



CONSTITUTION

AUSTRALIAN COUNCIL FOR EDUCATIONAL LEADERS

ABN 75 132 672 416

A PUBLIC COMPANY LIMITED BY GUARANTEE

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CONSTITUTION OF
AUSTRALIAN COUNCIL FOR EDUCATIONAL LEADERS
A PUBLIC COMPANY LIMITED BY GUARANTEE

A. THE COMPANY

1. GENERAL

1.1 Name

The name of the company is **Australian Council for Educational Leaders**.

1.2 Replaceable Rules

To the extent permitted by law, the Replaceable Rules do not apply to ACEL.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In these Rules, unless it is inconsistent with the subject or context in which it is used:

‘ACEL’ means Australian Council for Educational Leaders ABN 75 132 672 416.

‘Act’ means the *Corporations Act* (Clth) 2001 as amended from time to time;

‘Annual General Meeting’ or **‘AGM’** means the annual general meeting of the Members of ACEL;

‘Branch Appointed Director’ means a Director elected by the members of a Branch pursuant to **Rule 23.3**;

‘Board’ means all or some of the Directors acting as the board of ACEL;

‘Board Committee’ means a sub-committee of the Board to which powers have been delegated by the Board pursuant to **Rule 22.1**;

‘Branch’ means a Branch of ACEL established by the Board in accordance with **Rule 23.1**;

‘Branch Executive’ means a sub-committee of the Board established in accordance with **Rule 23.2** to which powers have been delegated by the Board pursuant to **Rule 22.1**;

‘Branch General Meeting’ means a general meeting or an extraordinary general meeting of the Members of a Branch of ACEL;

‘Chief Executive Officer’ is the singular organizational position that is primarily responsible to carry out the strategic plans and policies as established by the Board.

‘Constitution’ means the constitution of ACEL as amended from time to time by Special Resolution of the Members in General Meeting;

‘Council’ is the *Australian Council for Educational Leaders Incorporated* registration number A00844 under the *Associations Incorporation Act 1991 (ACT)*;

‘Director’ means a person elected or appointed from time to time to the office of Director of ACEL in accordance with these Rules and includes a reference to Branch Appointed Directors, and Independent Directors;

‘General Meeting’ means a general meeting of the Members of ACEL and includes an Annual General Meeting and an extraordinary general meeting;

‘Independent Director’ means a Director appointed pursuant to **Rule 14.2**;

‘Member’ means a person admitted to any of the classes of membership of ACEL as set out in **Rule 5.1**;

‘Objects’ means the objects of ACEL as set out in **Rule 3.1**;

‘Officer’ has the meaning set out in the Act;

‘Person’ and words importing **‘persons’** include partnerships, associations, bodies corporate, unincorporated and incorporated by ordinance, act of Parliament or registration, as well as individuals;

‘President’ means the Director elected from time to time to chair meetings of the Board in accordance with **Rule 14.4**;

‘Regional Group’ means a grouping of Members of ACEL located within a specific geographical area in accordance with **Rule 23.4**;

‘Registered Address’ means the principal place of contact of a Member as they have indicated on the membership application form and as recorded in the Register of Members;

‘Register of Members’ means the register of Members of ACEL established pursuant to the Act;

‘Regulations’ means the Regulations established from time to time by the Board in accordance with **Rule 21**;

‘Registered Office’ means the registered office from time to time of ACEL;

‘Rule’ means the rules of the Constitution as altered or added to from time to time;

‘Seal’ means the common seal, if any, from time to time of ACEL;

‘Secretary’ means any person appointed by the Board pursuant to **Rule 24** to perform the duties of a company secretary of ACEL;

‘Special Resolution’ has the meaning in the Act which as at the date of adoption of this Constitution means:

“in relation to a company, a resolution of which notice as set out in paragraph 249L(1)(c) has been given; and that has been passed by at least 75% of the votes cast by members entitled to vote on the resolution”;

‘Writing’ and **‘written’** includes printing, typing, lithography, email, computerised documents and other modes of reproducing words in a visible form;

2.2 Interpretation

The following rules of interpretation apply unless the context requires otherwise:

- (1) Singular includes plural and conversely.
- (2) A gender includes all genders.
- (3) A reference to any legislation or 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.
- (4) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (5) A reference to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (6) A reference to a paragraph or sub-paragraph is to all words included in that paragraph or sub-paragraph including any further embedded content.
- (7) Subject to a contrary intention in this Constitution, an expression in this Constitution has the same meaning as it has in a related provision of the Act.
- (8) Headings do not affect the interpretation of this Constitution.

3. OBJECTS AND POWERS

3.1 Objects of ACEL

- (1) ACEL is a charitable institution established to support, develop and strengthen educational leadership capabilities across Australia and internationally.
- (2) The Objects of ACEL are to:

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- a)
- i. Shape the practice of educational leadership;
 - ii. Encourage discourse and research that advances educational leadership; and
 - iii. Contribute to the growth of the educational leadership profession through:
 - iv. Providing resonant, authoritative and innovative professional learning opportunities, resources and materials;
 - v. Participating in educational leadership policy development and dissemination;
 - vi. Commissioning and conducting research and development that supports and promotes contemporary views of educational leadership at all levels;
 - vii. Sharing distinctive, forward-thinking, relevant, responsive and world class services so as to inspire the profession of educational leaders;
 - viii. Providing a platform for educational leaders and individuals who have an interest in the profession to share discourse and research;
 - ix. Responding to contemporary issues and public interests through the provision of a wide range of expert publications and research;
 - x. Building the leadership knowledge, skills, understanding and capability of current and future educational leaders;
 - xi. Creating strong, significant learning communities of educational leaders; and
- b) anything ancillary to the Objects referred to in **Rule 3.1(2)(a)**.

3.2 Powers of ACEL

ACEL can only exercise the powers in Section 124(1) of the Act to:

- (1) carry out the Objects of ACEL set out in **Rule 3.1**; and
- (2) do all things incidental or convenient in relation to the exercise of power under **Rule 3.2(1)**.

3.3 Actions authorised under the Act and compliance with the Act

Where the Act authorises or permits a company to do any matter or thing if so authorised by its constitution, ACEL is taken by this Rule to be authorised or permitted to do that matter or thing.

4. NON-PROFIT NATURE OF ACEL

4.1 Type of Company

ACEL is a not-for-profit public company limited by guarantee.

4.2 Limited liability of Members

Subject to these Rules, each person who is a Member and each person who was a Member during the year ending on the day of the commencement of the winding up of ACEL, undertakes to contribute to ACEL's property for:

- (1) payment of ACEL's debts and liabilities; and

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- (2) payment of the costs, charges and expenses of winding up; and
 - (3) any adjustment of the rights of the contributories among themselves;
- such amount as may be required not exceeding \$1.00.

4.3 Non distribution of profits to Members

- (1) Subject to **Rules 4.3(2)** and **(3)**, the income, property, surpluses and profits of ACEL must be applied solely towards the promotion of the Objects of ACEL as set out in **Rule 3.1**, and no portion of it may be paid or transferred, directly or indirectly, to any Member whether by way of dividend, bonus or otherwise.
 - (2) Nothing in **Rule 4.3(1)** prevents any payment in good faith by ACEL of:
 - a. a reasonable and proper remuneration to any Member or Officer or to a body corporate or to a firm of which an Officer or Member is a shareholder or a partner, for any services actually rendered or for real property or goods supplied to ACEL in the ordinary and usual course of business; or
 - b. the payment or reimbursement of out-of-pocket expenses incurred by a Member or Officer or to a body corporate or to a firm of which an Officer or Member is a shareholder or a partner on behalf of ACEL where the amount payable does not exceed an amount previously approved by the Board; or
 - c. reasonable and proper rent for premises leased from any Member or from a body corporate or a firm of which an Officer or Member is a shareholder or a partner to ACEL.
 - (3) ACEL may only make a payment to a Director under the following circumstances:
 - a. for the payment of out-of-pocket expenses incurred by a Director in the performance of any duty as a Director of ACEL where the amounts payable, if any, do not exceed reasonable amounts previously approved by the Board;
 - b. for payment of any service rendered to ACEL by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Board and is not more than an amount which would be a reasonable commercial payment for the service.

