

Constitution

Lutheran Education VIC, NSW, TAS and ACT Ltd

ACN 647 390 369

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Preamble

The Lutheran Church of Australia (LCA) is a 'synodical' church, meaning it is united by a common confession, and that LCA Districts, congregations, agencies, schools and Early Learning Centres choose to 'walk together' with each other.

Lutheran schools and Early Learning Centres are an integral part of the mission of the LCA and are supported by three Lutheran Education Regions and Lutheran Education Australia as described in the LEVNT Governance Charter (as amended from time to time). Through its schools and Early Learning Centres the LCA deliberately and intentionally bears Christian witness to students, parents, teachers, friends and all who comprise the world of the school. As a part of the LCA, LEVNT works in close collaboration with other LCA agencies.

Formerly an unincorporated department of LCAVD, LEVNT Ltd has been incorporated with LCAVD as its sole Member. LEVNT Ltd is the successor organisation to the former unincorporated LCAVD department.

1. Name

The name of the Company is Lutheran Education VIC, NSW, TAS and ACT Ltd (the Company or LEVNT).

2. Lutheran Confessions

- 2.1 The Company holds to the Confessions of the Lutheran Church of Australia and declares 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;
 - 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; and
 - 2.1.3 acknowledges that the LCA requires that all who teach in or administer the affairs of schools carry out their responsibilities and duties in accordance with this Confession.

3. Principal Purpose and Powers

- 3.1 The Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a Charity.
- 3.2 The Principal Purpose for which the Company is established is to advance Christian education in accordance with the Lutheran Confessions through the Educational Bodies, including by:
- 3.2.1 establishing, owning, operating and affiliating Educational Bodies in accordance with all legislative requirements;
 - 3.2.2 promoting the Christian mission of the LCA Districts through the Educational Bodies within the respective LCA Districts; and
 - 3.2.3 maintaining and promoting a relationship between the Educational Bodies and the LCA Districts.
- 3.3 The Company:
- 3.3.1 has the capacity and powers of a company under the Act subject to the provisions of this Constitution. These must be used to further the Principal Purpose; and
 - 3.3.2 may do all things incidental or conducive to furthering the Principal Purpose.

4. Not-For-Profit

- 4.1 The income and property of the Company must be applied solely towards the Principal Purpose.
- 4.2 Income and property received by a School (or by the Company on behalf of a School) must be applied as follows:
 - 4.2.1 Government Funding must be applied solely towards the conduct of the School; and
 - 4.2.2 other funding must be applied solely towards the Principal Purpose.
- 4.3 The Company and a School must not enter into a Prohibited Agreement or Arrangement with each other or with any other person or entity.
- 4.4 No part of the income or property of the Company may be paid or transferred directly or indirectly to the Member or Directors by way of dividend, bonus or other profit distribution in their capacity as Member or Directors.
- 4.5 Clause 4.4 does not stop the Company from making a payment (provided it is not a Prohibited Agreement or Arrangement):
 - 4.5.1 to the Member for goods or services provided or expenses properly incurred at fair and reasonable rates or rates more favourable to the Company;
 - 4.5.2 of premiums for insurance indemnifying Directors to the extent allowed for by law and this Constitution; or
 - 4.5.3 with the prior approval of the Board, to a Director:
 - 4.5.3.1 for work they do for the Company, other than as a Director, if the amount is no more than a reasonable fee for the work done; or
 - 4.5.3.2 as reimbursement for out-of-pocket expenses properly incurred in performing a duty as Director.

5. Membership

- 5.1 **General**
 - 5.1.1 The Member of the Company is the LCAVD.
 - 5.1.2 The rights, interests and benefits of the Member are not transferable.
 - 5.2 **Provisions for sole Membership**
 - 5.2.1 The Company is not required to hold any general meeting while it has a sole Member.
 - 5.2.2 The Board must report to the Member annually in relation to matters including the following:
 - 5.2.2.1 the achievements of the Company against its strategic plan, and any changes to the future strategic plan;
 - 5.2.2.2 an aggregated operational report comprising information received from each Educational Body;
 - 5.2.2.3 a summary of identified risks to the Lutheran reputation within the Company or Educational Bodies with corresponding control strategies;
 - 5.2.2.4 provision of the annual financial statements for the Company, the Board's report and any auditor's report;
 - 5.2.2.5 any nominations for Director vacancies;
 - 5.2.2.6 the appointment of any auditor;
 - 5.2.2.7 fixing of the auditor's remuneration; and
 - 5.2.2.8 any proposed resolutions for consideration by the Member.
- (Annual Report).

- 5.2.3 Notice of the Annual Report and any proposed resolutions for consideration by the Member must be given:
- 5.2.3.1 to the Representative; and
 - 5.2.3.2 to every Director and any auditor for the time being of the Company.
- 5.2.4 The Representative for the Member may pass a resolution in relation to any question for determination by the Member by signing a minute of the resolution.
- 5.2.5 Either:
- 5.2.5.1 the Representative; or
 - 5.2.5.2 any auditor appointed by the Company;
- may ask the Secretary to convene a meeting between any of the Member, the Board and any auditor appointed by the Company, to discuss matters including the Annual Report and any proposed resolutions for consideration by the Member.
- 5.2.6 The Secretary must convene a meeting as soon as practicable and in any event within 30 days after any request is made pursuant to Clause 5.2.5.

5.3 **Representative**

- 5.3.1 The Member must appoint an individual as its Representative. The appointment may be a standing one.
- 5.3.2 A Representative may exercise any and all powers of the Member unless the appointment specifies otherwise.
- 5.3.3 The appointment may be made by reference to a position held, in which case the Representative is the person holding that position from time to time.
- 5.3.4 The Member may appoint more than one Representative but must ensure that only one Representative exercises the body's powers as Member at any one time.

5.4 **Liability of the Member**

The liability of the Member is limited to the Guaranteed Amount.

5.5 **Reserve Powers of the Member**

- 5.5.1 Prior to offering real property for sale or mortgaging or otherwise encumbering any real property, the Board must obtain written approval from the Member.
- 5.5.2 The Board must obtain written approval from the Member prior to closing an Educational Body, disaffiliating an Educational Body or determining that the Company will cease to act as sole member of an Educational Body.

6. Appointment And Removal Of Directors

6.1 **Number and composition of Directors**

- 6.1.1 The Company must have at least five and no more than ten Directors.
- 6.1.2 The Board will comprise:
- 6.1.2.1 at least one current Principal of an Educational Body;
 - 6.1.2.2 at least one current Business Manager of an Educational Body; and
 - 6.1.2.3 up to eight ordinary Board members.
- 6.1.3 A majority of Directors at all times (including the Chair) must be members in good standing and fellowship of a congregation of the LCA.
- 6.1.4 Directors who are not members of a congregation of the LCA must agree to uphold the Lutheran Confessions.
- 6.1.5 The Bishops of the LCA Districts, or their delegate, may attend and speak at Board meetings but are not Directors and may not vote.
- 6.1.6 The Executive Director, may attend and speak at Board meetings but is not a Director and may not vote.

