



GCA Group of Companies Pty Ltd

Constitution Of GCA Group of Companies Pty Ltd

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1. DEFINITIONS AND INTERPRETATION

1.1. Definitions:

In this Constitution:

ASIC means the Australian Securities & Investments Commission or any successor body.

Board means the board of directors.

Company means the company named above.

Constitution means this document and includes any variation or replacement of it.

Corporations Act means the Corporations Act 2001 (Cth).

Director means a person appointed as a director of the Company or a person who is appointed to the position of alternate director and is acting in that capacity.

Chair means the Chair appointed by the GCA Group of Companies Pty Ltd to chair the GCA Board of Directors meetings working closely with the CEO who in turn represents the Member

Office means the registered office of the Company

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

Related Body Corporate has the same meaning as in the Corporations Act.

Replaceable Rules means the replaceable rules under, *or* as referred to in, the Corporations Act.

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

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

Special resolution has the same meaning as in the Corporations Act.

1.2. References to sections and Constitution

A reference to:

an Act or a section of an Act includes any amendment, extension or re-enactment of it; and

this Constitution means this Constitution as amended.

1.3. Replaceable Rules

The Replaceable Rules do not apply in respect of the Company except where they are expressly stated to apply.

1.4. General interpretive provisions

- a) A word importing
 - i. the singular denotes the plural and vice versa;
 - ii. any gender denotes the other genders; and
 - iii. a person denotes an individual and a body corporate.
- b) In this Constitution, any reference to a clause is a reference to a clause of this Constitution.
- c) Headings to clauses in this Constitution are added for convenience only and do not affect interpretation.

1.5. Business day

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

1.6. Representative

- a) The President shall be the representative of the Member and shall have all the powers of the Member.
- b) The President may appoint others to act as representative of the Member from time to time and unless otherwise specified in the appointment such representative shall have all the powers of the Member.
- c) An appointment under 1.6 (b) does not stop the President being the representative of the Member.
- d) When there are multiple representatives appointed they may act severally or jointly.

2. PURPOSE

2.1. Objects, capacity and powers

- (a) The objects for which the Company is established are:
 - i. To provide educational and related services in fields such as higher education, vocational education and training, continuing education, and English language education including but not limited to operating a college at one or more locations within and/or outside Australia;
 - ii. To uphold and enhance GCA's reputation as an institution which values academic excellence, exemplary service to students and access for a culturally and demographically diverse student body;
 - iii. To make payments, including donations, to organisations that have been endorsed as exempt from income tax by the Australian Taxation Office under subdivision 50 - B of the *Income Tax Assessment Act*

1997 and that are deductible gift recipients under Division 30 of the *Income Tax Assessment Act 1997*; and

- iv. To do anything ancillary or incidental to the foregoing objects including but not limited to entering into any partnership or joint venture with or incorporating or acquiring, or merging with, any company, enterprise or entity.

(b) Nothing set out above limits:

- i. the legal capacity or powers of the Company as referred to in section 124 of the Corporations Act; or
- ii. the future or other objectives of the Company as determined by the Board from time to time.

(c) The Company shall not exercise any function or engage in any activity that GCA is not authorised.

2.2. Income and property

a) The income and property of the Company must only be applied towards the promotion of the objects of the Company specified in Clause 2.1.

b) However the Company may:

- I. pay the Member in return for any services rendered or goods supplied in the ordinary and usual course or business of the Company;
- II. make payments, including donations, to the Member, where the Member has been endorsed as exempt from income tax by the Australian Taxation Office under subdivision 50-B of the *Income Tax Assessment Act 1997* (as amended or re-enacted from time to time) and is a deductible gift recipient under Division 30 of the *Income Tax Assessment Act 1997* (as amended or re-enacted from time to time); or
- III. pay the Member interest at a rate not exceeding commercially available rates on money borrowed by the Company from the Member.

2.3. Dividends

The Company shall not distribute to its Member by way of dividend any of the assets or income of the Company.

3. SHARE CAPITAL

The Company is a company limited by shares and:

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

4. RESOLUTIONS

In accordance with section 249B of the Corporations Act the Company may pass a resolution (including a special resolution) by a representative of the Member recording the resolution and signing the record.

5. APPOINTMENT AND RETIREMENT OF DIRECTORS

5.1. Number of Directors

The number of directors shall not be more than 15 and not less than 3 as determined by the Member.

5.2. Appointment of directors

- a) The Member will appoint the number of directors from time to time determined under clause 5.1 for such period of time as the Member may determine. The Member shall as far as reasonably practicable ensure that at least two directors are independent directors although a failure to do so does not invalidate any resolutions of the Board.
- b) In this clause the expression 'independent director' means a director who is not an employee of the Company or the Member.

5.3. Retirement of Directors

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

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

5.4. Removal from office

The Member may remove a director appointed by it under clause 5.2 without cause at any time by notice to that director and to the Board specifying the date of such removal.

