasons why.
- (f) The Nominations Committee:
  - (i) may nominate a person for more than one position;
  - (ii) must, in the case of a nomination of a person for election or appointment as a Stakeholder Member, specify one or more categories of Stakeholder Membership for which the person is nominated.
- (g) In the event of a dispute about whether a person meets the eligibility criteria for election or appointment as a Stakeholder Member, the Nominations Committee shall determine the dispute in its discretion.

## **7. THE PRINCIPAL**

### **7.1 Appointment and Removal of Principal**

- (a) The Board may appoint a Principal under the terms of an employment contract as it sees fit, subject to this Constitution.
- (b) The Board may terminate the employment of the Principal according to the terms and conditions laid down in the employment contract.
- (c) A resolution to terminate the employment of the Principal:
  - (i) must be passed by three quarters of the total number of Directors then in office at a Board meeting; and
  - (ii) must not be passed without the support of the Chair.

The Principal shall not be included in calculating the total number of Directors in office for the purposes of this paragraph.

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<sup>5</sup> The Nominations Committee should ensure that the publicly available registers maintained by the Australian Securities and Investments Commission and the ACNC are searched.

## **7.2 Principal as Director**

- (a) The person who occupies the office of Principal will, by virtue of that office, be a Director of the College subject to that person providing written, signed consent to act as a Director.
- (b) In the event that a person ceases to be the Principal, that person immediately ceases to be a Director of the College.

## **8. RESOLUTIONS AND MEETINGS OF THE BOARD**

### **8.1 Regulation of proceedings**

The Board may regulate its meetings and other procedures as it thinks fit, subject to this Constitution.

### **8.2 Convening Board meetings**

A Board meeting may be called by the Chair, or by any three Directors, or by resolution of the Board.

### **8.3 Changes to Board meeting arrangements**

The Board may change the venue for, postpone or cancel a Board meeting.

### **8.4 Entitlement to receive notice of Board meeting**

- (a) In the case of a Board meeting, notice must be given to each Director entitled to vote at the meeting.
- (b) Despite anything to the contrary in this Constitution, if the only business of a Board meeting is the appointment, removal and/or performance of a person as Principal, or is otherwise related to the employment of a person as Principal, then the Principal for the time being does not need to be given notice of that Board meeting, and is not entitled to attend that Board meeting or vote at that Board meeting.

### **8.5 Content of notice of Board meeting**

A notice of a Board meeting must specify the place, the day and the 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).

### **8.6 Timing of notice of Board meeting**

In the case of a Board meeting, notice may be given immediately before the meeting.

### **8.7 Chair of Board meetings**

- (a) The Chair shall preside as chair at every Board meeting.
- (b) If there is no Chair, or the Chair is not present within 15 minutes after the time appointed for the holding of the Board meeting, or the Chair is unwilling to act as chair for all or part of the Board meeting, then:
  - (i) if there is a Deputy Chair, the Deputy Chair will chair the Board

meeting; and

- (ii) if there is not a Deputy Chair present, willing and able to chair all or part of the meeting, the persons present may elect one of their number to be chair of such meeting or part of it.

### **8.8 Role of Chair**

The chair of a Board meeting has discretion to determine the general conduct of the meeting and of the procedures to be adopted at the meeting, subject to any resolutions of the meeting directing the chair in respect of any particular matter.

### **8.9 Quorum**

- (a) No business may be transacted at any meeting unless a quorum is present.
- (b) A quorum is such number as is the nearest whole number above one half of the total number of persons eligible to vote at the meeting.

### **8.10 Voting**

- (a) Each Director has one vote.
- (b) Questions arising for determination shall be decided by a majority of votes of persons present and voting, unless otherwise provided in this Constitution or the Act.
- (c) In a case of an equality of votes cast on a motion, the chair of the meeting does not have a casting vote.
- (d) A declaration by the chair of a meeting that a resolution has been carried or lost, and an entry to that effect in the minutes is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

### **8.11 Use of technology in meetings**

- (a) A person may attend, speak, vote or otherwise participate in a Board meeting through the use of technology that enables them to communicate clearly and simultaneously with other persons present at the meeting.
- (b) To avoid ambiguity, this sub-clause is intended to regulate the means by which a person may exercise rights conferred by this Constitution to attend, speak, vote or otherwise participate at a Board meeting and not confer additional rights on any other person.