6.2 Eligibility

- 6.2.1 Any natural person committed to the Principal Purpose is eligible to be a Director provided the person:
- 6.2.1.1 supports the Principal Purpose;
 - 6.2.1.2 upholds the Lutheran Confessions;
 - 6.2.1.3 is not ineligible to be:
 - 6.2.1.3.1 a director under the *Corporations Act*; or
 - 6.2.1.3.2 a responsible person under the ACNC legislation;
 - 6.2.1.4 is a “fit and proper person” (or any equivalent requirement) for the purposes of:
 - 6.2.1.4.1 Schedule 4 of the *Education and Training Reform Regulations 2017* (Vic);
 - 6.2.1.4.2 Section 47(1)(b) of the *Education Act 1900* (NSW);
 - 6.2.1.4.3 Schedule 4 of the *Education Regulations 2017* (Tas); and
 any equivalent relevant legislation.
 - 6.2.1.5 has suitable qualifications, skills and experience to discharge the functions of a Director, as determined by the Board from time to time; and
 - 6.2.1.6 has given written, signed consent to act as a Director.

6.3 Appointment of Directors

- 6.3.1 The Board may nominate individuals for appointment as Directors by notice in writing to the Representative.
- 6.3.2 The Member may appoint individuals, who have been nominated by the Board or the Member, as Directors.
- 6.3.3 The Board may appoint a Director to fill a casual vacancy pursuant to Clause 6.6.

6.4 Term of office

- 6.4.1 The term of office of a Director appointed pursuant to Clause 6.3.2:
- 6.4.1.1 is the period specified in the Member resolution, and if there is no period specified, then a term of up to three years;
 - 6.4.1.2 commences on the date of appointment; and
 - 6.4.1.3 expires at the end of the period specified in the resolution or if there is no period specified then at the conclusion of the third year following the appointment.
- 6.4.2 The term of office of a Director appointed pursuant to Clause 6.6:
- 6.4.2.1 commences on the date of the Board resolution; and
 - 6.4.2.2 expires when the LCAVD Church Council either confirms the appointment (in which case a new term of office will commence) or appoints sufficient replacement Directors necessary to achieve a quorum.
- 6.4.3 A person may be re-appointed as a Director for more than one term of office, subject to a maximum tenure of twelve years.
- 6.4.4 Notwithstanding Clause 6.4.2, a person may be reappointed as a Director for a further term of up to three years (beyond the maximum tenure) with the unanimous consent of the Directors and the Member.
- 6.4.5 If an individual ceases to serve as Director for a period of at least twelve months, they may be appointed as Director and any prior service will not be taken into account for the purposes of Clauses 6.4.1, 6.4.3 and 6.4.4.

6.5 Ceasing to be a Director

A person stops being a Director, and a casual vacancy is created, if they:

- 6.5.1 resign by written notice to the Company;
- 6.5.2 are removed by the Member under the Act;

- 6.5.3 are absent without leave of the Board, from:
 - 6.5.3.1 three consecutive Board meetings; or
 - 6.5.3.2 four Board meetings over 12 months; or
- 6.5.4 die, or become subject to a Court order to receive treatment or have their finances managed by another person due to being of unsound mind or having a mental illness;
- 6.5.5 are directly or indirectly interested in any contract or proposed contract with the Company and fail to declare the nature of the interest as required by the Act;
- 6.5.6 cease to meet the eligibility requirements set out in Clause 6.2.1.1 – 6.2.1.4.

6.6 **Effect of casual vacancy**

If the number of Directors is insufficient to constitute a quorum or less than the minimum number fixed under Clause 6.1, the remaining Directors may, except in an emergency, act only to increase the number of Directors.

6.7 **Defects in appointment of Directors**

An act done by, or with the participation of, a person acting as a Director or member of a Board subcommittee is valid even if it is later discovered that:

- 6.7.1 there was a defect in the appointment of the person; or
- 6.7.2 the person was disqualified from continuing in office, voting or taking the relevant step.

7. **Board Decision Making**

7.1 **Convening Board meetings**

A Director may convene or ask the Secretary to convene a Board meeting by giving reasonable notice to all of the other Directors.

7.2 **Notice of Board meetings**

- 7.2.1 Notice of Board meetings must be given to:
 - 7.2.1.1 every Director; and
 - 7.2.1.2 the Bishop of the LCAVD or their delegate; and
 - 7.2.1.3 the Bishop of the LCANSWACT or their delegate; and
 - 7.2.1.4 provided the meeting is not in-camera, the Executive Director, the Treasurer and the Secretary.
- 7.2.2 A notice of a Board meeting:
 - 7.2.2.1 must specify the place, day and time of the meeting;
 - 7.2.2.2 must provide details of any technology that will be used to facilitate the meeting; and
 - 7.2.2.3 does not need to specify the nature of the business to be transacted at the meeting.
- 7.2.3 At least 48 hours' written notice must be given of all Board meetings (unless the Directors unanimously waive this requirement).
- 7.2.4 A Director may waive the requirement to receive notice of a Board meeting.

7.3 **Quorum for Board meetings**

- 7.3.1 No business may be transacted at any Board meeting unless a quorum is present.
- 7.3.2 A quorum of Directors for Board meetings is at least five Directors.

7.4 **Use of technology in Board meetings**

- 7.4.1 The Board may hold its meetings using any technology that is agreed to by the Board.
- 7.4.2 The Board's agreement may be a standing one.
- 7.4.3 A Director who attends by technology is deemed to be present in person at the meeting.

7.5 Chairperson of Board meetings

- 7.5.1 The Chair will preside as chairperson at Board meetings.
- 7.5.2 If the Chair is not present within 15 minutes after the commencement time or is unwilling or unable to act as chairperson for all or part of the meeting then:
 - 7.5.2.1 if there is a Deputy Chair, the Deputy Chair will be the chairperson; and
 - 7.5.2.2 if the Deputy Chair is not present or is not willing and able to be the chairperson during all or part of the meeting, the Directors present may elect a Director to be chairperson of the meeting or part of it.

7.6 Voting at Board meetings

- 7.6.1 A question arising at a Board meeting is to be decided by a majority of votes of Directors present and entitled to vote.
- 7.6.2 If the votes cast on a motion are equal, the chairperson does not have a second or “casting” vote and the motion will be lost.

7.7 Resolutions without meetings

- 7.7.1 A Board resolution may be passed without a meeting if all Directors receive notice of the resolution and a majority of those entitled to vote sign a notice stating that they are in favour of the resolution.
- 7.7.2 The resolution is passed at the time when the last Director necessary to constitute a majority in favour signs.
- 7.7.3 For the purpose of this clause:
 - 7.7.3.1 the notice must include the wording of the resolution;
 - 7.7.3.2 the notice may be distributed by any means;
 - 7.7.3.3 separate copies of the notice may be signed; and
 - 7.7.3.4 the resolution fails if it has not achieved majority consent within 7 days after the notice was given.

