

AGENDA 2.2.16

Australian Lutheran College constitution

PROPOSED MOTION

Submitted by Board of Directors of Australian Lutheran College

BE IT RESOLVED that General Convention approves the new ALC Constitution

REASONS FOR THE MOTION

The Board of Australian Lutheran College (ALC) has prepared a new Constitution in order to bring ALC's governing structures into alignment with the Strategic Direction that has been set by the Board and approved by GCC.

The new Constitution has also been prepared to be compliant with the Australian Charities and Not-for-profits Commission (ACNC), which is the independent national regulator of charities, with whom ALC is a registered member.

CONSTITUTION of Australian Lutheran College

Australian Company Number (ACN) 108602151
Australian Business Number (ABN) 19108602151

A company limited by guarantee

Table of contents

Article 1	The Company	10.9	Adjournment of Meetings
1.1	Name of the Company	Article 11	Voting at Meetings
1.2	Type of Company	Article 12	Directors
1.3	Limited Liability of Members	12.1	Appointment of Directors
1.4	The Guarantee	12.2	Advice to the Directors
1.5	Definitions	12.3	Election of Officers
Article 2	Confessional Basis	12.4	Term of Office
Article 3	Amending the Constitution	12.5	Removal of a Director
Article 4	Relationships	Article 13	Powers and Duties of Directors
Article 5	Object	13.1	Powers of Directors
Article 6	Powers and Authority	13.2	Delegation of Directors' Powers
Article 7	Not-for-profit	13.3	Payments to Directors
Article 8	Members and Membership	13.4	Execution of Documents
Article 9	Dispute Resolution and Discipline	13.5	Conflict of Interest and Duty
Article 10	Meetings	Article 14	Directors' Meetings
10.1	General Meetings	14.1	Directors' Meetings
10.2	Annual General Meeting	14.2	Calling Directors' Meetings
10.3	Notice of General Meetings	14.3	Chair for Directors Meetings
10.4	Quorum at General Meetings	14.4	Quorum at Directors' Meetings
10.5	Auditor's right to attend Meetings	14.5	Using technology to hold Directors' Meetings
10.6	Using Technology to hold Meetings	14.6	Directors' Resolutions
10.7	Chair for General Meetings	14.7	Circular Resolutions of Directors
10.8	Role of Chair		

14.8	Directors' Access to Documents
Article 15	Appointment and Role of Secretary
Article 16	Minutes and Records
Article 17	Financial and Related Records
Article 18	Governance Policies
Article 19	Notice
19.1	Notice to the College
19.2	Notice to Members
19.3	Notice given
Article 20	College's Financial Year
Article 21	Indemnity
Article 22	Insurance
Article 23	Gift Fund and Foundation
Article 24	Winding Up and Surplus Assets

Article 1 The Company

1.1 The Name

1.1.1 Name of the company is AUSTRALIAN LUTHERAN COLLEGE.

1.2 Type of company

1.2.1 The company is a not-for-profit public company limited by guarantee which has been established as the educational and research institution of the Church.

1.3 Limited liability of Members

1.3.1 The liability of Members is limited to the amount of the guarantee in Clause 1.4.

1.4 The guarantee

1.4.1 Each Member must contribute an amount not more than \$50 to the property of the company if the company is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the

1.4.1 debts and liabilities of the company incurred before the Member stopped being a Member; or

1.4.2 costs of winding up.

1.5 Definitions and Interpretation

In this Constitution of this company, unless the contrary intention appears:

1.5.1 **'the Act'** means the

1.5.1.1 **'Corporations Act 2001'**; and the

1.5.1.2 **'ACNC Act'** means the Australian Charities and Not-for-Profits Commission Act 2012;

1.5.1.3 reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation and regulations made under that Act;

1.5.2 **'Auditor'** means the auditor of the Company;

1.5.3 **'Board'** means the Board of Directors of the Company;

1.5.4 **'Church'** means the Lutheran Church of Australia Inc or its successor provided that if the Lutheran Church of Australia Inc or its successor becomes an externally administered body corporate within the meaning of the *Corporations Act 2001* pursuant to the provisions of part 5 of the *Associations and Corporations Act 1985* **'Church'** shall mean the association (whether incorporated or otherwise) established in substitution for the Lutheran Church of Australia Inc with a Confession and Objects and a constitution substantially the same as the Lutheran Church of Australia Inc;

1.5.5 **'circular resolution'** means a resolution and voting managed electronically or by a manner other than at a face to face meeting;

1.5.6 **'College'** means the company called Australian Lutheran College, the educational and research facility of the Church;

1.5.7 **'conflict of duty'** means those who have other duties or responsibilities that may be in conflict with their duties and responsibilities to the College;

1.5.8 **'constitution'** means the constitution of the College as amended from time to time;

1.5.9 **'Director'** includes any person occupying the position of Director of the College;

1.5.10 **'elected Chair'** means a person elected by the Directors to be the College's Chair under Article 10;