### **8.12 Meetings conducted by electronic means**

- (a) A Board meeting may be held at 2 or more venues using any technology that gives the members of the Board as a whole a reasonable opportunity to participate, including to hear and be heard.
- (b) Where clause 8.12(a) applies:

- (i) a Board member who participates in such a meeting is taken to be present in person at the meeting;
  - (ii) all provisions of this Constitution relating to Board meetings apply, as far as they can and with any necessary changes, to such a meeting; and
  - (iii) the meeting is taken as held at the place where the Chair is present, or such other place as the Board determines, as long as at least one of the Board members was at that place for the duration of the meeting.
- (c) If the technology used for a Board meeting encounters a technical difficulty, whether before or during the meeting, and as a result a Board member is not able to participate in the meeting, the Chair may:
- (i) allow the meeting to continue, if a quorum of Board members remains able to participate in the meeting; or
  - (ii) adjourn the meeting either for a reasonable period to fix the technology or to another time and location that the Chair decides, unless otherwise required by the Corporations Act.

### **8.13 Resolutions without meetings**

- (a) A resolution of the Board may be passed without a meeting in the following circumstances if:
  - (i) notice has been given of the resolution to all Directors; and
  - (ii) a majority of the Directors entitled to vote give their consent in writing.
- (b) The resolution is passed at the time when approval is given to the Secretary of the last person necessary to constitute a majority.
- (c) For the purpose of this sub-clause:
  - (i) the notice must include the wording of the resolution;
  - (ii) approval in writing may be given by email or any other means of electronic communication; and
  - (iii) a resolution will be deemed to have failed to have been passed if it has not achieved the requisite majority by 14 days after notice was given.

## **9. ADMINISTRATION**

### **9.1 Minutes**

- (a) The Directors will cause minutes of all meetings, delegations and resolutions to be recorded in books kept for that purpose.
- (b) A minute recorded and signed by the chair of a meeting, or the next chair, is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

- (c) The College must ensure that:
  - (i) minutes of a meeting are signed within a reasonable time after the meeting by one of the following:
    - (A) the chair of the meeting; or
    - (B) the chair of the next meeting; and
  - (ii) minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.

## **9.2 Notice**

- (a) Notices can be served on Members or Directors by post, electronic mail, or such other means as may be generally accepted in business from time to time.
- (b) Notices directed to the last known address (including any virtual or electronic address) of a Member or Director are to be treated as duly served in such time as it would usually take for such notice to be delivered.
- (c) The non-receipt of notice of a meeting of Members or Directors does not invalidate anything done or any resolution passed at the meeting if the non-receipt of notice occurred by accident or inadvertent error.
- (d) A person who attends a meeting of Members or Directors waives any objection that person may have to non-receipt of notice of the meeting.
- (e) In calculating a period of notice to be given under this Constitution, both the days on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.
- (f) Notice may be given to the College by leaving it at the registered address, or giving it to the Secretary or the Chair.

## **9.3 Register of Members**

- (a) The Secretary will maintain the Register at the College's registered office.
- (b) When a person has been elected or appointed as a Member (including by virtue of becoming an Ordinary Director or the Chair), the Secretary must cause the person's name to be entered in the Register.
- (c) The address of a Member in the Register may serve as the address of the Member for the purpose of service of any notices to the Member.

## **9.4 Member access to documents**

- (a) The Directors shall determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the College or any of them will be open to the inspection of Members other than Directors, subject to the Act and this sub-clause.

- (b) Books containing the minutes of meetings of Members will be open for inspection by any Member free of charge.
- (c) The Directors will arrange for the financial statements, which may include a financial report, the Directors' report and the auditors' report, to be made out and laid before the Annual General Meeting.

#### **9.5 Execution of documents with a seal**

- (a) The College may have a Seal, known as the common seal, on which its name, its Australian Company Number and the words "Common Seal" are engraved.
- (b) If the College has a Seal the Directors shall provide for the safe custody of the Seal.
- (c) The Seal shall be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal.
- (d) The Company may execute a document by affixing the Seal to the document where the fixing of the Seal is witnessed by:
  - (i) two Directors; or
  - (ii) one Director and one Secretary; or
  - (iii) one Director and another person appointed by the Directors for that purpose.

The signature of such persons may be affixed to the document by manual, autographic or mechanical means.