8. Directors’ Powers and Duties

8.1 Powers of the Board

- 8.1.1 The Directors are responsible for managing the business of the Company and furthering the Principal Purpose.
- 8.1.2 The Directors may exercise all the powers of the Company that are not, by the Act or by this Constitution, required to be exercised by the Member.
- 8.1.3 The Board cannot remove a Director or auditor.
- 8.1.4 The Board may delegate any of its powers or functions to one or more Directors, the Executive Director, a School Council of an unincorporated Educational Body, a Committee of an unincorporated Early Learning Centre, a Principal, a Board subcommittee, an employee or any other person.
- 8.1.5 The Board may specify terms of the delegation (including the power to further delegate) and revoke a delegation.

8.2 Duties of Directors

Directors must comply with all their duties under law.

8.3 Establishment of Board subcommittees

- 8.3.1 The Board may establish Board subcommittees.
- 8.3.2 A Board subcommittee may include, or be comprised of, non-Directors.
- 8.3.3 The meetings and proceedings of Board subcommittees are:
 - 8.3.3.1 subject to any terms of reference and/or delegation; and
 - 8.3.3.2 otherwise governed as far as possible by the provisions of this Constitution which regulate the proceedings of the Board.

8.4 Regulations or Policies

- 8.4.1 The Board may make regulations or policies for the general conduct and management of the Company and the business of the Board.
- 8.4.2 The Board may revoke and alter regulations and policies made pursuant to Clause 8.4.1 as it sees fit.

9. Directors' Interests

9.1 Conflicts of interest

- 9.1.1 A Director must disclose the nature and extent of any perceived or actual material conflict of interest to the other Directors (or the Member if all of the other Directors share that conflict).
- 9.1.2 A Director who has a material personal interest in a matter that is being considered by the Board:
- 9.1.2.1 must not be present while the matter is being considered at a Board meeting; or
- 9.1.2.2 vote on the matter;
- unless permitted by Clause 9.1.3.
- 9.1.3 Provided the Board approves and it is permitted by law, a Director may be present or vote if:
- 9.1.3.1 the interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as an officer of the Company;
- 9.1.3.2 the interest relates to any payment by the Company under Clause 12.3 in respect of an indemnity permitted under the Act or any contract relating to such an indemnity; or
- 9.1.3.3 the Australian Securities and Investments Commission makes an order allowing the Director to vote on the matter; or
- 9.1.3.4 the interest relates to a contract the Company is proposing to enter into that:
- 9.1.3.4.1 is subject to approval by the Member; and
- 9.1.3.4.2 will not impose any obligation on the Company if it is not approved by the Member; or
- 9.1.3.5 the Directors who do not have a material personal interest in the matter pass a resolution that:
- 9.1.3.5.1 identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company, and
- 9.1.3.5.2 states that those Directors are satisfied that the interest should not stop the Director from voting or being present.

9.2 Permissible conduct

Provided a Director complies with Clause 9.1 and (if the matter relates to an unincorporated Educational Body located in Victoria) the following does not constitute a Prohibited Arrangement or Agreement, the Director may:

- 9.2.1 hold any office or place of profit in any other entity promoted by the Company or in which it has an interest of any kind;
- 9.2.2 enter into a contract or arrangement with the Company;
- 9.2.3 act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;
- 9.2.4 sign or participate in the execution of a document by or on behalf of the Company; and
- 9.2.5 do any of the above despite the fiduciary relationship of the Director's office:
- 9.2.5.1 without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and

9.2.5.2 without affecting the validity of any contract or arrangement.

10. Office Bearers and Executive Director

10.1 Office Bearers

- 10.1.1 The Board must elect the following Office Bearers from among the Board at the last Board meeting in each calendar year:
- 10.1.1.1 Chair; and
 - 10.1.1.2 Deputy Chair;
 - 10.1.1.3 other positions (if any) as determined by the Board.
- 10.1.2 Office Bearers of the Company hold office from 1 January following their appointment for one year until 31 December or when they cease to be a Director (whichever is sooner).
- 10.1.3 The description, number and duties of the Office Bearers may be determined by the Board from time to time.
- 10.1.4 An Office Bearer may be elected for more than one successive term.
- 10.1.5 The Board may remove or suspend a person from holding any Office Bearer position by resolution passed at a Board meeting provided:
- 10.1.5.1 the resolution is passed by not less than two-thirds of the Directors present; and
 - 10.1.5.2 at least 21 days' notice in writing of the resolution has been given to the Secretary and to the person who is the subject of the resolution.

10.2 Secretary

- 10.2.1 The Board must appoint at least one Secretary, who may also be a Director.
- 10.2.2 The Secretary is to be appointed on such terms and conditions as the Board thinks fit.
- 10.2.3 A person may not be appointed as Secretary unless the person consents in writing to being appointed as Secretary.
- 10.2.4 The Board may suspend or remove a Secretary.

10.3 Treasurer

- 10.3.1 The Board must appoint at least one Treasurer, who may also be a Director.
- 10.3.2 The Treasurer is to be appointed on such terms and conditions as the Board thinks fit.
- 10.3.3 The Treasurer must:
- 10.3.3.1 arrange for the collection and receipt of all moneys due to the Company and arrange for all payments authorised by the Company to be made; and
 - 10.3.3.2 ensure that the financial records of the Company are kept in accordance with the requirements of the Act and the ACNC Legislation; and
 - 10.3.3.3 coordinate the preparation of the annual financial statements of the Company and their certification by the Board prior to their submission in the Annual Report.
- 10.3.4 The Treasurer must ensure that at least one other Board member has access to the accounts and financial records of the Company.

10.4 Executive Director

- 10.4.1 The Board may appoint an Executive Director designated by whatever title the Board thinks fit.
- 10.4.2 The appointment may be for the period, at the remuneration and on the conditions that the Board thinks fit.
- 10.4.3 The Board may remove the Executive Director at any time, subject to any contract between the Company and the Executive Director.
- 10.4.4 The Executive Director may attend and speak at all Board meetings (except where the meeting is an in-camera meeting) but is not a Director and accordingly may not vote.

- 10.4.5 The Executive Director may be invited to attend and speak at meetings with the Member pursuant to Clause 5.2 but may not vote.
- 10.4.6 An act done by a person acting as Executive Director is not invalidated merely because of:
- 10.4.6.1 a defect in their appointment as Executive Director; or
 - 10.4.6.2 the person being disqualified from being Executive Director;
- if that circumstance was not known by the person when the act was done.
- 10.4.7 The Company Delegations Policy must set out the powers and functions delegated to the Executive Director.

11. Educational Bodies

11.1 Educational Bodies

11.1.1 The Educational Bodies are:

- 11.1.1.1 unincorporated Schools and Early Learning Centres controlled by the Company; and
- 11.1.1.2 incorporated Schools and Early Learning Centres affiliated with the Company.