1.5.11 **'General Church Council'** means the General Church Council established under the constitution of the Church;

1.5.12 **'general meeting'** means a meeting of Members and includes the annual general meeting, under Article 10;

1.5.13 **'General Synod'** means the Convention of General Synod in accordance with the constitution of the Church;

- 1.5.14 **'governance policies'** means documents adopted by Directors to the good governance of the College;
- 1.5.15 **'Member'** means a Member under Article 8;
- 1.5.16 **'office'** means the registered office of the College;
- 1.5.17 **'officer'** means College Director;
- 1.5.18 **'register'** means the register of Members of the College;
- 1.5.19 **'registered address'** means the last known address of a Member as noted in the Register;
- 1.5.20 **'seal'** means the College's common seal;
- 1.5.21 **'secretary'** means any person appointed by the Directors to perform any of the duties of the secretary of the College;
- 1.5.22 **'Member present'** means, in connection with a general meeting, a Member present in person, at the venue or venues for the meeting;
- 1.5.23 **'registered charity'** means a charity that is registered under the ACNC Act;
- 1.5.24 **'special resolution'** means a resolution
 - 1.5.24.1 of which notice has been given under Article 20; and
 - 1.5.24.2 that has been passed by at least 75% of the votes cast by Members present and entitled to vote on the resolution;
- 1.5.25 **'surplus assets'** means any assets of the College that remain after paying all debts and other liabilities of the College, including the costs of winding up;
- 1.5.26 In reading this constitution with the Corporations Act
 - 1.5.26.1 the replaceable rules set out in the Corporations Act do not apply to the College;
 - 1.5.26.2 while the College is a registered charity, the ACNC Act and the Corporations Act override any Clauses in this constitution which are inconsistent with those Acts;
 - 1.5.26.3 if the College is not a registered charity, even if it remains a charity, the Corporations Act overrides any Article or in this constitution which is inconsistent with that Act;
 - 1.5.26.4 words and expressions defined in the Act have the same meaning in this Constitution;
 - 1.5.26.5 a reference to the Corporations Law is a reference to the Act as modified or amended from time to time;
 - 1.5.26.6 an expression in a Clause of this Constitution has the same meaning as in a provision of the Act; and
 - 1.5.26.7 a word or expression that is defined in the Corporations Act, or used in that Act and covering the same subject, has the same meaning as in this constitution.

Article 2 **Confessional Basis**

- 2.1 The College holds to the Confession of the Church and declare that it
 - 2.1.1 accepts without reservation the Holy Scriptures of the Old and New Testaments, as a whole and in all their parts, as the divinely inspired, written, and inerrant Word of God, and as the only infallible source and norm for all matters of faith, doctrine and life; and
 - 2.1.2 acknowledges and accepts as true expositions of the Word of God and as its own confession all the Symbolical Books of the Evangelical Lutheran Church contained in the Book of Concord of 1580, namely, the three Ecumenical Creeds: the Apostles' Creed, the Nicene Creed, and the Athanasian Creed; the Unaltered Augsburg Confession; the Apology of the Augsburg Confession; the Smalcald Articles; the Small Catechism of Luther; the Large Catechism of Luther; and the Formula of Concord.
- 2.2 All who teach in and administer the affairs of the College shall be bound to carry out their duties in accordance with this confession.

Article 3 Amending this Constitution

- 3.1 Notwithstanding any provision of the Act, this constitution can only be amended in accordance with the provisions of this clause.
- ~~3.2 No amendments shall be made to all of Clause 3.2, which shall be considered fundamental and unalterable in intent and meaning.~~
- ~~3.2.1 Article 2. The Confessional Basis; and~~
- ~~3.2.2 Article 7. Not for profit, to cause the College to no longer be 'not for profit'.~~
- 3.2 No amendments shall be made to this Clause 3.2 and Articles 2 and 7 which shall be considered fundamental and unalterable in intent and meaning.**
- 3.3 The General Church Council may by ordinary resolution amend, alter, add to, or repeal any of the other clauses. Any amendment, alteration, addition, or repeal must be ratified by an ordinary resolution of the next Convention of General Synod.
- 3.4 Notwithstanding Clause 3.3 any amendment of this Constitution by the General Church Council should be of full force and effect until the time of the next Convention of General Synod.
- 3.5 The subsequent resolution of the Convention of General Synod not to approve an amendment to the Constitution will not affect the validity of any acts by the College in the meantime.

Article 4 Relationships

- 4.1 The College declares that all its activities and programs shall always be consistent with and in conformity to the Constitution of the Church.
- 4.2 The College is the tertiary education and research institution of the Church.
- 4.3 The College has relationships with other institutions for the purposes of granting degrees and awards. Relationships shall always be consistent with and in conformity to the Constitution of this College and the Church.