4.4 Non distribution of profits to Members on winding up

- (1) With the exception of money or property in any gift fund operated by ACEL, if, on the winding up or dissolution of ACEL by any means and for any reason, there remains any property, after the satisfaction of all of ACEL's debts and

liabilities, the property must not be paid to, nor distributed among the Members, but must be given or transferred to:

- a. 1 or more institution(s) having objects similar to the Objects of ACEL and whose constitution(s) prohibits the distribution of their income and property to an extent at least as great as that imposed on ACEL under **Rule 4.3**; or
 - b. if there is no institution meeting the requirements of **Rule 4.4(1)**, to one or more other institution(s) whose constitution(s) prohibits the distribution of their income and property to an extent at least as great as that imposed on ACEL under **Rule 4.3**; or
- (2) The institution(s) referred to in **Rule 4.4(1)** will be determined at or before dissolution by Members by ordinary resolution in General Meeting. Should the Members fail to pass such a resolution, then the Board may pass such a resolution. Should the Members and the Board fail to pass such a resolution, then in default by application to the relevant court in New South Wales or such other court as has jurisdiction in the matter and, if and so far as effect cannot be given to this provision, then otherwise as allowed by law.

4.5 Gift Fund

- (1) Money or property in any gift fund operated by ACEL must be treated in accordance with **Rule 4.5(2)** at whichever first occurs of:
- a. winding up of ACEL or the gift fund; or
 - b. revocation of any applicable ACEL endorsement as a deductible gift recipient under the *Income Tax Assessment Act (Clth)1997*.
- (2) Money or property in a gift fund when **Rule 4.5(1)** becomes applicable must be paid as allowed by law or to satisfy debts and liabilities related to the relevant Objects as allowed by law with any remaining money or property paid into another gift fund operated by ACEL or, if there is no such gift fund, paid to a gift fund operated by another institution(s) having objects similar to the relevant Objects and which prohibits the distribution of its or their income and property amongst its or their members to an extent at least as great as is imposed on ACEL by **Rule 4.3**.
- (3) The institution(s) will be determined **by the Members by ordinary resolution at General Meeting**, or if the Members fail to pass such a resolution by the Board at or before the time of dissolution, and in default of this, by the relevant court in New South Wales or such other court as may have acquired jurisdiction in the matter and, if and so far as effect cannot be given to this provision, then as allowed under the law.

B. MEMBERSHIP

5. MEMBERS

5.1 Classes of membership

- (1) The following are the classes of membership of ACEL:
 - a. Ordinary Member;
 - b. Fellow; and
 - c. Life Member.
- (2) Ordinary Members may be an **individual, group, an organisation, a corporation, an association** or a body corporate provided any partnership or other kind of joint membership must be held as tenants or joint tenants in common, and:
 - a. all partners may attend General Meetings or Branch General Meetings;
 - b. only 1 partner or 1 nominee of a joint membership may:
 - i. vote at a General Meeting or Branch General Meeting;
 - ii. cast a vote in person or by proxy;
 - iii. stand for election as a Director; or
 - iv. vote at a Branch Executive meeting, however all partners of a joint membership may stand for election to a Branch Executive.
- (3) There is no maximum on the number of Members of any class.

5.2 First Members

The first members of ACEL are those members who at the date of registration of ACEL are eligible to become Members of ACEL under the Act in accordance with this Constitution and have accepted the positions of Branch Director, Independent Director, and those persons who were a member appointed director.

5.3 Subsequent Members

Three days following the registration of ACEL:

- (1) All existing members of the Council will become members of the Council if they meet the criteria to be admitted as Members in accordance with this **Rule 5**.
- (2) All persons who become Members under this Constitution include the Council membership. Of the Council membership, members become Ordinary Members, fellows become Fellows and life members become Life Members.

5.4 Qualifications for and rights of membership

(1) Financial Status:

- a. The membership rights set out in this **Rule 5** are available only to those Members who are financial or whose annual subscriptions are not overdue according to **Rule 6.2(3)**.

(2) Ordinary Member:

- a. The Board may admit as an Ordinary Member at its sole discretion, without giving any reasons therefor, any person whom it so wishes to admit including natural persons 18 years or older, joint memberships, partnerships and bodies corporate.

- b. An Ordinary Member is entitled to:

- i. by any means permitted by law, receive notices of General Meetings of ACEL;
- ii. attend, speak and vote at any General Meeting of ACEL;
- iii. participate in Member services;
- iv. receive such membership benefits as are determined from time to time by the Board to apply to Ordinary Members;
- v. use the post nominal MACEL i.e. Member of the Australian council for Educational Leaders; and
- vi. participate fully in all matters relating to the Branch Executive of the Branch to which they are assigned including:
 - 1. nominating and voting for Branch Executive members in accordance with **Rule 23.3**;
 - 2. standing for election to the Branch Executive if eligible; and
 - 3. being elected to any Branch Executive office bearer position if eligible.

(3) Fellow:

- a. The Board may admit any Ordinary Member who is a natural person whom the Board considers worthy because of their outstanding contribution to ACEL and/or educational leadership to be a Fellow of ACEL.
- b. Any Branch Executive or any Director may nominate an Ordinary Member as a Fellow and it shall be solely at the discretion of the Board to determine the appointment.

c. A Fellow shall enjoy all the rights of an Ordinary Member providing that a Fellow:

- i. shall be entitled to use the post nominal FACEL i.e. Fellow of the Australian Council for Educational Leaders; and
- ii. shall be admitted to the ACEL Leaders Academy.

(4) Life Member:

a. The Board may admit any Fellow whom it considers worthy because of their outstanding contribution to ACEL over an extended period to be a Life Member of ACEL.

b. Any Director may nominate a Fellow as a Life Member and it shall be solely at the discretion of the Board to determine the appointment.

c. A Life Member shall enjoy all the rights of a Fellow providing that a Life Member:

- i. shall be entitled to use the post nominal FACEL (LM) i.e. Life Member of the Australian Council for Educational Leaders; and
- ii. shall not be required to pay an annual membership subscription, but shall be required to pay any other applicable fees for ACEL's services.

6. APPLICATIONS

6.1 Application for membership

(1) Subject to **Rule 5.2** the Members of ACEL are those persons who the Board decides at its absolute discretion to admit to membership in accordance with these Rules.

(2) Any eligible person may nominate themselves for the membership class of Ordinary Member.

(3) The application for Ordinary membership shall be made in writing, signed by the applicant, and be in such form as the Board prescribes from time to time.

(4) The applicant for Ordinary membership must show some involvement or association with the education industry as evidenced by their completion of the relevant section on the application form.

(5) At least 1 authorised signatory must be nominated for each membership. Where there are multiple signatories nominated, any 1 of the signatories may act for the membership.

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- (6) The Board may delegate the consideration and determination of all membership applications for the class of Ordinary Member to the Secretary. In no case shall the Board be required to give any reason for the rejection of an application.
 - (7) Subject to **Rule 6.1(8)**, when an applicant has been accepted for membership, the Secretary or other person designated by the Board shall send forthwith to the applicant written notice of their acceptance.
 - (8) The acceptance of an applicant to be an Ordinary Member is subject to the payment of any establishment fee and annual subscription which are payable as at the time of application, and if such payment is not made within the time period given, the Board may, in its discretion, cancel its acceptance of the applicant for membership of ACEL.
 - (9) If the applicant is not admitted to membership, any monies paid by them to ACEL must be returned forthwith in full.
 - (10) Subject to **Rules 6.1(1) to 6.1(8)**, an applicant for membership becomes a Member of the class of membership to which the applicant has been admitted and is entitled to exercise the rights and benefits of that class of membership when their name is entered in the Register of Members.

6.2 Fees and subscriptions

- (1) Any establishment fee and the annual subscription payable by Members of ACEL shall be as prescribed by the Board from time to time, subject to **Rule 5.4(4)cii**.
- (2) The Board shall determine what if any additional fees are to be paid by Members from time to time.
 - (3) The Board shall determine when annual subscriptions become due and payable.
 - (4) In recognition of different circumstances facing different persons, the Board may provide for differential annual subscriptions for the Members on such conditions as the Board resolves in accordance with this Constitution from time to time. Such differential subscriptions may be made available to, but need not include, students, newly appointed teachers, retired and joint members, as well as Ordinary Members and Fellows.

7. RIGHTS OF MEMBERS

7.1 Rights and privileges of every Member

The rights, privileges and obligations of every Member are personal to each Member. A right, privilege or obligation of a person by reason of membership of ACEL:

- a. is not capable of being transferred or transmitted to another person by a Member's own act or by operation of law; and

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- b. terminates upon the cessation of membership whether by death or resignation or otherwise.

7.2 Variation of rights of Members

Subject to Sections 246B to 246E of the Act, the rights attaching to any class of membership may, whether or not ACEL is being wound up, be varied by proposal of the Board and the consent in writing of Members with at least 75% of the votes in the class, or with the sanction of a Special Resolution passed at a separate meeting of the Members of that class.