11.2 Affiliation of incorporated Educational Bodies

11.2.1 The Company must enter into an Affiliation Agreement with each incorporated Educational Body.

11.2.2 The Board may prescribe model Affiliation Agreements for:

- 11.2.2.1 incorporated Schools; and
- 11.2.2.2 incorporated Early Learning Centres.

11.3 Role of the Company – unincorporated Educational Bodies

11.3.1 The Board is the governing body of all unincorporated Schools and Early Learning Centres.

11.3.2 The Company:

- 11.3.2.1 determines the vision, mission and values of the unincorporated Educational Body;
- 11.3.2.2 ensures that all legislative requirements are met;
- 11.3.2.3 ensures that a sound system for managing risks is established for the Company and in Educational Bodies;
- 11.3.2.4 is the legal employer of all unincorporated School and Early Learning Centre staff;
- 11.3.2.5 consults with the School Councils of unincorporated Schools and the Committees of unincorporated Early Learning Centres on the development of future plans and strategic priorities;
- 11.3.2.6 receives and considers regular reports from School Councils and Early Learning Centre Committees;
- 11.3.2.7 oversees continuous improvement of all unincorporated Schools and Early Learning Centres and considers feedback from all stakeholders; and
- 11.3.2.8 ensures that unincorporated Schools and Early Learning Centres are appropriately managed for the benefit of all stakeholders.

11.4 Operation of unincorporated Schools

11.4.1 The Board must establish a School Council for each unincorporated School operated by the Company.

11.4.2 School Councils must be constituted in accordance with and comply with the Terms of Reference set out in Schedule 2 (as amended by the Board from time to time).

11.4.3 The Board delegates authority to manage each unincorporated School to its respective School Council and Principal, pursuant to the Company's Delegations Policy (as amended by the Board from time to time).

11.5 Operation of unincorporated Early Learning Centres

- 11.5.1 The Board must establish a Committee for each unincorporated Early Learning Centre operated by the Company.
- 11.5.2 Committees must be constituted in accordance with and comply with the Terms of Reference set out in Schedule 3 (as amended by resolution of the Board from time to time).
- 11.5.3 The Board delegates authority to manage each unincorporated Early Learning Centre to its respective Committee, pursuant to the Company's Delegations Policy (as amended by the Board from time to time).

12. Indemnities And Insurance

- 12.1 The Company indemnifies every present and past Director and officer (including the Executive Director, Treasurer and Secretary) of the Company to the full extent permitted by law against all losses and liabilities incurred (including costs and expenses) as a result of their position as an officer of the Company.
- 12.2 This indemnity:
- 12.2.1 is a continuing obligation and is enforceable even if the person has ceased to be an officer of the company;
- 12.2.2 is not subject to any requirement to first incur an expense or make a payment; and
- 12.2.3 operates only to the extent that the relevant loss or liability is not covered by insurance.
- 12.3 The Company may, to the extent permitted by law, pay or agree to pay, a premium in respect of a contract insuring its officers.
- 12.4 Nothing in Clause 12 limits the Company's ability to indemnify or pay for insurance for any person not expressly covered by this clause.

13. Administration

13.1 Minutes and records

- 13.1.1 The Board must ensure that:
- 13.1.1.1 minutes of all meetings convened pursuant to Clause 5.2.5, Board meetings, and Board subcommittee meetings; and
- 13.1.1.2 records of resolutions passed by the Member, Directors and Board subcommittees without a meeting;
- are recorded and kept with the Company's records as soon as practicable (being no later than one month after the meeting or passing of the resolution).
- 13.1.2 The Company must ensure that minutes of a Board meeting or meeting convened pursuant to Clause 5.2.5 are signed within a reasonable time by the chairperson of the meeting or of the next meeting.

13.2 The Member's access to Company records

The Company must give the Member access to Company records as required by the Act.

13.3 Common seal

The Company does not have a common seal.

13.4 Execution of documents

The Company may execute documents by the signature of:

- 13.4.1 one Director and the Executive Director; or
- 13.4.2 one Director and another person appointed by the Board for that purpose; or
- 13.4.3 the Executive Director and another person appointed by the Board for that purpose;
- subject to the requirements of the Company's Delegations Policy.

14. Records, Accounting and Audit

14.1 Accounts and other records of the Company

14.1.1 The Board must:

14.1.1.1 ensure that proper financial records are kept in accordance with all legal and regulatory requirements; and

14.1.1.2 ensure that records of its operations are kept; and

14.1.1.3 take reasonable steps to ensure that the Company's records are kept safe.

14.1.2 The Company must retain its records for at least seven years.

14.2 Audit

14.2.1 The Company must appoint and remunerate an auditor.

14.2.2 Any auditor is entitled to attend any meeting with the Member convened pursuant to Clause 5.2.5 and to be heard by the Member on any business that concerns the auditor in their capacity as auditor.

14.2.3 The Company must give any auditor all communications provided to the Member:

14.2.3.1 under Clause 5.2.2; and

14.2.3.2 in connection with any meeting convened pursuant to Clause 5.2.5.

14.3 Financial year

The financial year will begin on 1 January and end on 31 December, unless the Board passes a resolution to change the financial year.

15. Amending this Constitution

15.1 The Company may only alter this Constitution by Special Resolution of the Member in accordance with the Act.

15.2 The Member must not pass a Special Resolution that amends this Constitution if passing it causes the Company to no longer be a Charity.

16. Notices

16.1 Notices can be served on the Member or Directors personally, by post, email or other electronic means.

16.2 Notices are taken to be served:

16.2.1 in the case of a properly addressed and posted notice, five Business Days after the date of posting; and

16.2.2 in the case of a notice sent by email or other electronic means, at the time of sending.

16.3 The non-receipt of notice or a failure to give notice, does not invalidate any thing done or resolution passed at the meeting if:

16.3.1 the non-receipt or failure occurred by accident or error;

16.3.2 the individual waives notice before or after the meeting (including by attending the meeting); or

16.3.3 the individual notifies the Company of their agreement to that thing or resolution before or after the meeting.

16.4 In calculating a period of notice, both the days on which the notice is given or taken to be given and the day of the meeting must be disregarded.

17. Winding Up or School Closure

17.1 Contribution of a Member on winding up

If required, the Member must contribute an amount (not more than the Guaranteed Amount) to the assets of the Company if it is wound up while they are a Member, or within one year of the Member ceasing to be a Member, for the:

- 17.1.1 payment of the debts and liabilities of the Company incurred before they ceased to be a Member; and/or
- 17.1.2 costs, charges and expenses of winding up.

17.2 Distribution of assets on School closure

17.2.1 If on the closure of an unincorporated School there is a surplus of School assets remaining after payment of the School's liabilities, the surplus:

- 17.2.1.1 must not be paid or distributed to the Member in its capacity as Member;
- 17.2.1.2 must be given or transferred to one or more of the Schools listed in Schedule 1 located if possible, in the same State as the School being closed (determined at the discretion of the Board); and
- 17.2.1.3 if for any reason the surplus cannot be transferred to one or more of the Schools listed in Schedule 1 (whether or not located in the same State as the School being closed), it must be used to provide education services to school-age children; or
- 17.2.1.4 must be given or transferred to a Charity which:
 - 17.2.1.4.1 has similar objects to the Principal Purpose;
 - 17.2.1.4.2 provides education services to school-aged children; and
 - 17.2.1.4.3 prohibits the distribution of profit or gain to the members in their capacity as member.