Article 5 Objects

- 5.1 The College shall pursue the following objects for charitable purposes:
- 5.1.1 prepare candidates to be pastors of the Church;
 - 5.1.2 prepare candidates to be teachers in the schools of the Church;
 - 5.1.3 prepare candidates to be lay workers of the Church;
 - 5.1.4 provide continuing and postgraduate studies in theology and education;
 - 5.1.5 provide education leading to degrees, awards and qualifications in theology and Christian service;
 - 5.1.6 provide training for members, congregations and organisations of the Church and the community;
 - 5.1.7 undertake research to assist in the promotion of the mission of the Church;
 - 5.1.8 establish and maintain relations with any relevant Board, committee or institution of the Church and with Lutheran education bodies overseas; and
 - 5.1.9 undertake such other activities which promote the mission of the Church.

Article 6 Powers and Authority

- 6.1 Subject to Article 7, the College has the following powers, which may only be used to carry out its purposes set out in Article 5 and shall be exercised consistently with the constitution and by-laws of the Church:
- 6.1.1 the powers of an individual; and
 - 6.1.2 all the powers of a College limited by guarantee under the Corporations Act.

Article 7 Not-for-profit

- 7.1 The income and property of the College shall only be used for the objects of the College set out in Article 5.
- 7.1.1 The College must not distribute any income or assets directly or indirectly to its Directors and Members, except as provided in Clauses 7.1.2.

- 7.1.2 Clause 7.1.1 does not stop the College from doing the following things, provided they are done in good faith:
 - 7.1.2.1 paying a Member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the College; or
 - 7.1.2.3 making a payment to a Member in carrying out the College's charitable purposes.

Article 8 The Members and Membership

- 8.1 The Members of the College are the Directors.
- 8.2 Membership of the College will cease
 - 8.2.1 on the date that the Secretary receives written notice of resignation;
 - 8.2.2 when the appointment of the Member as a Director ends or is terminated;
 - 8.2.3 where the Member
 - 8.2.3.1 dies; or
 - 8.2.3.2 becomes mentally incapacitated or whose person or estate is liable to be dealt with in any way under the laws relating to mental health; or
 - 8.2.3.3 is convicted of a serious criminal offence; or
 - 8.2.3.4 is declared bankrupt.

Article 9 Dispute resolution and discipline

- 9.1 Dispute resolution and discipline shall be in accordance with Scriptural principles.
 - 9.1.1 The dispute resolution procedure in this clause applies to disputes and disagreements under this constitution between a Member or Director and
 - 9.1.1.1 one or more Members; or
 - 9.1.1.2 one or more Directors; or
 - 9.1.1.3 the College.
 - 9.1.2 A Member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under Article 9 until the disciplinary procedure is completed.
 - 9.1.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
 - 9.1.4 If those involved in the dispute do not resolve it under Clause 9.1.3 they must within 10 days
 - 9.1.5.1 tell the Directors about the dispute in writing;
 - 9.1.5.2 agree or request that a mediator be appointed; and
 - 9.1.5.3 attempt in good faith to settle the dispute by mediation.
 - 9.1.5 The mediator must
 - 9.1.5.1 be chosen by agreement of those involved; or
 - 9.1.5.2 where those involved do not agree
 - 9.1.5.2.1 for disputes between Members, the Directors shall choose a person; or
 - 9.1.5.2.2 for other disputes, the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the state or territory in which the College has its registered office shall choose a person.
 - 9.1.6 A mediator chosen by the Directors under Clause 9.1.5.2.1
 - 9.1.6.1 may be a Member or former Member of the College;
 - 9.1.6.2 must not have a personal interest in the dispute; and
 - 9.1.6.3 must not be biased towards or against anyone involved in the dispute.
 - 9.1.7 When conducting the mediation, the mediator must
 - 9.1.7.1 allow those involved a reasonable chance to be heard;

- 9.1.7.2 allow those involved a reasonable chance to review any written statements;
- 9.1.7.3 ensure that those involved are given natural justice; and
- 9.1.7.4 not make a decision on the dispute.
- 9.1.8 Disciplining Members
 - 9.1.8.1 In accordance with this clause, the Directors may resolve to warn, suspend or recommend General Church Council expel a Member from the College if the Directors consider that
 - 9.1.8.1.1 the Member has breached this constitution; or
 - 9.1.8.1.2 the Member's behaviour is causing, has caused, or is likely to cause harm to the College.
- 9.1.9 At least 14 days before the Directors' meeting at which a resolution under Clause 9.1.8.1 will be considered, the secretary must notify the Member in writing
 - 9.1.9.1 that the Directors are considering a resolution to warn, suspend or expel the Member;
 - 9.1.9.2 that this resolution will be considered at a Directors' meeting and the date of that meeting;
 - 9.1.9.3 what the Member is said to have done or not done;
 - 9.1.9.4 the nature of the resolution that has been proposed; and
 - 9.1.9.5 that the Member may provide an explanation to the Directors, and details of how to do so.
- 9.1.10 Before the Directors pass any resolution under Clause 9.1.9.1, the Member must be given a chance to explain or defend themselves by
 - 9.1.10.1 sending the Directors a written explanation before that Directors' meeting; and/or
 - 9.1.10.2 speaking at the meeting.
- 9.1.11 After considering any explanation under Clause 9.1.10, the Directors may
 - 9.1.11.1 take no further action;
 - 9.1.11.2 warn the Member;
 - 9.1.11.3 suspend the Member's rights as a Member for a period of no more than 12 months;
 - 9.1.11.4 recommend that the General Church Council expel the Member;
 - 9.1.11.5 refer the decision to an unbiased, independent person on conditions that the Directors consider appropriate, however, the person can only make a decision that the Directors could have made under this clause; or
 - 9.1.11.6 require the matter to be determined at a general meeting.
- 9.1.12 The Directors cannot fine a Member.
- 9.1.13 The Secretary must give written notice to the Member of the decision under Clause 9.1.11 as soon as possible.
- 9.1.14 Disciplinary procedures must be completed as soon as reasonably practical.
- 9.1.15 There will be no liability for any loss or injury suffered by the Member as a result of any decision made in good faith under this clause.