8. TERMINATION OF MEMBERSHIP

8.1 Resignation and removal of a Member

- (1) A Member may resign their membership at any time, by giving 1 months notice in writing to the Secretary, but shall continue to be liable for any sum not exceeding \$1.00 for which that person is liable as a member under **Rule 4.2**.
- (2) A person may not be readmitted to membership until any unpaid monies outstanding at time of ceasing to be a Member are paid, including any interest or other charges that may be levied on the outstanding monies.
- (3) A Member may not seek a refund of any annual subscription or establishment fee or other fee or charge notwithstanding when the Member resigns or ceases their membership.
- (4) If an Ordinary Member's or Fellow's annual subscription is unpaid within 90 days from the due date of payment, that Ordinary Members of Fellows membership shall cease in accordance with **Rule 8.1(5)c**.
- (5) The Board may remove any Member from the Register of Members if:
 - a. their affairs are subject to external administration, provided that if 1 partner in a partnership becomes an undischarged bankrupt then, subject to the law, for the purposes of this Rule the remaining joint Members may remain joint Members and exercise rights in accordance with **Rule 5.1(2)b**;
 - b. they are dissolved or otherwise cease to exist;
 - c. they are convicted of an indictable offence; or
 - d. subject to **Rule 8.1(4)** the Member has failed to pay any monies due and owing to ACEL within 90 days after ACEL has served a demand notice on the Member specifying the amount owing and requiring payment of the monies owing within 14 days and the Member has failed to comply with the demand notice within the 14 day period (provided however that the Board has served the Member with a notice of intention to expel at least 14 days before the proposed expulsion).

8.2 Conduct and competency of Members

- (1) Every Member is bound by the Constitution at all times.
- (2) The Board may adopt, with the approval of Members at a General Meeting, a Members' Code of Conduct and may amend the Code of Conduct in the same manner.
- (3) All Members are bound to comply with any Members' Code of Conduct which is in force from time to time and agree to do so upon becoming or renewing their membership.
- (4) If ACEL receives from any Member a complaint in writing (containing the particulars of the allegations on which the complaint is founded) that a Member has:
 - a. committed a breach of the Members' Code of Conduct; and/or
 - b. wilfully refused or neglected to comply with a provision of the Constitution;

then the Board must consider the complaint as soon as practicable.

- (5) The Board or any person or persons appointed by the Board for the purpose may, upon receiving a complaint referred to in **Rule 8.2(4)**, do any one or more of the following:
 - a. require the complainant to provide further particulars of the complaint;
 - b. carry out an investigation into the complaint;
 - c. attempt to resolve the complaint by reconciliation or mediation in accordance with **Rule 8.3**;
 - d. decline to entertain the complaint (because, for example, the complaint is frivolous, vexatious, misconceived or lacking in substance); and/or
 - e. conduct a hearing into the complaint.
- (6) If, after any hearing of a complaint against a Member, the Board finds the complaint substantiated, may do any one or more of the following:
 - a. forgive the Member in view of the circumstances;
 - b. caution or reprimand the Member;
 - c. direct the Member to rectify the breach of the Members' Code of Conduct and specify the manner in which the Member is to do so; or

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- d. suspend or expel the Member from membership of ACEL. Any Member who is to be expelled may advise the Board that they are in dispute with the Board. The Board must then follow the procedure in **Rule 8.3** before making a final determination on the expulsion.
- (7) If, after any hearing of a complaint against a Member, the Board does not find the complaint substantiated, the Board must dismiss the complaint.
 - (8) Within 30 days of its decision, the Board must give a written statement of its decision to the complainant and the Member against whom the complaint was made. The statement must include the reasons for the decision.
 - (9) The complainant and the Member about whom the complaint is made are not entitled to legal representation during any attempts to resolve the complaint by conciliation, but are entitled to call witnesses and to have legal representation during a hearing into the complaint. If a Member does not appear at any hearing into the complaint against that Member, the Board may deal with the Member in their absence.
 - (10) No matter or thing done or omitted by the Board or by a person acting in accordance with a resolution of the Board subjects the Board or ACEL or the person to any liability, if the matter or thing was done or omitted in good faith for the purpose of implementing the procedure specified in the Constitution for the determination of complaints and the disciplining of Members.

8.3 Disputes and mediation

- (1) The grievance procedure set out in this **Rule 8.3** applies to disputes under these Rules between a Member and ACEL.
- (2) The parties to the dispute may meet to discuss the matter in dispute, and, if possible, resolve the dispute within 30 days or a time period mutually agreed after the dispute comes to the attention of all of the parties.
- (3) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties may, within 14 days, or a time period mutually agreed, hold a meeting in the presence of a mediator.
- (4) The mediator must be a person chosen by agreement between the parties or in the absence of agreement, a person who is a mediator appointed or employed by the New South Wales Community Justice Centres or such other body which in the Board's opinion is appropriate within New South Wales. The mediation shall be conducted in accordance with the guidelines issued by the New South Wales Community Justice Centres or such other body appointed by the Board.
- (5) A Member cannot be a mediator.
- (6) The mediator cannot be a person who is a party to the dispute.
- (7) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.

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- (8) The mediator, in conducting the mediation, must:
- a. give the parties to the mediation process every opportunity to be heard;
 - b. allow due consideration by all parties of any written statement submitted by any party; and
 - c. ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (9) The mediator must not determine the dispute. The costs of the mediator shall be shared equally between the Member involved in the dispute and ACEL.
- (10) If the mediation process does not result in the dispute being resolved or ACEL does not seek to utilize the termination process (see **Rule 8.1(5)**), then either party may exercise their rights according to law.

9. GENERAL MEETINGS

9.1 General Meetings

- (1) General meetings of ACEL, other than Annual General Meetings, may be called by the Board and held at the times and places and in the manner determined by the Board.
- (2) Not less than 21 days' notice (excluding the day on which the notice is deemed to be served and the day of the meeting) of any General Meeting including the Annual General Meeting, must be given by the Secretary in the form and in the manner determined by the Board.
- (3) Notice of meetings must be given to the Members and to such persons as are entitled under these Rules or the Act to receive notice. The non-receipt of a notice of General Meeting by, or the accidental omission to give notice to, any person entitled to receive notice does not invalidate any proceedings of or resolution passed at that meeting.
- (4) A notice of a General Meeting must specify:
 - a. the place, day and hour of the meeting;
 - b. the general nature of the business to be transacted at the meeting;
 - c. if a Special Resolution is to be proposed, the details of and intention to propose it;
 - d. if the meeting is to be held at 2 or more places, the details of the technology that will be used to facilitate such a meeting and any other matters required to be stated by the Act in relation to the use of such technology; and

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- e. any other information required by the Act.
- (5) A meeting of the Members shall be convened by the Secretary whenever called upon so to do by:
- a. the President;
 - b. the Board;
 - c. any 4 Directors jointly;
 - d. a request in writing signed by at least 5% of the Members in accordance with the Act; or
 - e. as otherwise provided by law.
- (6) Any Member may submit to the Secretary, prior to the General Meeting, questions relating to the matters on the agenda and the questions must be dealt with in accordance with the Act both before and during the meeting. Questions may also be asked of the Chair from the floor of the meeting.
- (7) The Chair of a General Meeting may refuse admission to, or require to leave and remain out of, the meeting any person who:
- a. is in possession of a pictorial recording or sound recording device;
 - b. is in possession of a placard or banner;
 - c. is in possession of an object considered by the Chair to be dangerous, offensive or liable to cause disruption;
 - d. refuses to produce or to permit examination of any object, or the contents of any object or container, in the person's possession;
 - e. behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
 - f. refuses to comply promptly with a ruling from the Chair: or
 - g. is not:
 - i. a Member or a proxy of a Member;
 - ii. a Director;
 - iii. a person who has been invited to the General Meeting pursuant to **Rule 9.1(8)**; or
 - iv. the auditor of ACEL.

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- (8) A person, whether or not a Member, who is requested by the Board or the President to attend a General Meeting as an invitee of the Board, is entitled to be present.