17.2.2 The identity of the recipient under Clause 17.2.1 will be decided by resolution of the Board, such resolution must be made on or before the time of any winding up or dissolution. If the Board fails to decide, the identity of the Charity must be determined by the Member. If the Member fails to decide, the identity of the Charity must be determined by application to the Supreme Court in Victoria.

17.3 Distribution of assets on winding up

17.3.1 If on the winding up of the Company or dissolution of the Company, there is a surplus of assets after satisfying all the Company's liabilities and expenses and Clause 17.2, the surplus:

- 17.3.1.1 will not be paid or distributed to the Member in its capacity as Member; and
- 17.3.1.2 will be given or transferred to one or more of the Schools listed in Schedule 1 located if possible in the State of Victoria; and
- 17.3.1.3 if for any reason the surplus cannot be transferred to one or more of the Schools listed in Schedule 1 (whether or not located in the State of Victoria), the surplus will be given or transferred to a Charity (the recipient) which:
 - 17.3.1.3.1 have similar objects to the Principal Purpose;
 - 17.3.1.3.2 provide education services to school-aged children; and
 - 17.3.1.3.3 prohibit the distribution of profit or gain to its Members in their capacity as Members.

17.3.2 The identity of the recipient under Clause 17.3.1 will be decided by resolution of the Member, such resolution must be made on or before the time of any winding up or dissolution. If the Member fails to decide, the identity of the Charity must be determined by application to the Supreme Court in Victoria.

18. Interpretation

18.1 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* (Cth) and the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012* (Cth).

“**Act**” means the *Corporations Act 2001* (Cth).

“**Affiliation Agreement**” means the Agreement entered into between LEVNT and an individual incorporated Educational Body pursuant to which Schools are recognised as part of the LEVNT system, receive government funding through LEVNT and access support services from LEVNT.

“**Annual Report**” means a report provided once in every calendar year to the Member pursuant to Clause 5.2.2.

“**auditor**” may mean a reviewer, if permitted by the Act or ACNC Legislation.

“**chairperson**” means the person chairing a meeting.

“**Chair**” means the person elected to the position of Chair under Clause 10.

“**Charity**” means a charity registered under the ACNC Legislation.

“**Lutheran Confessions**” means the Lutheran Confessions in Clause 2.

“**Deputy Chair**” means the person elected to the position of Deputy Chair under Clause 10.

“**Early Learning Centre**” means:

(a) in respect of Educational Bodies connected to a School located in Victoria:

- (i) a not-for-profit approved education and care service (within the meaning of the *Education and Care Services National Law Act 2010* (Vic));
- (ii) which provides education and care to children, including a three or four year old kindergarten program; and
- (iii) that operates as a feeder for enrolments to the School.

(b) in respect of Educational Bodies located outside Victoria or not connected to a School located in Victoria, a not-for-profit approved education and care service which provides education and care to children including children younger than the minimum compulsory school age.

“**Educational Body**” means a School or Early Learning Centre listed in Schedule 1 (as amended from time to time by the Board) and “**Educational Bodies**” has the corresponding meaning.

“**Government Funding**” means money provided for the conduct of an Educational Body under an agreement or arrangement with States or the Commonwealth of Australia.

“**Guaranteed Amount**” means \$10.

“**LCA**” means the Lutheran Church of Australia Inc (ABN: 36 763 133 867).

“**LCA Districts**” means the LCANSWACT and the LCAVD.

“**LCANSWACT**” means the unincorporated body known as the Lutheran Church of Australia NSW and ACT District.

“**LCAVD**” means the Lutheran Church of Australia Victorian District (ABN: 44 055 123 692) (including Tasmania).

“**LEVNT**” means Lutheran Education VIC, NSW, TAS and ACT Ltd (the Company).

“**Member**” means the LCAVD.

“**Office Bearer**” means Chair, Deputy Chair and any other position as set out in Clause 10.

“**person**” includes a natural person and a corporation within the meaning of s 57A of the Act.

“**Principal Purpose**” means the purpose set out in Clause 3.

“**Prohibited Agreement or Arrangement**” has the meaning given to that term under the

Education and Training Reform Regulations 2017 (Vic).

“**Representative**” means the Member’s representative appointed pursuant to Clause 5.3.

“**School**” means an Educational Body providing education to children of compulsory school age during normal school hours.

18.2 Interpretation

In this Constitution, except where the context otherwise requires:

18.2.1 the singular includes the plural and vice versa;

18.2.2 another grammatical form of a defined word or expression has a corresponding meaning;

18.2.3 a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Constitution, and a reference to this Constitution includes any schedule or annexure;

18.2.4 a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;

18.2.5 a reference to \$ is to Australian currency; and

18.2.6 the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.

18.2.7 If an expression in the Constitution has a meaning in the Act, the meaning from the Act will apply to the expression - except where a contrary intention appears in this Constitution.

18.2.8 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.

18.3 Exclusion of replaceable rules

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

18.3.2 If at any time, the company is not a Charity, the Act (unless it is a replaceable rule) overrides any part of this Constitution or policy of the Company to the extent of any inconsistency.

19. Transitional Provisions

The following clauses apply notwithstanding anything to the contrary in this Constitution.

19.1 **Member**

The first Member is the LCAVD.

19.2 **Directors**

The first Directors are those named as Directors in the application for the Company's registration under the Act.

SCHEDULE 1 - Educational Bodies

Schools

| School name | Suburb, State |
|--|----------------------|
| Eastside Lutheran College | Warrane, TAS |
| Geelong Lutheran College – Armstrong Creek Campus | Armstrong Creek, VIC |
| Geelong Lutheran College - St John's Newton Campus | Geelong, VIC |
| Good News Lutheran College | Tarneit, VIC |
| Good Shepherd College | Hamilton, VIC |
| Good Shepherd Lutheran Primary School | Croydon Hills, VIC |
| Holy Trinity Lutheran College | Horsham, VIC |
| Lakeside College | Pakenham, VIC |
| Luther College | Croydon Hills, VIC |
| Lutheran School Wagga Wagga Ltd | Wagga Wagga, NSW |
| Nhill Lutheran School | Nhill, VIC |
| St John's Lutheran Primary School | Portland, VIC |
| St John's Lutheran School Jindera Incorporated | Jindera, NSW |
| St Paul's College Ltd | Walla Walla, NSW |
| St Paul's Lutheran Primary School Henty Incorporated | Henty, NSW |
| St Peter's Lutheran School | Dimboola, VIC |
| Sunshine Christian School | Sunshine, VIC |
| Tarrington Lutheran School | Tarrington, VIC |
| Trinity Lutheran College | Mildura, VIC |
| Victory Lutheran College | Wodonga, VIC |

Early Learning Centres

| Early Learning Centre Name | Suburb, State |
|---|----------------|
| Good Shepherd Early Childhood Services | Hamilton, VIC |
| Little Saints Preschool | Jindera, NSW |
| St John's Lutheran Kindergarten | Geelong, VIC |
| St Paul's Lutheran Kindergarten Grovedale | Grovedale, VIC |

SCHEDULE 2 - TERMS OF REFERENCE: SCHOOL COUNCIL

1. Status

These Terms of Reference set out the manner in which an unincorporated School Council must be managed. These Terms should be read in conjunction with the Constitution and Policies of LEVNT.