Article 10 Meetings

- 10.1 General meetings of the College
 - 10.1.1 General meetings may be called by
 - 10.1.1.1 the Chair; or
 - 10.1.1.2 two [2] Directors.
 - 10.1.2 For a general meeting to be held,
 - 10.1.2.1 a written request must be submitted to the College;
 - 10.1.2.2 within 21 days of the request, give all Directors notice of the request for a general meeting; and
 - 10.1.2.3 hold the general meeting within 2 months of the request.
 - 10.1.3 The Directors who make the request for a general meeting must

- 10.1.3.1 state in the request any motion to be proposed at the meeting;
 - 10.1.3.2 sign the request; and
 - 10.1.3.3 give the request to the Secretary.
- 10.2 Annual general meeting
 - 10.2.1 Even if these items are not set out in the notice of meeting, the business of an annual general meeting may include the
 - 10.2.1.1 review of the College's activities;
 - 10.2.1.2 review of the College's finances;
 - 10.2.1.3 auditor's report;
 - 10.2.1.4 election of officers:
 - 10.2.1.4.1 Chair;
 - 10.2.1.4.2 Vice-Chair;
 - 10.2.1.4.3 Secretary; and
 - 10.2.1.5 appointment and remuneration of the auditor.
 - 10.2.3 Before or at the annual general meeting, the Members must be given information on the College's activities and finances during the period since the last annual general meeting.
 - 10.2.4 The Chair of the annual general meeting must give Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the College.
- 10.3 Notice of general meetings
 - 10.3.1 Notice of a general meeting must be given to
 - 10.3.1.1 each Member entitled to vote at the meeting;
 - 10.3.1.2 each Director; and
 - 10.3.1.3 the auditor.
 - 10.3.2 Notice of a general meeting must be provided in writing at least 21 days before the meeting.
 - 10.3.3 Notice of a meeting may be provided less than 21 days before the meeting if
 - 10.3.3.1 for an annual general meeting, all the Members entitled to attend and vote at the annual general meeting agree beforehand; or
 - 10.3.3.2 for any other general meeting, Members with at least 95% agree beforehand.
 - 10.3.4 Notice of a general meeting must include
 - 10.3.4.1 the place, date and time for the meeting, and if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
 - 10.3.4.2 the general nature of the meeting's business; and
 - 10.3.4.3 if applicable, that a special resolution is to be proposed and the words of the proposed resolution.
 - 10.3.5 If a general meeting is adjourned for one month or more, the Members must be given new notice of the resumed meeting.
- 10.4 Quorum at general meetings
 - 10.4.1 For a general meeting to be held, a quorum must be present for the whole meeting. A quorum is a majority of the Members at the time appointed for the meeting.
 - 10.4.2 No business may be conducted at a general meeting if a quorum is not present.
 - 10.4.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of general meeting, the general meeting is adjourned to the date, time and place that the Chair specifies. If the Chair does not specify one or more of those things, the meeting is adjourned to
 - 10.4.3.1 if the date is not specified – the same day in the next week;
 - 10.4.3.2 if the time is not specified – the same time; and
 - 10.4.3.3 if the place is not specified – the same place.
 - 10.4.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