5.5. Vacation of office

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

- a) becomes disqualified from managing corporations under the Corporations Act (unless ASIC or the court allows them to manage the Company);
- b) is declared bankrupt by a competent authority;
- c) becomes of unsound mind; or
- d) is absent without the consent of the directors from the meetings of the directors held during a continuous period of 6 months and the board resolves that the office of that director be vacated.

6. DIRECTORS' REMUNERATION 6.1 Fees

Directors of the Company are not automatically entitled to be paid fees for their services as directors of the Company. Unless otherwise determined by the Board, the

Company may not pay director's fees to any director who is a full-time or part-time employee of GCA. Director's fees may only be paid with the consent of the Member.

6.1. Payment for expenses

The directors may be reimbursed all travelling, accommodation, and other expenses reasonably and properly incurred by them in attending or in connection with their attendance at any meeting of the Company or of the Board or any committee of the directors, or in undertaking the business of the Company.

7. PROCEEDINGS OF DIRECTORS

7.1. Convening of directors' meetings

A director may at any time, and a Secretary must on the requisition of a director, convene a meeting of the directors. Reasonable notice of such meeting must be given individually to every director (other than the director convening the meeting).

7.2. Mode of meeting for directors

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

7.3. Quorum at directors' meetings

- a) At a meeting of directors, no business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with. The quorum for a meeting of directors is a majority of directors.
- b) If a quorum is not present at a Board meeting, the meeting is to be adjourned to the same time and place on the next business day. If a quorum is not present at the adjourned meeting, the directors present will constitute a quorum.

7.4. Voting at directors' meetings

- a) Questions arising at a meeting of directors must be decided by a majority of votes of directors entitled to vote on the resolution. A decision of the majority is for all purposes a decision of the directors.
- b) Each director present has 1 vote for each resolution at meetings of directors.

7.5. Appointment of chairperson of directors

- a) The chairperson of the Board will be appointed by the Member, on such terms and for such period as the Member may determine and the chairperson of the Board may only be removed by the Member.
- b) A chairperson who ceases to be a director, for any reason, ceases to be the chairperson at the time they cease to be a director.

- c) If no chairperson is appointed under Clause 7.5(a). or if at any meeting the chairperson is not present within 10 minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be chairperson of the meeting.

7.6. Chairperson's vote at directors meeting

A chairperson may exercise a casting vote.

7.7. Disclosure of director's interests

- a) A director who is in any way, either directly or indirectly, interested in a contract or proposed contract with the Company must declare the nature of the director's interest at a meeting of the directors in accordance with section 191 of the Corporations Act (this notice may be a standing notice in accordance with section 192 of the Corporations Act). Any such notice must give details of the nature and extent of the interest, the relation of the interest to the affairs of the Company and be given at a director's meeting as soon as practicable after the director becomes aware of their interest in the matter.
- b) The Secretary must record every declaration of interest in the minutes of the meeting at which it is made.
- c) A Director may make a standing declaration for the purposes of this clause 7.7.
- d) A director is not to be treated as interested or to have been at any time interested in a contract or proposed contract merely because:
 - I. where the contract or proposed contract relates to a loan to the Company, the director has guaranteed or joined in guaranteeing the repayment of the loan or a part of the loan; or
 - II. where the contract or proposed contract has been or will be made with or for the benefit of or on behalf of a body corporate which by virtue of the Corporations Act is treated as related to the Company, the director is a director of that body corporate.

7.8. Participation where directors interested

- a) A director may vote in respect of a contract or proposed contract with the Company in which the director is directly or indirectly interested if the director declares the nature of the interest as required by this Constitution and the Corporations Act.
- b) A director may be counted in the quorum at a meeting at which there is considered a matter in which the director is, directly or indirectly, interested and in respect of which the director is entitled to vote.
- c) A director may attest the affixing of the Seal to a contract or arrangement entered into by the director.

7.9. Delegation of powers to committee

- a) The directors may delegate any of their powers to committees consisting of directors, which may include other persons to act in Australia or elsewhere.
- b) The exercise of a power by a committee in accordance with this Constitution is to be regarded as the exercise of that power by the directors.

- c) In the exercise of any powers delegated to it, a committee formed by the directors must conform to the directions of the directors.

7.10. Proceedings of committees

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

7.11. Validity of acts of directors

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

7.12. Minutes

The directors must cause all resolutions made under clause 4 and minutes of all proceedings of meetings of the directors and of committees formed by the directors to be entered, within one month after the relevant meeting is held, in books kept for that purpose.

7.13. Resolution in writing

- a) The directors may pass a resolution without a directors' meeting being held if all the directors entitled to vote on the resolution, at the time of distribution stated in the notice, are notified in writing of the resolution and a majority thereof sign a document containing a statement that they are in favour of the resolution set out in the document.
- b) Electronic technology can be used to circulate the resolution and statement to and from the directors.
- c) Separate copies of a document may be used for signing by directors if the wording or the resolution and statement is identical in each copy.
- d) The resolution is passed when the last director forming the majority signs.