2. Definitions

In these Terms of Reference:

2.1 words or expressions defined in the LEVNT Constitution have the same meaning or effect as set out in that Constitution, unless the context otherwise requires.

2.2 the following additional definitions apply:

“**Business Manager**” means the person however named, who is responsible to the Principal and ultimately to the School Board for the financial affairs of the School.

“**Deductible Gift Recipient**” means an entity to which tax deductible gifts may be made pursuant to Division 30 of the ITAA 97.

“**ITAA 97**” means the *Income Tax Assessment Act 1997* (Cth).

“**School**” means the unincorporated Educational Body.

“**School Pastor**” means the Pastor appointed as a consultant to the School Council.

“**Supporting Congregation**” means the Congregation(s) nominated by the Board specific to each school.

3. Introduction

LEVNT is the proprietor of all unincorporated LEVNT Education Bodies.

The Board has delegated the governance and management of each unincorporated School to its respective School Council, pursuant to LEVNT's Delegations Policy.

4. Role of LEVNT

4.1 The role of LEVNT with respect to the School is set out in Clauses 11.3 and 11.4 of the LEVNT Constitution.

5. Purpose of School Council

The purpose of the School Council is to make decisions in relation to the governance and management of the School.

6. Delegation of powers to the School Council

The Board has delegated the governance and management of the School to the School Council on the terms set out in these Terms of Reference and its Delegations Policy (as amended by the Board from time to time).

7. Role of the School Council

The School Council must:

7.1 promote the School among members of the District and in the community;

7.2 prepare and submit an annual report to the School community and LEVNT;

7.3 receive regular reports from the Principal;

7.4 delegate powers to the Principal and support the Principal as required;

- 7.5 receive regular reports from the Business Manager;
- 7.6 approve and oversee the implementation and maintenance of a School Child Safety Program;
- 7.7 adopt and oversee the implementation and maintenance of a School Risk Management Program;
- 7.8 adopt and oversee the implementation of model policies developed by LEVNT;
- 7.9 if necessary:
 - 7.9.1 develop additional policies and procedures within the framework of LEVNT's policies;
 - 7.9.2 adopt and oversee the implementation of those policies.
- 7.10 develop a strategic plan for the School, monitor the School's progress against the strategic plan and report to LEVNT on progress;
- 7.11 prepare an annual budget for the School (in consultation with LEVNT), appraise, review and oversee income and expenditure against that budget and provide regular financial reports to LEVNT;
- 7.12 ensure that School infrastructure is developed and maintained;
- 7.13 do all things necessary to support the Board to meet legislative requirements.

8. Eligibility for School Council

A person is eligible to be a School Council member provided the person:

- 8.1 supports the School's purpose;
- 8.2 agrees to uphold the Lutheran Confessions;
- 8.3 is not ineligible to be:
 - 8.3.1 a director under the Corporations Act; or
 - 8.3.2 a responsible person under the ACNC legislation; and
- 8.4 is a "fit and proper person" within the meaning of Schedule 4 of the *Education and Training Reform Regulations 2017* (Vic).

9. Composition of School Council

- 9.1 The School Council must comprise at least five and not more than nine members.
- 9.2 A majority of School Council members at all times must be members in good standing and fellowship of a congregation of the LCA;
- 9.3 The Principal of the School is not a School Council member. The Principal may attend and speak, but not vote at School Council meetings.
- 9.4 The Pastor of the School is not a School Council member. The Pastor may attend and speak, but not vote at School Council meetings.
- 9.5 Other individuals (including consultants, employees and parents) may attend and speak (but not vote) at School Council meetings by invitation of the School Council.

10. Appointment and Term of office

- 10.1 School Council members may be appointed as follows:
- 10.1.1 The Board may appoint a person to be a School Council member at any time.
 - 10.1.2 The School Council may nominate individuals for appointment by the Board. The nomination should include:
 - 10.1.2.1 confirmation that the individual meets the eligibility criteria in Clause 8;
 - 10.1.2.2 contact details for the individual; and
 - 10.1.2.3 brief biographical details outlining relevant professional, community and governance experience in the format determined by the Board.
 - 10.1.3 The Board must consider any School Council nominees but is not required to appoint them.
- 10.2 Prior to appointment, prospective School Council members are required to:
- 10.2.1 agree to abide by these Terms of Reference and the School Council Members' Code of Conduct approved by the LEVNT Board from time to time;
 - 10.2.2 agree to any checks required by law in their respective State; and
 - 10.2.3 agree to participate in induction and ongoing LEVNT School Council development activities.

11. Term of Office

- 11.1 The term of office of a School Council member appointed by resolution of the Board:
- 11.1.1 is the period specified in the resolution, and if there is no period specified, then a term of two years;
 - 11.1.2 commences on the date of appointment; and
 - 11.1.3 expires at the end of the period specified in the resolution or if there is no period specified then at the conclusion of the second year following the appointment.

12. Office bearers

- 12.1 The School Council must appoint the following office bearers from amongst the School Council members annually for a term of one year:
- 12.1.1 Chair;
 - 12.1.2 Deputy Chair; and
 - 12.1.3 Any other office bearers the School Council deems fit.
- 12.2 The Chair must be a member in good standing and fellowship of a congregation of the LCA.
- 12.3 The description, number and duties of the office bearers may be determined by the School Council from time to time.
- 12.4 The School Council may remove or suspend a person from any office bearer position by resolution passed at a School Council meeting.

13. Principal

- 13.1 The School Council may appoint a Principal in consultation with the Executive Director.
- 13.2 The appointment may be for the period, at the remuneration and on the conditions that the School Council determines, subject to any Standard Terms and Conditions of employment and salary band prescribed by LEVNT.
- 13.3 The School Council may, in consultation with LEVNT, remove the Principal at any time, subject to the terms of the Principal's employment contract.
- 13.4 The Principal must be, or must be committed to becoming, a member in good standing and fellowship of a congregation of the LCA;
- 13.5 The Principal is responsible for the organisation and administration of the School and its educational program.
- 13.6 The Principal is the spiritual leader of the School.