9.2 Postponement of a General Meeting

- (1) At any time before the meeting the Directors may postpone or cancel any General Meeting other than a meeting requested under **Rule 9.1(5)d**.
- (2) The Directors must give notice of the cancellation or postponement of any General Meeting pursuant to **Rule 9.2(1)** to all persons, entitled to receive notice of a General Meeting.
- (3) A notice of postponement of a General Meeting must specify:
- a. the postponed date and time for the holding of the General Meeting;
 - b. a place for the holding of the General Meeting which may be either the same as or different from the place specified in the original notice convening the meeting; and
 - c. if the General Meeting is to be held in 2 or more places, the technology that will be used to facilitate the holding of the General Meeting in that manner.
- (4) Any postponement of a General Meeting pursuant to **Rule 9.2(1)** must be of a period of at least 21 days (excluding the day on which the notice is deemed to be served and the day of the meeting).
- (5) The only business that may be transacted at a General Meeting when it is postponed is the business specified in the original notice convening the meeting.
- (6) The non-receipt of notice of postponement of a General Meeting by, or the accidental omission to give notice of postponement to, any person entitled to receive notice does not invalidate any proceedings of or resolution passed at that postponed meeting.

9.3 Business of General Meetings

- (1) The business of an Annual General Meeting is to:
- a. consider the annual financial report, Directors' report and auditor's report;
 - b. announce the election of Branch Appointed Directors in accordance with **Rule 23.3** in place of any vacancies;
 - c. when required by law, to appoint the auditor and affix their remuneration; and

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- d. transact any other business which, under these Rules or the Act, is required to be transacted at an Annual General Meeting.
- (2) ACEL's auditor or their representative is entitled to attend and to be heard on any part of the business of a General Meeting which concerns the auditor. The auditor or their representative, if present at the meeting, may be questioned by the Members, through the Chair, about the audit and the accounting policies adopted by ACEL in relation to preparation of the financial statements.
 - (3) All required financial and other reports must be made available to the Members in accordance with the Act.
 - (4) The approval of the Members in General Meeting shall be required by Special Resolution before the Board may bind ACEL in contract or otherwise to proceed in relation to any of the following matters:
 - a. the sale of the main undertaking or business of ACEL;
 - b. the amalgamation of ACEL's business or activities with another organisation; or
 - c. changes to the Constitution.

9.4 Quorum at General Meetings

- (1) No business shall be transacted at any General Meeting of ACEL unless a quorum is present when the meeting proceeds to business. A quorum is 20 members present in person or by proxy.
- (2) If within half an hour from the time appointed for the meeting a quorum is not present in accordance with **Rule 9.4(1)**, the meeting:
 - a. if convened upon the requisition of Members in accordance with **Rule 9.1(5)d**, shall be cancelled; or
 - b. if convened by the Board, then it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall be cancelled.

9.5 Chair of General Meetings

- (1) The President is entitled to preside as Chair at all General Meetings of ACEL.
- (2) In the absence of the President then the Directors present may choose another Director as Chair of the meeting, and if no Director is present or if each of the

Directors present is unwilling to act as Chair of the meeting, a Member chosen by the Members present is entitled to chair the meeting.

9.6 Acting Chair

- (1) If during any General Meeting, the Chair is unwilling or unable to take the chair for any part of the proceedings, the Chair may withdraw from the chair during the relevant part of the proceedings and may nominate any other Director to be acting Chair of the meeting during the relevant part of the proceedings.
- (2) Upon the conclusion of the relevant part of the proceedings, the acting Chair must withdraw and the Chair may retake the chair.

9.7 General conduct of Meetings

- (1) Except as provided by the Act, the general conduct of each General Meeting of ACEL and the procedures to be adopted at the meeting are as determined by the Chair. The rulings of the Chair of a General Meeting on all matters relating to the order of business, procedure and conduct of the meeting shall be final and no motion of dissent from such rulings shall be accepted.
 - (2) The Chair may, at any time the Chair considers it necessary or desirable for the proper and orderly conduct of the meeting, demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members.
 - (3) The Chair may require the adoption of any procedure which is in the Chair's opinion necessary or desirable for the proper and orderly casting or recording of votes at any General Meeting of ACEL, whether on a show of hands or on a poll.

9.8 Adjournment

- (1) The Chair may at any time during the course of a General Meeting adjourn, from time to time and place to place, the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion either to a later time at the same meeting or to an adjourned meeting.
- (2) If the Chair exercises a right of adjournment pursuant to **Rule 9.8(1)**, the Chair has the sole discretion to decide whether to seek the approval of the Members present to the adjournment and, unless the Chair exercises that discretion, no vote may be taken by the Members present in respect of the adjournment. No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
 - (3) A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.

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- (4) It is not necessary to give any notice of an adjournment of a general meeting or of the business to be transacted at the adjourned meeting except if the meeting is adjourned for 30 days or more, in which case notice of the adjourned meeting must be given as in the case of an original meeting.

10. VOTING

10.1 Voting

- (1) Each motion properly submitted to a General Meeting is to be decided in the first instance by a show of hands of the Members present in person or by proxy appointed according to **Rule 13.1**.
- (2) Before a vote is taken the Chair must inform the meeting whether any proxy votes have been received and, if so, the number of proxy votes that have been directed in favour of the motion, against the motion, to abstain from voting on the motion and how many have been left to the discretion of the proxy holder.
- (3) On a show of hands:
 - a. every eligible Member present in person shall be entitled to cast only 1 vote each; and
 - b. eligible Members present in person who have been appointed to act as a proxy according to **Rule 13.1** cannot vote the proxy on a show of hands. A poll is required for the proxy to be counted.
- (4) On a poll:
 - a. every eligible Member present in person shall be entitled to cast only 1 vote each; and
 - b. in addition, every person present may cast 1 vote for each eligible Member that has appointed that person to act as their proxy according to **Rule 13.1**.
- (5) Subject to **Rule 10.1(4)**, in the case of an equality of votes, on both a show of hands and at a poll, the Chair does not have a casting vote in addition to their own deliberative vote.
- (6) Any challenge as to the qualification of a Member to vote at a General Meeting or the validity of any vote tendered may only be raised at the meeting and must be determined by the Chair, whose decision shall be final and conclusive. A vote allowed by the Chair shall be valid for all purposes.

10.2 Declaration of vote on a show of hands – when poll demanded

- (1) At any General Meeting, unless a poll is demanded, a declaration by the Chair that a resolution has been passed or lost, having regard to the

majority required, and an entry to that effect in the book containing the minutes of the proceedings of the General Meeting is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

- (2) A poll may be demanded:
 - a. before a vote is taken;
 - b. before the voting results on a show of hands are declared; or
 - c. immediately after the voting results on a show of hands are declared.
- (3) A poll may be demanded by:
 - a. the Chair;
 - b. at least 5 eligible Members entitled to vote on the resolution or their proxies; or
 - c. Members with at least 5% of the votes that may be cast on the resolution.
- (4) No poll may be demanded on the election of a Chair of a meeting or on the question of an adjournment.
- (5) The demand for a poll may be withdrawn by the person or persons who originally made the demand.

10.3 Taking a poll

- (1) If a poll is demanded as provided in **Rule 10.2**, it is to be taken in the manner and at the time and place as the Chair directs, and the result of the poll is deemed to be the resolution of the meeting at which the poll was demanded.
- (2) In the case of any dispute as to the admission or rejection of a vote, the Chair's determination in respect of the dispute made in good faith is final.

10.4 Continuation of business

A demand for a poll does not prevent the continuation of a meeting for the transaction of any business other than the question on which a poll has been demanded.

11. SPECIAL MEETINGS OF CLASSES OF MEMBERS

All the provisions of these Rules as to General Meetings apply to any special meeting of any class of Members which may be held pursuant to the operation of these Rules or the Act.

12. BRANCH GENERAL MEETINGS

12.1 Branch Meetings

- (1) Branch General Meetings of Members whose Registered Address is in that Branch may be held in that Branch.
- (2) No Branch General Meeting shall be considered or treated as a General Meeting of ACEL.
- (3) Branch General Meetings shall be held on the dates and times and places to be decided by the relevant Branch Executive.

12.2 Chair of Branch Meetings

- (1) The Branch President of the Branch Executive, elected according to **Rule 23.3(3)** shall chair Branch General Meetings. If the Branch President is absent or unwilling to act, the other members of the Branch Executive may choose one of their number to chair the meeting.

12.3 General conduct of Branch Meetings

- (1) The Branch President must convene a Branch General Meeting on the requisition of:
 - a. a Director;
 - b. the President; or
 - c. any 2 Branch Executive members.

The business of each Branch General Meeting shall be as determined by the Branch Executive established according to **Rule 23**.

- (2) The procedures to be followed in the conduct of Branch General Meetings are to comply with **Rules 9, 10 and 13**, with the exception that the quorum of a Branch General Meeting shall be 5 Members present in person.