- 10.5 Auditor's right to attend meetings
 - 10.5.1 The auditor is entitled to attend any general meeting and to be heard by the Members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
 - 10.5.2 The College must give the auditor any communications relating to the general meeting that a Member of the College is entitled to receive.
- 10.6 Using technology to hold meetings
 - 10.6.1 The College may hold a general meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate, including access to documentation, to hear and be heard.
 - 10.6.2 Anyone using this technology is taken to be present in person at the meeting.
- 10.7 Chair for general meetings
 - 10.7.1 The elected Chair shall chair general meetings.
 - 10.7.2 The Members present and entitled to vote at a general meeting may choose a Director or Member to be the Chair for that meeting if
 - 10.7.2.1 there is no elected Chair; or
 - 10.7.2.2 the elected chair is not present within 30 minutes after the starting time set for the meeting; or
 - 10.7.2.3 the elected Chair is present but says they do not wish to act as chair of the meeting.
 - 10.7.3 The Chair is responsible for the conduct of the general meeting, and for this purpose must give Members, or the auditor, a reasonable opportunity to make comments and ask questions.
- 10.8 Role of the Chair
 - 10.8.1 The Chair is responsible for the conduct of the general meeting, and for this purpose must give Members and the auditor a reasonable opportunity to make comments and ask questions.
 - 10.8.2 The Chair does not have a casting vote.
- 10.9 Adjournment of meetings
 - 10.9.1 If a quorum is present, a general meeting must be adjourned if a majority of Members present direct the Chair to adjourn it.
 - 10.9.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.
 - 10.9.3 An adjourned general meeting may resume at a different venue to the initial general meeting.

Article 11 Voting at meetings

- 11.1 Each Member has one vote.
- 11.2 There shall be no proxy voting.
- 11.3 The Chair does not have a casting vote in addition to the normal vote as a Director.
- 11.4 Voting must be conducted and decided by
 - 11.4.1 a show of hands; or
 - 11.4.2 a vote in writing; or
 - 11.4.3 another method chosen by the Chair that is fair and reasonable in the circumstances.
- 11.5 On a show of hands the
 - 11.5.1 Chair's decision is conclusive evidence of the result of the vote; and
 - 11.5.2 Chair and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.
- 11.6 A vote in writing may be demanded on any motion instead of or after a vote by a show of hands by
 - 11.6.1 at least five Members present; or
 - 11.6.2 the Chair.
- 11.7 A vote in writing must be taken when and how the chair directs, unless Clause 11.8 applies.
- 11.8 A vote in writing must be held immediately if it is demanded

- 11.8.1 for the election of a chair under Clause 12.3; or
- 11.8.2 to decide whether to adjourn the meeting.
- 11.9 A demand for a vote in writing may be withdrawn.

Article 12 Directors

12.1 Appointment of Directors

- 12.1.1 The College shall have a Board which shall consist of eight [8] Directors:
 - 12.1.1.1 the Bishop of the Church;
 - 12.1.1.2 two [2] pastors of the Church appointed by the General Church Council; and
 - 12.1.1.3 five [5] lay people who are voting members of congregations of the Church appointed by the General Church Council.
- 12.1.2 The Board may continue to operate with up to two casual vacancies.

12.2 Advice to the Directors

- 12.2.1 By invitation of the Directors, consultants and others shall attend board meetings to provide advice which the Directors shall use as they see fit. These include but are not limited to
 - 12.2.2.1 Principal of the College;
 - 12.2.2.2 Dean;
 - 12.2.2.3 Business Manager;
 - 12.2.2.4 Auditor; and
 - 12.2.2.5 others that the Directors decide provide specific expertise.
- 12.2.2 These shall have no voting rights.

12.3 Election of Officers

- 12.3.1 At the annual general meeting the Directors shall elect a Director as the College's
 - 12.3.3.1 Chair, on nomination of the General Church Council;
 - 12.3.3.2 Vice-Chair; and
 - 12.3.3.3 Secretary.

12.4 Term of office

- 12.4.1 A Director appointed by the General Church Council will commence the term of appointment three [3] months after the Convention of General Synod and will hold office until three [3] months after the next Convention of General Synod.
- 12.4.2 At the end of the term of appointment a Director may be reappointed.
- 12.4.3 All Directors shall be eligible to stand subject to the requirements of the Corporations Act and the ACNC Act.
- 12.4.4 Casual vacancies may be filled by the General Church Council at the next meeting of the General Church Council provided that a casual vacancy of
 - 12.4.4.1 a lay Director will be filled by a lay person; and
 - 12.4.4.2 a pastor Director will be filled by a pastor.
- 12.4.5 The term of a Director filling a casual vacancy will expire three [3] months after the next Convention of General Synod.
- 12.4.6 A Director who has held office for a continuous period of nine years or more may only be re-appointed by a special resolution of General Church Council.
- 12.4.7 The term of Office Bearers is one year.
- 12.4.8 If the Director is unable to hold the position for the full term the General Church Council must elect another of the Directors to the office.

12.5 Removal of a Director

- 12.5.1 A Director stops being a Director for any of the following reasons:
 - 12.5.1.1 gives written notice of resignation as a Director to the College;
 - 12.5.1.2 dies;
 - 12.5.1.3 is removed by General Church Council by special resolution if appointed by the General Church Council;

- 12.5.1.4 is absent for three [3] consecutive Directors' meetings without approval from the Directors;
- 12.5.1.5 is directly or indirectly interested in any contract or proposed contract with the College and fail to declare the nature of the interest as required by the Act;
- 12.5.1.6 is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Board incapable of performing his or her duties; or
- 12.5.1.7 becomes ineligible to be a Director of the College under the Corporations Act or the ACNC Act.