14. School Pastor

- 14.1 The School Pastor/s, or where there is no School Pastor, a pastor of a Supporting Congregation will
 - 14.1.1 provide theological expertise to the School
 - 14.1.2 be a spiritual advisor to the Principal and other School ministry staff
- 14.2 A School Pastor will be a consultant to the School Council.
 - 14.2.1 Where there is more than one School Pastor available to fill this position, the School Council will appoint one, for a period of one calendar year, to act as the Council consultant.
 - 14.2.2 Where there is no School Pastor available, a pastor of a Supporting Congregation will fulfil the role of School Pastor.
 - 14.2.3 Where there is no School or Supporting Congregation pastor available, the District Bishop may appoint a suitable pastor to act as the Council consultant.

15. Casual Vacancy

A person stops being a School Council member, and a casual vacancy is created, if they:

- 15.1 resign;
- 15.2 die;
- 15.3 are absent without the consent of the School Council and without leave of absence, from:
 - 15.3.1 three consecutive School Council meetings; or
 - 15.3.2 at least four School Council meetings over 12 months.
- 15.4 become subject to a Court order to receive treatment or have their finances managed by another person due to the Council Member being of unsound mind or having a mental illness;
- 15.5 become ineligible to be a Director by the *Corporations Act*;
- 15.6 become ineligible to be a responsible person under the ACNC Legislation;

- 15.7 are no longer a fit and proper person within the meaning of Schedule 4 of the *Education and Training Reform Regulations 2017* (Vic); or
- 15.8 are removed by the Board for breach of these Terms of Reference.

16. Meetings of the School Council

- 16.1 Meetings shall be structured with the use of an agenda and supporting papers. Agenda and briefing papers will be documented and circulated in sufficient time to allow School Council members to review the information before the meeting.
- 16.2 The School Council must convene at least eight times a year at such times and places as is deemed fit, and whenever a meeting is requested by the Board.
- 16.3 A minimum of 48 hours' notice must be provided to each School Council member notifying them of the time and place of the School Council meetings.
- 16.4 A quorum for a School Council meeting is a majority of the total number of School Council members.
- 16.5 Staff of the School may attend School Council meetings at the invitation of the School Council.

17. Decisions of the School Council

- 17.1 Questions arising for determination by the School Council must be decided by a majority of votes cast.
- 17.2 In the case of an equality of votes cast on a motion, the Chair will not have a second or 'casting' vote and the motion will be lost.

18. Reporting Responsibility

- 18.1 The School Council must appoint a person to keep minutes of all School Council meetings and circulate draft minutes to LEVNT and School Council members within two weeks after each School Council meeting.
- 18.2 The School Council must provide an annual report to LEVNT. LEVNT may provide guidelines setting out the information to be included in School annual reports.

19. Finances

- 19.1 All School funds (including Commonwealth and State government funding, student fees and other fundraising monies or bequests) must be used:
- 19.1.1 solely for the purpose for which the funds are provided to the School; and
- 19.1.2 in accordance with the requirements of any relevant legislation, regulations or funding agreement.
- 19.2 Nothing in Clause 19.1 prohibits the use of School funds by the School in a manner consistent with the requirements of the *Education and Training Reform Regulations 2017* (Vic) to establish or conduct an Early Learning Centre.
- 19.3 The School Council is responsible to determine how all School funds will be used.
- 19.4 The School Council must ensure that the Business Manager prepares and maintains financial accounts for the School.
- 19.5 The School's financial accounts must be:

19.5.1 audited at the end of each financial year by a financial auditor; and

19.5.2 presented to LEVNT.

20. Establishment of Public Fund

Clauses 20 - 22 apply if the School has established or establishes a Public Fund for the purpose of receiving tax deductible gifts and contributions. Examples of Public Funds which might be established by a School include a School Building Fund, a Library Fund or a Scholarship Fund.

21. Administration of Public Fund

21.1 Gifts to the Public Fund and any money received by the School because of those gifts must be deposited into the Public Fund. These monies must be kept in a separate bank account to the other funds of the School and may only be used for the purpose of the Public Fund.

21.2 The Public Fund must be administered by a management committee, which will be a Board subcommittee. The management committee may be, but are not required to be, School Council members. A majority of the management committee must, because of their tenure of some public office or their position in the community, have a degree of responsibility to the community as a whole.

21.3 The public must be invited to contribute to the Public Fund.

21.4 No monies/assets in the Public Fund may be distributed to members or office bearers of the School, members of the management committee or LEVNT Directors, except as reimbursement of out-of-pocket expenses incurred on behalf of the Public Fund or proper remuneration for administrative services.

21.5 The Commissioner of Taxation must be notified of any proposed amendments or alterations to provisions for the Public Fund, to assess the effect of any amendments on the Public Fund's continuing Deductible Gift Recipient status.

21.6 Receipts for gifts to the Public Fund must state:

21.6.1 the name of the Public Fund;

21.6.2 the Australian Business Number of the School;

21.6.3 the fact that the receipt is for a gift made to the Public Fund; and

21.6.4 any other matter required to be included on the receipt under the ITAA 1997.

21.7 The School must comply with any rules that the Commissioner of Taxation makes to ensure that gifts made to the Public Fund will only be used for the purpose of the Public Fund.

22. Winding-up, dissolution or revocation of Public Fund

22.1 If a Public Fund is wound up or dissolved or the School's Deductible Gift Recipient status for the operation of a Public Fund is revoked and there remains after satisfaction of all the debts and liabilities, any property or funds in the Public Fund (surplus assets), those surplus assets must not be given to Members, but must be given to a Charity:

22.1.1 with purposes similar to, or inclusive of the purpose of the Public Fund;

22.1.2 that is a Deductible Gift Recipient; and

22.1.3 whose rules prohibit the distribution of its assets among its members.

22.2 The management committee must consult with the School Council and the LEVNT Board to determine the appropriate recipient.

23. Amendment

These Terms of Reference may only be amended by resolution of the Board.

SCHEDULE 3 - TERMS OF REFERENCE: EARLY LEARNING CENTRE COMMITTEES

1. Status

These Terms of Reference set out the manner in which unincorporated Early Learning Centre Committees must be managed. These Terms should be read in conjunction with the Constitution and Policies of LEVNT.

2. Definitions

In these Terms of Reference:

2.1 words or expressions defined in the LEVNT Constitution have the same meaning or effect as set out in that Constitution, unless the context otherwise requires.

2.2 “**Early Learning Centre**” means the unincorporated Educational Body.

3. Introduction

LEVNT is the proprietor of all unincorporated LEVNT Education Bodies.

The Board has delegated the governance and management of each unincorporated Early Learning Centre to its respective Committee, pursuant to LEVNT’s Delegations Policy (as amended by the Board from time to time).

4. Role of LEVNT

The role of LEVNT with respect to the Early Learning Centre is set out in Clauses 11.3 and 11.5 of the LEVNT Constitution.

5. Purpose of Committee

The purpose of the Committee is to make decisions in relation to the governance and management of the Early Learning Centre.

6. Delegation of powers to the Committee

The Board has delegated the governance and management of the Early Learning Centre to the Committee on the terms set out in these Terms of Reference and its Delegations Policy.