13. VOTES OF MEMBERS

13.1 Voting Rights

- (1) Each Member has one vote, both on a show of hands and on a poll.
- (2) No person or organisation, other than a Member, shall be entitled to a vote at a General Meeting.

13.2 Appointment of proxy

- (1) A Member is, in accordance with the provisions of Section 250A of the Act, entitled to appoint another person as their proxy to attend and vote

instead of the Member at any General Meeting at which the Member is entitled to vote.

- (2) A proxy must be a Member of ACEL and can be the Chair of the General Meeting.
- (3) The form of appointment may specify whether the proxy is to vote 'for', 'against', or 'abstain' on any motion. No Member is obliged to indicate any of these options, but if they do not then the vote is at the proxy's discretion.
- (4) The instrument appointing a proxy and the power of attorney or other authority (if any) must be deposited at the Registered Office, faxed to the Registered Office or deposited, faxed or sent by electronic mail or sent via web address to any place specified in the notice of meeting, at least 72 hours before the time for holding the meeting or adjourned meeting or taking of the poll at which the person named in the instrument proposes to vote. In default, the instrument of proxy will not be treated as valid.

13.3 Validity of vote

- (1) A vote exercised pursuant to an instrument of proxy, a power of attorney or other instrument of appointment is valid notwithstanding:
 - a. the bankruptcy of a Member;
 - b. the liquidation of a Member;
 - c. the revocation of the instrument of proxy or the power of attorney or any instrument under which the instrument or the power was granted;

if ACEL has not received at its Registered Office written notice (or if ACEL has not had deposited with it, faxed to it or sent to it by electronic mail to any other place named in the notice of meeting) of the bankruptcy, liquidation or revocation at least 72 hours (or such shorter period as the Board may allow) prior to the time appointed for the holding of the General Meeting or adjourned meeting, as the case may be, at which the instrument of proxy or the power of attorney is exercised.

13.4 Form and execution of proxy

- (1) An instrument appointing a proxy is required to be in writing and must:
 - a. contain the Member's name and address, ACEL's name, the proxy's name, the meeting or meetings at which the appointment may be used; and
 - b. be signed by the Member making the appointment or the Member's attorney duly authorised in writing or, if the Member is a corporation, by an officer or attorney duly authorised.

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- (2) The instrument of proxy is deemed to include the right to demand or join in demanding a poll and (except to the extent to which the proxy is specifically directed to vote 'for', 'against' or 'abstain' on any proposal) the power to act generally at the meeting for the Member giving the proxy.
 - (3) An instrument appointing a proxy, unless the contrary is stated, is valid for any adjournment of the meeting, as well as for the meeting to which it relates.
 - (4) An instrument of proxy may be expressed to be a standing appointment.
 - (5) A proxy received at an electronic address nominated in the notice of meeting will be taken as signed by any Member if:
 - a. a personal identification code allocated by ACEL to the Member has been included with the appointment; or
 - b. the appointment is verified or authorised by the Member in another manner approved by the Board.

13.5 Board to issue forms of proxy

The Board may issue a form of proxy for use by Members with any notice of General Meeting of Members or any class meeting of Members. Each form is to make provision for the information set out in **Rule 13.4(1)** and may provide that, if the Member does not so write in a name, or if that person does not attend, then the proxy is to be the Chair of the General Meeting.

C. The Board

14. DIRECTORS

14.1 Board of Directors

The Board of ACEL shall consist of a maximum of 12 Directors comprising:

- a. not more than 1 Director to be elected per Branch pursuant to **Rule 23.3** (hereinafter referred to as a '**Branch Appointed Director**');

and

- b. up to 4 Independent Directors appointed by the Board pursuant to **Rule 14.2** (hereinafter referred to as an '**Independent Director**').

14.2 Independent Directors

- (1) The Board has the option to appoint, at a properly constituted Board meeting and with the approval of at least 75% of the elected Branch Appointed Directors up to 4 Members as Independent Directors.
- (2) Independent Directors are to have specific skills, capabilities and/or experience that the Board believes are appropriate for the Board and which are not available from the Branch Appointed Directors.
- (3) At no time shall there be more than 4 Independent Directors on the Board.
- (4) One of the Independent Directors will be the President of ACEL.
- (5) Subject to **Rule 14.4(1)**, an Independent Director is appointed for a 3 year term for a maximum of 2 consecutive terms and will be eligible for reappointment after a period of 3 years of not being on the Board.
- (6) Irrespective of their status as Members, the following persons are not eligible to nominate or be nominated for appointment as an Independent Director:
 - a. any current member of staff or management of ACEL or its subsidiaries; or
 - b. any person who is contracted to organisations or companies that provide services which are deemed by the Board to represent a material conflict of interest with those services provided by ACEL.
- (7) The Board alone shall appoint any Independent Directors.

14.3 Election of Branch Appointed Directors

- (1) Each Branch President elected in accordance with **Rule 23.3(3)** shall be and remain as that Branch's Branch Appointed Director so long as he or she is the Branch President.
- (2) Newly elected Branch Appointed Directors shall take office at the conclusion of the Branch Executive meeting at which they were elected.

14.4 President

- (1) The President is appointed by the Board. The President is an Independent Director and will serve for a term of three years with a maximum of two consecutive terms and be eligible for reappointment after a period of 3 years of not being the President. The President's term starts at the conclusion of the Board meeting at which he or she is appointed and does not take into account the time he or she has served as a Director prior to being appointed as the President.
- (2) The Directors may make rules relating to the appointment of the President not otherwise provided for in this Constitution.
- (3) Unless unwilling or unable, the President must chair all meetings of Directors at which the President is present.
- (4) If no President has been elected or if the President is not present at any Directors' meeting within ten minutes after the time appointed for the meeting to begin, the Directors will agree amongst themselves on a Director to chair the meeting.

15. DIRECTORS - VACATION FROM OFFICE

- (1) Subject to **Rules 14.3(1)** and **15(2)**, a person vacates their office as a Director at the conclusion of the Annual General Meeting at which their term of office expires (subject to them being re-elected or appointed as a Director in accordance with the Constitution).
- (2) A Director also vacates their office if they:
 - a. resign their office by notice in writing to ACEL;
 - b. cease to be a financial Ordinary Member or Fellow of ACEL;
 - c. are declared bankrupt or make any arrangement or composition with their creditors generally;
 - d. pursuant to the Act, cease to be a Director or are prohibited from being a director of a company;
 - e. are absent for more than 3 consecutive Board meetings (whether face to face or by electronic means) without the permission of the Board;

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- f. have failed to disclose a material conflict of interest in breach of the law;
 - g. are removed as a Director by a majority resolution of ACEL in a General Meeting in accordance with the Act;
 - h. were elected as a Branch Appointed Director and change Registered Address to a Branch different to that from which they were elected;
 - i. become ineligible to hold the office of Director due to being in breach of **Rule 14.2(5)**; or
 - j. becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health.
- (3) When a Branch Appointed Director vacates their office as a Director pursuant to **Rule 15(2)**, the Branch Executive of the Branch from which the Director was elected shall appoint a member of the Branch Executive from that Branch to fill the vacancy.
- (4) The Member so appointed pursuant to **Rule 15(3)** shall hold office for the balance of the period for which the person replaced by them as a Director would have held office but for their vacation of the office. For the avoidance of doubt, a period of less than 3 years served by a person as a Director filling a casual vacancy will not be considered to be a term for the purposes of this clause.

16. DIRECTORS - CONFLICT OF INTEREST

16.1 Director's interests

- (1) A Director who has an interest in a contract or proposed contract with ACEL or a related body corporate of ACEL must declare to the Board and give notice to the Directors of the nature of the Director's interest.
- (2) The declaration and notice of the interest by a Director referred to in **Rule 16.1(1)** must be recorded in the minutes.

16.2 Directors may contract with ACEL

- (1) Subject to complying with **Rule 16.1** and the Act regarding disclosure of and voting on matters involving material personal interests, a Director may:
- a. hold any office or place of profit in any other company, body corporate, trust or entity promoted by ACEL or in which ACEL has an interest of any kind, except for any subsidiaries of ACEL;
 - b. enter into any contract or arrangement with ACEL;

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- c. participate in any association, institution, fund, trust or scheme for past or present employees or Directors of ACEL or persons dependent on or connected with them;
 - d. act in a professional capacity (or be a member of a firm which acts in a professional capacity) for ACEL, except as auditor;
 - e. participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Board and may be present at any meeting where any matter is being considered by the Board; and
 - f. sign or participate in the execution of a document by or on behalf of ACEL.
- (2) A Director may do any of the above despite the fiduciary relationship of the Director's office without any liability to account to ACEL for any direct or indirect benefit accruing to the Director and without affecting the validity of any contract or arrangement.
- (3) Notwithstanding **Rules 16.2(1)** and **16.2(2)**, no Director may, as a Director, vote in respect of any contract or arrangement in which the Director has directly or indirectly any material personal interest if to do so would be contrary to the Act, and if the Director does vote, their vote cannot be counted nor shall the Director be counted in determining the quorum at the Board meeting for that particular item.
- (4) A Director's failure to make disclosure pursuant to **Rule 16.1** does not render void or voidable a contract or arrangement in which the Director has a direct or indirect interest.