Article 13 Powers and Duties of Directors

13.1 Powers of Directors

- 13.1.1 The Directors are responsible for managing and directing the activities of the College to achieve the Objects as set out in Article 5.
- 13.1.2 The Directors may use all the powers of the College except for powers that may be used under the Corporations Act or this constitution.
- 13.1.3 The Board of Directors shall provide to General Church Council
 - 13.1.3.1 an annual report to the General Church Council which includes
 - 13.1.3.1.1 a record of the past year's activities in relation to planned objectives;
 - 13.1.3.1.2 audited financial statements and balance sheet;
 - 13.1.3.1.3 details for the ensuing two [2] years of its
 - 13.1.3.1.3.1 proposed work program;
 - 13.1.3.1.3.2 estimates of capital;
 - 13.1.3.1.3.3 operating costs; and
 - 13.1.3.1.3.4 income.
- 13.1.4 The Board of Directors provide to the Convention of General Synod a report covering the synodical term which includes
 - 13.1.4.1 general activity; and
 - 13.1.4.2 a financial statement.
- 13.1.5 The Board of Directors shall recommend to the General Church Council ordained candidates to be called as Principal and teaching staff.
- 13.1.6 Calls shall be for a specific period of time.
- 13.1.7 The Board of Directors shall adopt policies for
 - 13.1.7.1 the Principal to employ staff.
- 13.1.8 The Board of Directors shall
 - 13.1.8.1 appoint sub-committees, which may include personnel who are not Directors, and define the terms of reference;
 - 13.1.8.2 endorse programs of study leading to graduation as pastors, teachers, and lay workers in accordance with the graduate attributes required by key stakeholders;
 - 13.1.8.3 endorse courses of study leading to degrees and awards;
 - 13.1.8.4 administer the financial affairs of the College and manage the real and personal estate under its care;
 - 13.1.8.5 review tuition fees;
 - 13.1.8.6 adopt a budget;
 - 13.1.8.7 receive regular reports from the Principal; and
 - 13.1.8.8 decide on the responsible financial management of the College.
- 13.1.9 The Directors must comply with their duties as Directors under legislation and common law, and with the duties described in governance standard 5 of the regulations made under the ACNC Act which are

- 13.1.9.1 to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the College;
- 13.1.9.2 to act in good faith in the best interests of the College and to further the not for profit purposes of the College set out in Article 7;
- 13.1.9.3 to disclose any perceived or actual material conflicts of interest in the manner set out in Clause 13.5;
- 13.1.9.4 to ensure that the financial affairs of the College are managed responsibly;
- 13.1.9.5 not to misuse their position as a Director;
- 13.1.9.6 not to misuse information they gain in their role as a Director; and
- 13.1.9.7 not to allow the College to operate while it is insolvent.
- 13.2 Delegation of Directors' Powers
 - 13.2.1 The Directors may delegate any of their powers and functions to a committee, a Director, an employee of the College or any other person, as they consider appropriate and define the terms of reference.
 - 13.2.2 The delegation must be recorded in the minutes.
- 13.3 Payments to Directors
 - 13.3.1 The College must not pay fees to a Director for acting as a Director.
 - 13.3.2 The College may
 - 13.3.2.1 pay a Director for work they do for the College, other than as a Director, if the amount is no more than a reasonable fee for the work done; or
 - 13.3.2.2 reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the College.
 - 13.3.3 The College may pay premiums for insurance indemnifying Directors, as allowed for by law and this constitution.
- 13.4 Execution of documents
 - 13.4.1 If authorisation is not required by General Church Council, the College may execute a document without using a common seal if the document is signed by two Directors of the College.
- 13.5 Conflicts of interest and Duty
 - 13.5.1 A Director must disclose the nature and extent of any actual or perceived conflict of interest and duty in a matter that is being considered at a meeting of Directors or that is proposed in a circular resolution
 - 13.5.1.1 to the other Directors; or
 - 13.5.1.2 to the General Church Council, if all of the Directors have the same conflict of interest.
 - 13.5.2 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.
 - 13.5.3 Each Director who has a material personal interest in a matter that is being considered at a meeting of Directors or that is proposed in a circular resolution, must not, except as provided under Clauses 15.4
 - 13.5.3.1 be present at the meeting while the matter is being discussed; or
 - 13.5.3.2 vote on the matter.
 - 13.5.4 A Director may still be present and vote if
 - 13.5.4.1 their interest arises because they are a Member of the College, and the other Members have the same interest;
 - 13.5.4.2 their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the College as referred to in Article 22. Insurance;

- 13.5.4.3 their interest relates to a payment by the College under Article 21. Indemnity, or any contract relating to an indemnity that is allowed under the Corporations Act;
- 13.5.4.4 the Australian Securities and Investments Commission (ASIC) makes an order allowing the Director to vote on the matter; or
- 13.5.4.5 the Directors who do not have a material personal interest in the matter pass a resolution that
 - 13.5.4.5.1 identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the College; and
 - 13.5.4.5.2 says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