7. Role of the Committee

The Committee must:

7.1 promote the Early Learning Centre among members of the District and in the community;

7.2 prepare and submit an annual report on the operations of the Early Learning Centre to LEVNT;

7.3 receive regular reports from the Service Leader;

7.4 delegate powers to the Service Leader and support them as required;

7.5 adopt and oversee the implementation of model policies developed by LEVNT;

7.6 develop such additional policies and procedures that are required by the relevant regulators and ensure that these policies and procedures are followed;

7.7 approve and oversee the implementation and maintenance of a Child Safety Program;

- 7.8 adopt and oversee the implementation and maintenance of a Risk Management Program;
- 7.9 ensure that an annual budget is prepared for the Early Learning Centre (in consultation with LEVNT), appraise, review and oversee income and expenditure against that budget and provide regular financial reports to LEVNT;
- 7.10 ensure that Early Learning Centre infrastructure is developed and maintained;
- 7.11 ensure the Early Learning Centre complies with the relevant regulators' requirements; and
- 7.12 ensure that the Early Learning Centre complies with all legal requirements for an early learning centre operating as part of a registered charity, including the ACNC Governance Standards.

8. Eligibility for Committee

A person is eligible to be a Committee member provided the person:

- 8.1 supports the Early Learning Centre's purpose;
- 8.2 agrees to uphold the Lutheran Confessions;
- 8.3 is not ineligible to be:
 - 8.3.1 a director under the *Corporations Act*; or
 - 8.3.2 a responsible person under the ACNC legislation.

9. Composition of Committee

- 9.1 The Committee must comprise at least five and not more than eleven members.
- 9.2 A majority of Committee members at all times must be members in good standing and fellowship of a congregation of the LCA;
- 9.3 The Service Leader of the Early Learning Centre is not a Committee member. The Service Leader may attend and speak, but not vote at Committee meetings.
- 9.4 Other individuals (including consultants, employees and parents) may attend and speak (but not vote) at Committee meetings by invitation of the Committee.

10. Appointment and Term of office

- 10.1 Committee members may be appointed as follows:
 - 10.1.1 The Board may appoint a person to be a Committee member at any time.
 - 10.1.2 The Committee may nominate individuals for appointment by the Board. The nomination should include:
 - 10.1.2.1 confirmation that the individual meets the eligibility criteria in Clause 8;
 - 10.1.2.2 contact details for the individual; and
 - 10.1.2.3 brief biographical details outlining relevant professional, community and governance experience in the format determined by the Board.
 - 10.1.3 The Board must consider any Committee nominees but is not required to appoint them.
- 10.2 Prior to appointment, prospective Committee members are required to:

- 10.2.1 agree to abide by these Terms of Reference and the Early Learning Centre Committee Members' Code of Conduct approved by the LEVNT Board from time to time;
- 10.2.2 agree to any checks required by law in their respective State; and
- 10.2.3 agree to participate in induction and ongoing LEVNT Early Learning Centre Committee development activities.

11. Term of Office

The term of office of a Committee member appointed by resolution of the Board:

- 11.1 is the period specified in the resolution, and if there is no period specified, then a term of two years;
- 11.2 commences on the date of appointment; and
- 11.3 expires at the end of the period specified in the resolution or if there is no period specified then at the conclusion of the second year following the appointment.

12. Office bearers

- 12.1 The Committee must appoint the following office bearers from amongst the Committee members annually for a term of one year:
 - 12.1.1 Chair;
 - 12.1.2 Deputy Chair; and
 - 12.1.3 Any other office bearers the Committee deems fit.
- 12.2 The description, number and duties of the office bearers may be determined by the Committee from time to time.
- 12.3 The Committee may remove or suspend a person from any office bearer position by resolution passed at a Committee meeting.

13. Service Leader

- 13.1 The Committee may appoint a Service Leader in consultation with the Executive Director (or delegate).
- 13.2 The appointment may be for the period, at the remuneration and on the conditions that the Committee determines, subject to any Standard Terms and Conditions of employment and salary band prescribed by LEVNT.
- 13.3 The Committee may, in consultation with LEVNT, remove the Service Leader at any time, subject to the terms of the Service Leader's employment contract.
- 13.4 The Service Leader is responsible for the organisation and administration of the Early Learning Centre.

14. Casual Vacancy

A person stops being a Committee member, and a casual vacancy is created, if they:

- 14.1 resign;
- 14.2 die;
- 14.3 are absent without the consent of the Committee and without leave of absence, from:
 - 14.3.1 three consecutive Committee meetings; or
 - 14.3.2 at least four Committee meetings over 12 months.
- 14.4 become subject to a Court order to receive treatment or have their finances managed by another person due to the Council Member being of unsound mind or having a mental illness;
- 14.5 become ineligible to be a Director by the *Corporations Act*;
- 14.6 become ineligible to be a responsible person under the ACNC Legislation;
- 14.7 are no longer a fit and proper person (or equivalent requirement) within the meaning of any relevant legislation; or
- 14.8 are removed by the Board for breach of these Terms of Reference.

15. Meetings of the Committee

- 15.1 Meetings shall be structured with the use of an agenda and supporting papers. Agenda and briefing papers will be documented and circulated in sufficient time to allow Committee members to review the information before the meeting.
- 15.2 The Committee must convene at least eight times a year at such times and places as is deemed fit, and whenever a meeting is requested by the Board.
- 15.3 A minimum of 48 hours' notice must be provided to each Committee member notifying them of the time and place of the Committee meetings.
- 15.4 A quorum for a Committee meeting is a majority of the total number of Committee members.
- 15.5 Staff of the Early Learning Centre may attend Committee meetings at the invitation of the Committee.

16. Decisions of the Committee

- 16.1 Questions arising for determination by the Committee must be decided by a majority of votes cast.
- 16.2 In the case of an equality of votes cast on a motion, the Chair will not have a second or 'casting' vote and the motion will be lost.

17. Reporting Responsibility

- 17.1 The committee must appoint a person to keep minutes of all Committee meetings and circulate draft minutes to LEVNT and Committee members within two weeks after each Committee meeting.
- 17.2 The Chair of the Committee must provide an annual report to LEVNT. LEVNT may provide guidelines setting out the information to be included in Early Learning Centre annual reports.

18. Finances

- 18.1 All Early Learning Centre funds (including Commonwealth and State government funding, student fees and other fundraising monies or bequests) must be used:
- 18.1.1 solely for the purpose for which the funds are provided to the Early Learning Centre; and
 - 18.1.2 in accordance with the requirements of any relevant legislation, regulations or funding agreement.
- 18.2 The Committee is responsible to determine how all Early Learning Centre funds will be used.
- 18.3 The Committee must ensure that financial accounts for the Early Learning Centre are prepared and maintained.
- 18.4 The Early Learning Centre's financial accounts must be:
- 18.4.1 audited at the end of each financial year by a financial auditor; and
 - 18.4.2 presented to LEVNT.

19. Amendment

These Terms of Reference may only be amended by resolution of the Board.