17. APPOINTMENTS OF ATTORNEYS OR AGENTS

17.1 Appointments of attorneys or agents

- (1) The Directors may from time to time by resolution or power of attorney executed in accordance with Section 127 of the Act appoint any person to be the attorney or agent of ACEL:
- a. for the carrying out of the Objects;
 - b. with the powers, authorities and discretions (not exceeding those exercisable by the Directors under the Constitution);
 - c. for the period and subject to the conditions as determined by the Directors.
- (2) An appointment by the Directors of an attorney or agent of ACEL may be made in favour of:
- a. any company;

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- b. the members, directors, nominees or managers of any company or firm; or
 - c. any fluctuating body of persons whether nominated directly or indirectly by the Directors.
- (3) A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors determine.
- (4) An attorney or agent appointed under this **Rule 17.1** may be authorised by the Directors to delegate all or any of the powers authorities and discretions for the time being vested in it.

18. EXERCISING POWER TO VOTE

18.1 Exercise of voting power in other bodies corporate

The Board may exercise the voting power conferred by the shares in any body corporate held or owned by ACEL as the Board determines (including the exercise of the voting power in favour of any resolution appointing or removing the directors, or any equivalent of directors (by whatever name called) of that body corporate).

18.2 Appointment to another Body Corporate

Subject to complying with the Act regarding disclosure of and voting on matters involving personal interest, a Director may vote in favour of the exercise of the voting rights referred to in **Rule 18.1** notwithstanding that the Director is, or may be about to be appointed, a director of that other body corporate and may be interested in the exercise of those voting rights.

19. PROCEEDINGS OF BOARD

19.1 Procedures related to Board meetings

- (1) Subject to the Act and **Rule 19.1(2)**, the President may:
- a. determine the time, place and manner by which the Board may meet (subject to each Director being given reasonable notice of the meeting) for the dispatch of business;
 - b. adjourn; and
 - c. otherwise regulate the Board meetings as they determine.
- (2) Any 4 or more Directors may require that a meeting be held at any time upon giving reasonable notice of the manner, place, date and time of the meeting to the Secretary.
- (3) Notice is deemed to have been given to a Director, and all Directors are hereby deemed to have consented to the method of giving notice, if notice is sent by mail, personal delivery, facsimile transmission or by

electronic mail to the Registered Address, or fax number or electronic address of the Director (if any fax number or electronic address is notified to ACEL) or at any other address given to the Secretary by the Director from time to time, subject to the right of the Director to withdraw such consent within a reasonable period before a meeting. Notice of a meeting of the Broad need not be in writing.

- (4) Where a Director whose Registered Address is in Australia is outside of Australia, no notice need be given to that Director of any meeting, unless the Director has otherwise directed the Secretary, by mail, personal delivery, facsimile transmission or by electronic mail, before the Director leaves Australia.
- (5) All resolutions of the Directors passed at a meeting of the Board where a quorum is present but where notice of the meeting has not been given as required to each Director, or any act carried out pursuant to such resolution shall, provided each Director to whom notice was not given subsequently agrees to waive the same, be as valid as if notice of the meeting had been duly given to all Directors.
- (6) In the absence of the President the Directors shall appoint another Director to chair the meeting.

19.2 Meetings by telephone or other means of communication

- (1) The Board may meet either in person or by telephone or by other means of electronic communication consented to by all Directors or by any combination of these methods of meeting, subject to the right of a Director to withdraw their consent within a reasonable period before a meeting.
- (2) A meeting conducted by telephone or other means of electronic communication is deemed to be held at the place agreed upon by the Directors attending the meeting, provided that at least 1 of the Directors or the Secretary present at the meeting is at that place for the duration of the meeting.
- (3) All the Directors for the time being entitled to receive notice of the meeting of Directors are entitled to notice of a meeting which is to be held by electronic device and to be linked by electronic device for the purposes of such a meeting. Notice of any such meeting may be given by the electronic device or in any other manner permitted by the Constitution.
- (4) At the commencement of the meeting, and at all times during the meeting, each of the Directors taking part in the meeting by electronic device must be able to communicate with each of the other Directors taking part.
- (5) At the commencement of the meeting, each Director shall acknowledge their presence to all the other Directors taking part.

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- (6) A Director shall not intentionally leave the meeting by disconnecting their electronic device unless the Director has previously obtained the consent of the Chair. A Director is conclusively presumed to have been present and to have formed part of a quorum at all times during the meeting by electronic device unless the Director has previously obtained the consent of the Chair to leave the meeting.
 - (7) A minute of the proceedings of a meeting using electronic device is sufficient evidence of those proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chair.

19.3 Majority votes

- (1) All questions arising at any meeting of the Board are decided by a majority of votes unless otherwise stated in the Constitution.
- (2) Each Director shall have 1 vote.
- (3) The Chair of the Board shall have, in addition to their deliberative vote, a second or casting vote in the event of an equality of votes.

19.4 Quorum

- (1) The quorum necessary for the transaction of the business of the Board is half of all Directors, rounded down, plus 1, which quorum is to be present at the beginning of each resolution to be passed by the Board.
- (2) No business shall be transacted at a meeting of Directors unless there is a quorum.

19.5 Resolution in writing

- (1) If all the Directors entitled to vote on a resolution have signed a statement that they are in favour of the resolution, then that resolution will be deemed to have been passed at a meeting of Directors held on the day and at the time that the Secretary receives the final vote, provided that all Directors shall have been first sent an identical notice of the proposed resolution. For this purpose, signatures can be contained in more than one document.
- (2) A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with their authority is deemed to be a document in writing signed by that Director.

20. POWERS

20.1 General powers of Board

- (1) The management and control of the business and affairs of ACEL, including the power to make policies, are vested in the Board, which (in addition to the powers and authorities conferred upon it by these Rules) may exercise all powers and do all things as are within the power of ACEL

and are not directed or required by the Act or the Constitution to be exercised or done by ACEL in General Meeting.

- (2) The Directors must carry out their powers and duties first and foremost, in the best interests of ACEL and not any other interest group, and must not take directions from any other group including sections of the membership or external parties, subject to the law.

20.2 Powers of meetings

A meeting of the Board or any adjournment of a meeting at which a quorum is present, is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board.

20.3 Validity of acts

- (1) Any act done at any meeting of the Board or by a Board Committee or by any person acting as a Director or a member of a Board Committee is, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any of the Directors or members of the Board Committee or the person acting as a Director or that any of them were disqualified, as valid as if every person had been duly appointed and was qualified and continued to be a Director or a member of the Board Committee (as the case may be).
- (2) If the number of Directors is reduced below the quorum fixed pursuant to these Rules, the continuing Directors may act for the purpose of increasing the number of Directors to at least the quorum or to call a General Meeting of ACEL, but for no other purpose.

21. REGULATIONS

21.1 Power to make Regulations

The Board from time to time may make such Regulations as are in its opinion necessary and desirable for the proper control, administration and management of ACEL's affairs, operations, finances, interests, effects and property and to amend and repeal those Regulations from time to time.

21.2 Criteria for Regulations

A Regulation:

- (1) must not be inconsistent with any provision contained in the Constitution; and
- (2) when in force, is binding on all Members and has the same effect as if the Regulation formed part of this Constitution, provided that if a Regulation relates to the conduct of Members as members (such as a Code of Conduct), then it must be approved by the Members in General Meeting before it is binding on the Members.

21.3 Notifying Members of Regulations

The Board will adopt such measures as it deems appropriate to bring to the notice of Members all Regulations, amendments and repeals.

22. BOARD COMMITTEES

22.1 Power to establish Board Committees

- (1) The Board may, subject to the constraints imposed by law and the Constitution, delegate any of its powers to Board Committees consisting of 1 or more Directors and any other person or persons as the Board determines, provided that the majority of members of a Board Committee are Members.
- (2) Any Board Committee formed or person or persons appointed to the Board Committee must, in the exercise of the powers delegated, conform to any Regulations that may from time to time be imposed by the Board.
- (3) A delegate of the Board may be authorised by the Board to sub-delegate any of the powers for the time being vested in that delegate.