8. POWERS AND DUTIES OF DIRECTORS

8.1. Consideration of the Interests of GCA

- a) The business of the Company is to be managed under the direction of the directors.
- b) Subject to sub-sections 187(b) and (c) of the Corporations Act, the directors are expressly authorised, when considering any matter, making any decision or determination, passing any resolution or doing any other act, matter or thing, to act in the best interests of GCA (or any other holding company of the Company from time to time).

9. ALTERNATE DIRECTORS

9.1. Appointment of alternate directors

- a) Subject to clause 9.1(b), a director may appoint a person to be an alternate director in the director's place for a period that must not exceed the balance of the director's term at the date of appointment.
- b) Only persons approved by the Member are eligible to be appointed as alternate directors under clause 9.1(a).
- c) The appointment of an alternate director must be in writing, signed by the director.
- d) The appointment of an alternate director takes effect immediately on the signing of the notice of appointment by the director.

9.2. Powers of alternate director

- a) An alternate director is subject in all respects to the terms applying to the other directors.
- b) An alternate director is entitled to:
 - i. perform all the duties of a director while the director who appointed the alternate director is not exercising or performing them;
 - ii. receive notice of meetings of the directors; and
 - iii. attend and vote at meetings of the directors if the director who appointed the alternate director is not present.
- c) An alternate director will not be entitled to vote for the purposes of cl 7.13.

9.3. Termination of appointment of alternate directors

The appointment of an alternate director is immediately terminated if:

- a) the director who appointed the alternate director ceases to be a director; or
- b) the director who appointed the alternate director gives notice of termination of the appointment to the Company.
- c) The Member notifies the Secretary of its withdrawal of approval pursuant to cl 9.1

10. SECRETARY

10.1. Appointment of secretaries

The directors may appoint at least one Company Secretary and may at any time, vary, terminate or suspend any appointment of a person as a Secretary.

10.2. Terms of appointment of secretaries

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

11. NOTICES

11.1. Persons authorised to give notices

- a) A notice under this Constitution must be in writing (which may be in electronic form) and may be given on behalf of the Company or the Member by a solicitor, director or secretary of the Company or a representative of the Member.
- b) The signature of a person on a notice given by the Company may be written, printed or stamped.

11.2. Method of giving notices

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

- a) delivering it to a street address of the addressee;
- b) sending it by prepaid registered post to the address of the addressee;
- c) sending it by email to the email address of the addressee; or
- d) sending it by facsimile to the facsimile number of the addressee,

11.3. Addresses for giving notices to the Member

- a) The street address or postal address of the Member is the street or postal address of the Member shown in the Register.
- b) The facsimile number or email address of the Member is the number or email address which the Member may specify by notice to the Company as the facsimile number or email address to which notices may be sent to the Member.

11.4. Address for giving notices to the Company

The street, postal address, or email address of the Company for the purpose of giving or receiving notices is the street, postal address, or email address which the Company may specify by notice to the Member and Directors.

11.5. Time notice is given

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

- a) if delivered to the street address of the addressee, at the time of delivery;
- b) if sent by post to the street or postal address of the addressee, two business days after posting;
- c) if sent by email, a notice is taken to be given when the email is sent, unless the sender has been notified, by a system or person involved in the delivery of the email to the addressee, that the email has not been successfully delivered; or

12. INSPECTION OF BOOKS AND FINANCIAL RECORDS

12.1. Director and Member access

Each director and Member of the Company has a right of access to the books and financial records at all times.

13. WINDING UP

If there is any surplus from the winding up of the Company, the surplus must be given or transferred to GCA or to such other organisation as the Board may otherwise direct which has similar objects to those of the Company and which is exempt from income tax under the *Income Tax Assessment Act 1997* and is a deductible gift recipient under Division 30 of that Act.

14. LIABILITY OF MEMBER

The liability of the member or members of the Company is limited to the unpaid amount (if any) for its share or shares in the Company.

15. INDEMNITY

15.1. Costs and expenses

To the extent permitted by law and without limiting the powers of the Company, every officer of the Company is indemnified by the Company against a liability for costs and expenses incurred by that person acting lawfully as an officer of the Company notwithstanding any defect in their appointment as an officer.

15.2. Liabilities to third parties

To the extent permitted by law and without limiting the powers of the Company, every officer of the Company is indemnified against a liability incurred by that person as an officer to a person other than the Company or a Related Body Corporate, except a liability which arises from conduct that involves a lack of good faith.

15.3. Insurance premiums

To the extent permitted by law, the Company or its Related Body Corporate may pay the premium (whether directly or indirectly) on a contract insuring a person who is or has been an officer or the Company against:

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

15.4. Payments not Remuneration

Any payment made by the Company under this clause 15, does not constitute remuneration for the purposes of this Constitution.

16. AMENDING THE CONSTITUTION

- a) Subject to the Corporations Act the Company may modify or repeal this Constitution or a provision of this Constitution, by special resolution.
- b) A special resolution modifying or repealing this Constitution takes effect:
 - I. if no later date is specified in the resolution, the date on which the resolution is passed; or
 - II. on a later date specified in or determined in accordance with the resolution.