Article 14 Directors' meetings

- 14.1 Directors' meetings
 - 14.1.1 The Directors may decide how often, where and when they meet.
- 14.2 Calling Directors' meetings
 - 14.2.1 A Director may call a Directors' meeting by giving reasonable notice to all of the other Directors in writing or by any other means of communication that has previously been agreed to by all of the Directors.
- 14.3 Chair for Directors' meetings
 - 14.3.1 The elected Chair is entitled to chair Directors' meetings.
 - 14.3.2 The Directors at a Directors' meeting may choose a Director to be the Chair for that meeting if the elected Chair is
 - 14.3.2.1 not present within 30 minutes after the starting time set for the meeting; or
 - 14.3.2.2 present but does not want to act as Chair of the meeting.
- 14.4 Quorum at Directors' meetings
 - 14.4.1 The quorum for a Directors' meeting is a majority of the Directors.
 - 14.4.2 A quorum must be present for the whole Directors' meeting.
 - 14.4.3 In case of an emergency resulting in several casual vacancies and a quorum not possible, the remaining Directors are able to pass critical resolutions until vacancies have been filled.
- 14.5 Using technology to hold Directors' meetings
 - 14.5.1 The Directors may hold their meetings by using any technology such as video or teleconferencing or that is agreed to by all of the Directors.
 - 14.5.2 A Director may only withdraw their consent to hold meeting using technology within a reasonable period before the meeting.
- 14.6 Directors' Resolutions
 - 14.6.1 A Directors' resolution must be passed by a majority of the votes cast by Directors present and entitled to vote on the motion.
- 14.7 Circular resolutions of Directors
 - 14.7.1 The Directors may pass a circular resolution without a Directors' meeting being held.
 - 14.7.2 A circular resolution is passed if all the Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in Clause 14.7.
 - 14.7.3 Each Director may sign
 - 14.7.3.1 a single document setting out the motion and containing a statement that they agree to the motion be resolved resolution; or
 - 14.7.3.2 separate copies of that document, as long as the wording of the resolution is the same in each copy.
 - 14.7.4 The College may send a circular resolution by email to the Directors and the Directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.

- 14.7.5 A circular resolution is passed when the last Director signs; or otherwise agrees to the resolution in the manner set out in Clause 14.7.2.

14.8 Directors' access to documents

- 14.8.1 A Director has a right of access to the financial records of the College at all reasonable times.
- 14.8.2 If the Directors agree, the College must give a Director or former Director access to
 - 14.8.2.1 documents, including documents provided for or available to the Directors; and
 - 14.8.2.2 any other documents referred to in those documents.

Article 15 Appointment and role of secretary

- 15.1 The College must have at least one secretary, who shall be a Director.
- 15.2 A secretary must be appointed by the Directors and may be removed by the Directors.
- 15.3 The role of the secretary includes dealing with correspondence as directed by the board, maintaining the minutes and other records of general meetings, notices of meetings, Directors' meetings and circular resolutions. Some duties of the secretary may be delegated to others under the direction of the board.

Article 16 Minutes and records

- 16.1 The College must, within one month, make and keep the following records of general meetings
 - 16.1.1 minutes of proceedings and resolutions;
 - 16.1.2 minutes of circular resolutions of Members; and
 - 16.1.3 a copy of a notice of each general meeting.
- 16.2 The College must, within one month, make and keep the following records Directors meetings
 - 16.2.1 minutes of proceedings and resolutions;
 - 16.2.2 minutes of meetings of any committees; and
 - 16.2.3 minutes of circular resolutions of Directors.
- 16.3 To allow Members to inspect the College's records the
 - 16.3.1 College must give a Member access to the records set out in Clause 16.2; and
 - 16.3.2 Directors may authorise a Member to inspect other records of the College, including records referred to in Clause 16.1 and Clause 16.3.1.
- 16.4 The Directors must ensure that minutes of a general meeting or a Directors' meeting are signed within a reasonable time after the meeting by the
 - 16.4.1 Chair of the meeting; or
 - 16.4.2 Chair of the next meeting.
- 16.5 The Directors must ensure that minutes of the passing of a circular resolution, of Members or Directors, are signed by a Director within a reasonable time after the resolution is passed.

Article 17 Financial and related records

- 17.1 The College must make and keep written financial records that
 - 17.1.1 correctly record and explain its transactions and financial position and performance; and
 - 17.1.2 enable true and fair financial statements to be prepared and to be audited.
- 17.2 The College must also keep written records that correctly record its operations.
- 17.3 The College must retain its records for at least seven [7] years.
- 17.4 The Directors must take reasonable steps to ensure that the College's records are kept safe.

Article 18 Governance Policies

- 18.1 The Directors may pass a resolution to adopt Governance Policies to give effect to this constitution.