22.2 Proceedings of Board Committees

- (1) The meetings and proceedings of any Board Committee are to be governed by the provisions of these Rules which relate to the regulation of meetings and proceedings of the Board, so far as they are applicable and are not superseded by any Regulations made by the Board.
- (2) A Board Committee may be asked to investigate and to report to the Directors about specific issues or may be a standing committee such as an audit committee or Branch Executive.
- (3) A Board Committee, in the exercise of the duties delegated or assigned to it, shall conform to any Regulations, terms of reference, directions or instructions that may be imposed or given by the Board.
- (4) A Board Committee shall be under the control and direction of the Board and has no direct part or power in the management of ACEL other than as specified in the Constitution.
- (5) A minute of all the proceedings and decisions of every Board Committee shall be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Act and this Constitution to be made, entered and signed. A copy of these minutes shall be tabled at the next Board meeting.
- (6) A Board Committee may be disbanded at the discretion of the Board.

22.3 Audit Committee

An audit committee shall be established as and when the Board determines as a standing committee. The audit committee shall be:

- (1) composed of at least 1 appointed expert or person with specialist knowledge and at least 1 Director who is not the President;
- (2) subject to the terms of reference of the committee, to monitor and to form the format and content of financial reports of ACEL and its policies and procedures; and
- (3) subject to the Board approval of the program of work for the audit committee to allow the audit committee to satisfy the Board that not only is the financial and other related information correct, but that the various agreed policies and procedures within ACEL are being followed.

23. BRANCHES AND REGIONAL GROUPS

23.1 Branch formation

- (1) Branches shall be established to assist the Board to achieve the Objects of ACEL in the geographic area covered by the Branch by:
 - a. promoting the Objects of ACEL within the area of the Branch;
 - b. supporting, developing and promoting the activities of ACEL amongst Members and potential members within the Branch; and
 - c. providing a means of presenting the views of the Members assigned to a Branch to the Board.
- (2) The maximum number of Branches of ACEL is 8, until that number is changed by ACEL.
- (3) Branches shall cover the Australian Bureau of Statistics Local Statistical Areas assigned to them by the Board from time to time.
- (4) At the date of adoption of this Constitution the 8 Branches of ACEL align with the States and Territories of Australia: Australian Capital Territory, New South Wales, Northern Territory, Queensland, South Australia, Tasmania, Victoria and Western Australia.
- (5) All Members are assigned to the Branch where their Registered Address is located.
- (6) Members with a Registered Address in an Australian Territory outside the 8 States and Territories listed in **Rule 23.1(4)** or in a country other than Australia shall be assigned to an appropriate Branch by the Board.

23.2 Branch Executives

- (1) Branch Executives are established as standing Board Committees.
- (2) Branch Executives shall administer each Branch for the purposes set out in **Rule 23.1(1)** subject to terms of reference determined by the Board from time to time.
- (3) Branch Appointed Directors shall have a right to receive notice of, to attend, to vote at and receive minutes of the meetings of the Branch Executive of the Branch from which they were elected or appointed.
- (4) The President and the Chief Executive Officer shall have a right to receive notice of, to attend, and receive minutes of all Branch Executive meetings.

23.3 Election of Branch Executive

- (1) A Branch Executive shall be nominated from eligible Members of the Branch and be elected, at a Branch's General Meeting (see **Rule 12**), by the Members of the Branch.
- (2) Subject to **Rule 23.3(3)**, members elected to a Branch Executive shall be elected for a 3 year term for a maximum of 2 consecutive terms and will be eligible for re-election after a period of 3 years of not being on the Branch Executive.
- (3) A Branch Executive shall elect 1 of their number as Branch President for a 3-year term for a maximum of 2 consecutive terms. The Branch President's term starts at the conclusion of the Branch Executive meeting at which he or she is elected and does not take into account the time he or she has served as a Branch Executive prior to being appointed as the Branch President.
- (4) The Branch President will chair all meetings of the Branch Executive.
- (5) The Branch President will also be the Branch Appointed Director.
- (6) A Branch Executive shall decide prior to the election process in **Rule 23.3(1)** the number of members of a Branch Executive for the succeeding term, which shall not be less than 5 and not more than 12.
- (7) The quorum for a Branch Executive meeting shall be half the number of the members of the Branch Executive, rounded down, plus 1, present in person.
- (8) If a casual vacancy shall occur amongst the Branch Executive, the Branch Executive may appoint a Member with a Registered Address in the Branch to fill such casual vacancy and any such appointee shall hold office until the next Branch General Meeting.

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- (9) The proceedings of Board Committees including Branch Executives are conducted in accordance with **Rules 19, 22.2 and 29** so far as they are applicable.
 - (10) A Branch General Meeting will take place no later than 30 business days prior to the ACEL Annual General Meeting.
 - (11) The Branch President shall take the Chair at all meetings of the Branch Executive and will be the public representative of the Branch when required by the Directors.
 - (12) The members of a Branch Executive shall elect 1 of their number as Branch Secretary. The Branch Secretary will take minutes of meetings, receive correspondence and share correspondence with members, CEO, President and Board as deemed appropriate.

23.4 Regional Groups

- (1) Regional Groups may be established to assist the Board and Branches to promote and facilitate the Objects of ACEL in regional areas.
- (2) Regional Groups may be established with the approval of the Board by a Branch to cover areas or interests of the Branch or by 2 or more Branches to cover areas or interests in adjoining Branches.
- (3) Regional Groups established by the Council prior to the adoption of the Constitution may be endorsed under **Rule 23.4(2)** to continue by the relevant Branch or Branches.
- (4) Members with a Registered Address in an area covered by a Regional Group may elect to become participants in the Regional Group.
- (5) Regional Groups shall have a guidance committee of at least 3 Members appointed each year from the Members with Registered Addresses in the area covered by the Regional Group. The Board may make Regulations as to how these appointments are made and how the guidance committees operate.
- (6) Regional Groups operate at the discretion of the Board and in accordance with the Constitution.
- (7) The Board may, at their sole discretion, disband a Regional Group.

D. ADMINISTRATION

24. COMPANY SECRETARY

- (1) Subject to the Act, the Secretary is appointed and removed by the Board and may, but need not, be a Member or a Director.
- (2) Subject to **Rule 4.3(3)** a Secretary holds office on such terms and conditions as to remuneration and otherwise as the Board determines, including acting in an honorary capacity.

25. OTHER SALARIED OFFICERS

Subject to these Rules, and in particular **Rule 4.3(3)** the Board may appoint or authorise the appointment of such officers and employees at such salaries for such periods and on such terms as it determines and may, subject to conditions of the employment of such officers and employees, and relevant laws and regulations, dispense with their services and re-appoint or appoint other officers and employees as it determines.

26. SEAL

If ACEL has a Seal it must only be used in accordance with the Act on each occasion (if any) that it is used.

27. EXECUTION OF DOCUMENTS AND NEGOTIABLE INSTRUMENTS

Subject to Section 127 of the Act, the Board shall determine the mechanism for signing, drawing, accepting, endorsing or otherwise executing documents and negotiable instruments.

28. FINANCIAL RECORDS

28.1 Financial records

- (1) The financial year of ACEL is to be determined by the Board.
- (2) Proper books and financial records must be kept and maintained showing correctly the financial and other records of ACEL. The Board must ensure the relevant accounting and auditing requirements of the Act are duly complied with and that the required reports are made available to Members.
- (3) All accounts, vouchers and claims due for payment by ACEL must be presented to the Board for the Board's approval or to such person or persons as are appointed by the Board for this purpose and only such persons who have been appointed by the Board to do so may sign cheques or activate electronic or other payments.

28.2 Audit

- (1) The Directors must cause the financial records and financial documents of ACEL to be audited in accordance with the requirements of the Act and any other applicable laws at least once each year.

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- (2) A properly qualified auditor must be appointed by ACEL and the auditor's remuneration fixed and duties regulated in accordance with the Act.

29. MINUTES

29.1 Contents of minutes

The Board must ensure that minutes are duly recorded in a proper manner and include:

- (1) the names of the Directors present at each meeting of ACEL, Branch General Meetings, the Board and of any Board Committees;
- (2) details of proceedings and resolutions of General Meetings of ACEL and of Branches and of meetings of the Board and any Board Committees including Branch Executives; and
- (3) such matters as are required by the Act to be recorded in the record books of ACEL including, without limitation, all declarations made or notices given by any Director of his or her interest in any contract or the holding of any office or property, whereby any conflict of duty or interest may arise.