#### **9.6 Execution of documents without a seal**

The College may execute a document by the signature of:

- (a) two Directors; or
- (b) one Director and one Secretary; or
- (c) one Director and another person appointed by the Directors for that purpose.

#### **9.7 Accounts**

- (a) The Directors will cause to be kept proper books of accounts in which will be kept true and complete accounts of the affairs and transactions of the College.
- (b) The accounts will always be open to inspection by the Directors.

#### **9.8 Liability of Members**

The liability of the Members is limited to the Guaranteed Amount, being \$50.

## 9.9 Winding up

The College may be dissolved in accordance with the Act, and sub-clause 2.4 (“Distribution of property on winding up”).

## 9.10 Contribution of Members on winding up

Every Member undertakes to contribute to the assets of the College in the event of the College being wound up while he or she is a Member or within one year of ceasing to be a Member, such amount as may be required not exceeding the Guaranteed Amount, for:

- (a) the payment of the debts and liabilities of the College contracted whilst the Member or past Member was a Member;
- (b) the costs charges and expenses of winding up; and
- (c) the adjustment of the rights of the contributors or Members amongst themselves.

## 9.11 Financial year

The Financial Year will begin on the first day of January and end on the thirty-first day of December.

## 9.12 Audit

If required by law, the College must appoint and remunerate an auditor.

## 9.13 Alteration of Constitution

The College may only alter this Constitution by special resolution in accordance with the Act.

# 10. INTERPRETATION

## 10.1 Exclusion of replaceable rules

The replaceable rules contained in the Act do not apply to the College.

## 10.2 Definitions

In this Constitution:

“**ACNC**” means the Australian Charities and Not-for-profits Commission.

“**ACNC Legislation**” means the *Australian Charities and Not-for-profits Commission Act 2012* and the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012*.

“**Act**” means the *Corporations Act 2001*.

“**Additional Stakeholder Member**” means a Member of the College who has been elected or appointed to the position of Additional Stakeholder Member described in sub-clause 3.1(b)(iii) in accordance with the requirements of sub-clause 3.2.

“**Alumni Member**” means a Member of the College who has been elected or

appointed to the position of Alumni Member described in sub-clause 3.1(b)(ii) in accordance with the requirements of sub-clause 3.2.

**“Board”** means the board of Directors for the time being of the College.

**“casual vacancy”** means a vacancy created as a result of a person ceasing to hold office, whether as a Member or a Director, prior to the expiry of their term of Membership or Directorship in the ordinary course under this Constitution, as context requires.

**“Chair”** means the person elected or appointed to the position of Chair under clause 5.

**“College”** means the Methodist Ladies’ College ACN 003 036 979.

**“Directors”** means the Directors for the time being of the College and **“Director”** has a corresponding meaning.

**“General Meeting”** means a meeting of Members.

**“Guaranteed Amount”** means the amount set out in sub-clause 9.8.

**“Member”** means a natural person whose name is entered in the Register as a Member of the College in accordance with sub-clause 9.3. **“Membership”** has the corresponding meaning.

**“November Extraordinary General Meeting”** means the General Meeting referred to as the “November Extraordinary General Meeting” in sub-clause 4.1 and held in accordance with that sub-clause.”

**“Ordinary Directors”** means Directors other than the Principal and the Chair.

**“Parent Member”** means a Member of the College who has been elected or appointed to the position of Parent Member described in sub-clause 3.1(b)(i) in accordance with the requirements of sub-clause 3.2.

**“Purpose”** means the purpose set out in sub-clause 2.1.

**“Register”** means the register of Members of the College under the Act.

**“Seal”** means the common seal of the College (if any).

**“Secretary”** means the secretary for the time being of the College and if there are joint secretaries, any one or more of such joint secretaries.

**“Special resolution”** has the meaning given to that term in the Act.

**“Stakeholder Members”** means Parent Members, Alumni Members and Additional Stakeholder Members.

### 10.3 Interpretation

In this Constitution:

- (a) Except where a contrary intention appears in this Constitution, if an expression in the Constitution has a meaning in the Act, the meaning from the Act shall apply to the expression.

- (b) Words importing any one gender shall be deemed and taken to include all genders and the singular to include the plural and the plural the singular unless the contrary as to gender or number is expressly provided.
- (c) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.