Article 19 Notices

19.1 Notice to the College

- 19.1.1 Written notice or any communication under this constitution may be given to the College, the Directors or the secretary by
- 19.1.1.1 delivering it to the College's registered office;
 - 19.1.1.2 posting it to the College's registered office or to another address chosen by the College for notice to be provided;
 - 19.1.1.3 sending it to an email address or other electronic address notified by the College to the Members as the College's email address or other electronic address; or
 - 19.1.1.4 sending it to the fax number notified by the College to the Members as the College's fax number.

19.2 Notice to Members

- 19.2.1 Written notice or any communication under this constitution may be given to a Member
- 19.2.1.1 in person;
 - 19.2.1.2 by posting it to, or leaving it at the address of the Member in the register of Members or an alternative address (if any) nominated by the Member for service of notices;
 - 19.2.1.3 sending it to the email or other electronic address nominated by the Member as an alternative address for service of notices (if any);
 - 19.2.1.4 sending it to the fax number nominated by the Member as an alternative address for service of notices (if any); or
 - 19.2.1.5 if agreed to by the Member, by notifying the Member at an email or other electronic address nominated by the Member, that the notice is available at a specified place or address (including an electronic address).
- 19.2.2 If the College does not have an address for the Member, the College is not required to give notice in person.

19.3 When notice is taken to be given

- 19.3.1 A notice
- 19.3.1.1 delivered in person, or left at a the recipient's address, is taken to be given on the day it is delivered;
 - 19.3.1.2 sent by post, is taken to be given on the fifth day after it is posted with the correct payment of postage costs;
 - 19.3.1.3 sent by email, fax or other electronic method, is taken to be given on the business day after it is sent; and
 - 19.3.1.4 under Clause 19.1 'given' is taken to be on the business day after the notice that was sent is available to the recipient .

Article 20 College's financial year

- 20.1 The College's financial year is from 1 Jan to 31 Dec, unless the Directors pass a resolution to change the financial year.

Article 21 Indemnity

- 21.1 To the extent permitted by the Act, the Company
- 21.1.1 must indemnify each person who is or has been an Officer of the Company against any liability incurred by the person as an Officer of the Company; and

- 21.1.2 may pay a premium for a contract insuring an Officer of the Company against that liability.
- 21.2 Subject to the Act, the Company may enter into an agreement or deed with an Officer of the Company under which the Company must do all or any of the following:
 - 21.2.1 keep a set of the Company's books (including minute books) and allow the Officer and the Officer's advisers access to the books for any period agreed;
 - 21.2.2 indemnify the Officer against any liability incurred by the Officer as an Officer; and
 - 21.2.3 keep the Officer insured for any period agreed in respect of any act or omission by the Officer while an Officer.
- 21.3 In this Clause, Officer has the meaning given to it in respect of a corporation in the Act.

Article 22 Insurance

- 22.1 To the extent permitted by law, and if the Directors consider it appropriate, the College may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the College against any liability incurred by the person as an officer of the College.

Article 23 Gift Fund and Foundation

23.1 Gift Fund

- 23.1.1 The Company may maintain for the objects of the Company a Gift Fund as prescribed in TR 2000/12 and Section 30.125 of the ITAA97 in which it may deposit any
 - 23.1.1.1 money, investments and assets paid or transferred to and accepted by the Company as additions to the Gift Fund;
 - 23.1.1.2 accretions to the Gift Fund;
 - 23.1.1.3 accumulations of income; and
 - 23.1.1.3 money, investments and property from time to time representing the above or into which they are converted, and includes any part of the Gift Fund.
- 23.1.2 The Company must use the property described in Clause 23.1.1.1 above only for the objects of the Company as described in Article 5 of this Constitution.

23.2 Foundation

- 23.2.1 The Company may maintain for the objects of the Company a Foundation.

23.3 The College shall upon receiving a gift, issue a receipt to the donor.

Receipts issued for gifts must state the

- 23.3.1 name of the Gift Fund or Foundation;
- 23.3.2 Australian Business Number of the College;
- 23.3.3 date of the gift;
- 23.3.4 description of the contributed property; and
- 23.3.5 the fact that the receipt is for a gift.

Article 24 Winding up and Surplus assets

- 24.1 If the College is wound up, any surplus remains following the winding up of the College, shall not be paid to or distributed amongst Members.
- 24.2 Subject to the Corporations Act and any other applicable Act, and any court order, any surplus assets that remain after the College is wound up must be distributed or transferred to another corporation or organisation of the Church which, by its constitution, is
 - 24.2.1 required by its Objects to use its assets for the support of the Church or its successor or any body whether incorporated or otherwise under the umbrella of the Church or the Members of the Church;
 - 24.2.2 required to apply its surplus (if any) or other income in promoting its objects; and

- 24.2.3 prohibited from making any distribution to its Members.
- 24.3 Such corporation or organisation shall be determined by the General Church Council at or before the winding up and in default, by application to the Supreme Court for determination.

We, the undersigned, being each person specified in the application for the College's registration as a person who consents to become a Member, hereby agree to the terms of this Constitution:

Dated: _____

Name of Director	Address	Signature
Bishop of the Church	
Chair	
Secretary	