29.2 Signing of minutes

The minutes of any meeting of ACEL, the Board, Board Committee or Branch General Meeting, if purporting to be signed by the Chair of the meeting or by the Chair of the next succeeding meeting, are prima facie evidence of the matters stated in the minutes.

29.3 Access to minutes

- (1) No Member of ACEL is entitled to be given a copy of the minutes of a Board meeting unless the Board has agreed to do so upon a written request to the Board by that Member.
- (2) All Members are entitled to be given a copy of the minutes of General Meetings of ACEL and relevant Branch General Meetings.

30. INSPECTION OF RECORDS AND THE REGISTER

- (1) The Board may determine whether and to what extent, and at what time and place and under what conditions the accounting records and other documents of ACEL or any of them will be open to the inspection of Members other than the Directors.
- (2) No Member other than a Director has the right to inspect any document of ACEL, except as provided by the Act or as authorised by the Board.
- (3) ACEL must keep and maintain a Register of Members containing, at the least:
 - a. the name and Registered Address of each Member;

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- b. the date on which each Member's name was entered in the Register of Members;
 - c. the Branch to which that Member belongs; and
 - d. the date the Member ceased to be a Member.
- (4) The Register of Members is available for inspection free of charge by any Member in accordance with the Act.
 - (5) A Member may make a copy of entries in the Register of Members upon application to the Board giving reasons in writing for making such an application and paying any fee set by the Board, in accordance with the requirements of the Act.

31. NOTICES

31.1 Service of notices

- (1) A notice may be given by ACEL to a Member personally, by leaving it at the Member's Registered Address or by sending it by prepaid post or facsimile transmission addressed to the member's Registered Address or by sending it to the electronic address (if any) nominated by the Member.
- (2) All notices sent by prepaid post to Members whose Registered Address is not in Australia may be sent by airmail or some other way that ensures that it will be received quickly.

31.2 When notice deemed to be served

- (1) Any notice sent by post is deemed to have been served at the expiration of 48 hours after the envelope containing the notice is posted.
- (2) Any notice served on a Member personally or left at the Member's Registered Address is deemed to have been served when delivered.
- (3) Any notice served on a Member by facsimile transmission is deemed to have been served when the transmission is sent. A facsimile is deemed to be duly sent when ACEL's facsimile system generates a message confirming successful transmission of the total number of pages of the notice to the addressee.
- (4) Any notice served on a Member by electronic means is deemed to have been served when the electronic message is sent.
- (5) Evidence of service of a notice may be established by proving that the envelope containing the notice and stamped appropriately was properly posted and a certificate given by an Officer of ACEL to that effect shall be conclusive evidence of service.

31.3 Signature to notice

The signature to any notice to be given by ACEL may be written or printed.

31.4 Reckoning of period of notice

Where notice of a given number of days or notice extending over any other period is required to be given, the day of service is not to be reckoned in the number of days or other period.

31.5 Persons entitled to notice of General Meeting

- (1) Notice of every ACEL General Meeting is to be given to:
 - a. each Member;
 - b. each Director; and
 - c. the auditor for the time being of ACEL.
- (2) No other person is entitled to receive notices of ACEL General Meetings.
- (3) The Board may invite other persons to attend at an ACEL General Meeting but those persons may not speak at the meeting unless invited to do so by the Chair and cannot vote at the meeting.

31.6 Notification of change of address

Every Member must notify ACEL of any change of their Registered Address and any such new address must be entered in the Register of Members as required to be kept by the Act and upon being so entered, becomes the Member's Registered Address.

31.7 Member not known at Registered Address

Where a Member does not have a Registered Address or where ACEL has bona fide reason to believe that a Member is not known at the Member's Registered Address, all future notices are deemed to be given to the Member if the notice is exhibited in the Registered Office, if any, for a period of 48 hours (and is deemed to be duly served at the commencement of that period) unless and until the Member informs ACEL of a Registered Address.

32. INDEMNITY AND INSURANCE

32.1 Indemnity

To the extent permitted by law, every person who is or has been a Director or other Officer is entitled to be indemnified out of the property of ACEL against:

- (1) every liability incurred by the person in that capacity where the liability to the other person does not arise out of conduct involving a lack of good faith; and

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- (2) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity:
 - a. in which judgment is given in favour of the Director or Officer or in which the Director or Officer is acquitted;
 - b. in connection with an application, in relation to such proceedings, in which the court grants relief to the Director or Officer under the Act; unless:
 - (3) ACEL is forbidden by statute to indemnify the Director or Officer against the liability or legal costs; or
 - (4) an indemnity by ACEL of the Director or Officer against the liability or legal costs would, if given, be made void by statute.

32.2 Indemnity to continue

The indemnity granted by ACEL contained in **Rule 32.1** shall continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring prior to the date of the deletion or modification.

32.3 Insurance

- (1) ACEL may, at the discretion of the Board, pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director or other Officer against liability incurred by the person in that capacity, including a liability for legal costs, unless:
 - a. ACEL is forbidden by statute to pay or agree to pay the premium; or
 - b. the contract would, if ACEL paid the premium, be made void by statute.
- (2) Where Director or Officer (or former Director or Officer) has the benefit of an indemnity pursuant to an insurance policy in respect of his or her actions or omissions, then ACEL shall not be required to indemnify the Director or Officer under **Rule 32.1**, except to the extent that the indemnity affected by the insurance policy does not fully cover the person's liability.

Document History

Date	Version	Author	Description
27.08.07	0.1	Keith Roberts Jenny Lewis	Draft to Governance Committee Development of 0.2
25.09.07	0.2	Jenny Lewis Keith Roberts	Review of Version 0.2 Development of Version 0.3
30.09.07	0.3	Keith Roberts Jenny Lewis	Review of Version 0.3 Development of Version 0.4
04.10.07	0.4	Jenny Lewis	Draft Submission to Board
26.10.07	04.1	Kathy Kuryl Board	Draft Responses from Board
10.12.07	05.1	Keith Roberts Vera Visevic	Draft complete version for Responses
14.02.08	06.1	Jenny Lewis Keith Roberts	Response to Lawyers Recommendations
29.02.08	07.01	Jenny Lewis Vera Visevic	Final Draft
27.09.09	0.8	Board	Amendment to the Constitution ‘That the constitution of Australian Council for Educational Leaders Limited be amended as follows: <ol style="list-style-type: none"> 1. In Rule 23.3(2) by deleting ‘1’ prior to ‘Year’ and inserting ‘2’ prior to ‘Year’, 2. In Rule 23.3(3) by deleting ‘6’ prior to ‘consecutive terms’ and inserting ‘3’ prior to ‘consecutive terms’ and 3. In Rule 23.3(6) by deleting ‘Year’ following ‘succeeding ‘ and inserting ‘term’ following ‘succeeding’.
11/04/11	0.9	Jenny Lewis	Amendments to the Constitution based on resolutions from the ACEL Special General Meeting held on 1 February 2011. All resolutions were accepted at the SGM.
12/06/11	1.0	Jenny Lewis	Name changed and LTD removed

04/10/12	1.1	Board	<p>Term of the President</p> <p>In rule 14.4(1), delete “At the completion of their term in office, at least 1 Year must elapse before that Director can be again elected at President.”</p> <p>Explanatory note: This proposed amendment will enable an Independent Director to be appointed as President for two terms of three years each, without being required to stand aside for a period of at least one year. This will permit more continuity in the office of the President, if the Board wishes to appoint a President for two consecutive terms.</p>
03/10/2013	Doc ID 905187_2	Makinson d’Apice Lawyers	<p>Amendment to composition of directorship, specifically removing member appointed directors and transitioning member appointed directors as at the date of the amendment. Removal of Vice-President. Provision for the board to make rules as to the appointment of President. General tidying to ensure consistency.</p>
September 2014	905187_7	Makinson d’Apice Lawyers	<p>Amending clauses relating to member appointed directors and branch executives (5.4(b), 9.3(1), 12.2, 12.3, 14.1, 14.3, 15(3) and 23.3). Removing all references to Branch AGMs. See document “list of proposed changes”</p>

July 2019	6716809_3	Makinson d'Apice Lawyers	Amending rules relating to term of President and term of Branch President (specifically, 14.1, 14.2(5), 14.2(7), 14.2(8), 14.3(1), 14.3(2), 14.4(1), 15(1), 23.3(2) and 23.3(3)). See document "List of Proposed Amendments to the Constitution of Australian Council for Educational Leaders (ACEL) – July 2019"
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