

Constitution

Catholic Education Sandhurst Limited

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PREAMBLE

“Education that has at its centre the person in his or her integral reality has the purpose of bringing him or her to the knowledge of himself or herself, of the common home in which he or she lives, and above all to the discovery of fraternity as a relationship that produces the multicultural composition of humanity, a source of mutual enrichment.....Never before, has there been such a need to unite efforts in a broad educational alliance to form mature people, capable of overcoming fragmentation and opposition and rebuild the fabric of relationships for a more fraternal humanity....To achieve these goals takes courage, the courage to put the person at the centre.”

Pope Francis
Plenary of the Congregation for Catholic Education
February 2020

Throughout its history of 160 years, education in the Catholic Diocese of Sandhurst has maintained the child as the centre of its being, its reason for existing. The education of the child carries both an awesome privilege and an enormous responsibility.

The vision for education in Sandhurst is to provide, in partnership with our families, stimulating, enriching, liberating and nurturing learning environments in each of the Catholic school communities within the Diocese (Charter of Sandhurst School Improvement)

Sandhurst Catholic schools are part of a long tradition of Catholic education in Australia where the first Catholic schools of some permanency date back to 1820. The first Sandhurst Catholic school was established in 1853 for the children of the goldfields and schools in the Diocese have flourished since.

The Bishop has established the Company to assume the ownership and operation of Catholic schools previously operated in an unincorporated form as Diocesan or Parish schools, and to be responsible for the operation of further schools that will be established by the Company in the Diocese (referred to as **Sandhurst Catholic Schools**).

This re-definition of the governance structure of Sandhurst Catholic Schools coincides with a time of increasing challenge within Church structures and calls for us to read the signs of the times in the light of the Gospel, to imagine ways in which new structures will meet the needs of a changing Church profile and to remind ourselves that our central task is to live the Good News of Jesus Christ in our schools and in our governance. In a real sense, our task is to continue the work of all those who have gone before us in Catholic education.

Catholic Education Sandhurst Limited

1. General

1.1 Defined meanings

Words used in this document and the rules of interpretation that apply are set out and explained in the definitions and interpretations clause at the back of this document.

1.2 Company name

The name of the company is Catholic Education Sandhurst Limited (the **Company**).

2. Replaceable Rules

The Replaceable Rules in the Corporations Act are displaced by this Constitution in their entirety and do not apply to the Company.

3. Objects

3.1 Statement of mission of Sandhurst Catholic Schools

The ongoing mission of Catholic education remains the mission of the Church - "to spread the Kingdom of Christ over all the earth".¹ Under the precepts of Canon Law (806 §1), the Bishop watches over Catholic schools in the Diocese and provides general regulations for them. The Sandhurst Catholic School today responds to its mission by ensuring education is provided according to Catholic teachings and beliefs and by offering a particular cultural experience that is grounded in "...a Christian view of the world, of life, of culture and of history",² embedded in the Catholic community, where faith is believed, lived, celebrated, and communicated to others. This translates into a Christ-centred ethos and worldview that permeates all aspects of school life including relationships, structures, liturgies, celebrations and routines, as well as the formal curriculum.

A quality learning for life is at the heart of education across the Sandhurst Diocese. Catholic Education Sandhurst aspires to provide safe, supportive and secure environments - ones which value diversity and promote care, respect and co-operation. Learning and teaching are two parts of the same action designed to ignite the 'spark of the divine' in every child and to assist each child in our care to flourish. The nature of learning and teaching in a Sandhurst Catholic School has evolved over time in response to new understandings and changing contexts. Learning and teaching may be considered, described, evaluated and validated according to how fully our schools provide experiences which lead to liberated learners.

¹ Catechism of the Catholic Church, n. 863

² Congregation for Catholic Education. (1997), *The Catholic School on the Threshold of the Third Millennium*, n.14.

The identity of the Sandhurst Catholic School reflects the principles of Catholic social teaching, grounded in the person of Jesus and interpreted and enacted for the “common good” in response to the “signs of the times”. These principles require that the dignity and potential of each person be fully respected within a climate that is conducive to peace, security and development. This must find expression in the relationships, structures, curricula, planning, processes and care in the everyday life of the school.

The Sandhurst Catholic School does not function in isolation. In attending to the religious dimension of education, the most fundamental partnerships are those with parents/guardians and with local Catholic faith communities. The school is part of the wider Church community:

...this ecclesial dimension [of the Catholic school] is not a mere adjunct but a proper and specific attribute, a distinctive characteristic which penetrates and informs every moment of its educational activity, a fundamental part of its very identity and the focus of its mission.³

In this context, the tasks of evangelisation, catechesis and religious education are shared by home, school and parish, with each having its own distinct contribution to make in a sense of genuine partnership.

3.2 Objects

- (a) The objects for which the Company is established are to pursue the advancement of education and religion through the operation of an effective system of Catholic education by ownership and operation of Sandhurst Catholic Schools and provision of any services that are ancillary or conducive to such pursuits.
- (b) The objects of the Company must be realised always in accordance with the beliefs, traditions, practices and canonical decrees of the Church and Church Laws as determined by the Member.
- (c) In pursuing its objects, the Company may:
 - (i) operate, manage or control, without limitation, any pre-school, early learning, out of school hours program and other children’s services, boarding facilities and provision of other services that are related or ancillary to the operation of the Sandhurst Catholic Schools;
 - (ii) provide management and administrative support to Sandhurst Catholic Schools in all aspects of their operations, including but not limited to business activities, compliance requirements, curricula, staff development, resourcing and funding;
 - (iii) provide services, advice and support to other Catholic Schools not operated by the Company or to other Catholic organisations that have responsibility for advancing or supporting Catholic education, where doing so is conducive to, or consistent with, the Company’s objects;
 - (iv) establish, promote, operate and maintain any trusts or funds which may seem directly or indirectly conducive to the Company’s object of operating an effective system of Catholic education; and

³ Congregation for Catholic Education. (1997), *The Catholic School on the Threshold of the Third Millennium*, n.11.

- (v) undertake such other activities as are incidental or conducive to the attainment of the Company's objects or the exercise of the Company's powers.

3.3 Powers under the Corporations Act

The Company has the powers set out in the Corporations Act but only to do all things that are necessary, convenient or incidental to carry out the objects set out in clause 3.2.

4. Income and Property of the Company

4.1 Application of income and property

The income and property of the Company will only be applied towards the promotion of the Objects.

4.2 Restriction on transfer of income and property

No portion of the income or property will be paid or transferred directly or indirectly to the Member.

4.3 Payment of Company expenses

Nothing in clause 4.2 prevents the payment in good faith of reasonable and proper:

- (a) subject to clause 4.4, Remuneration to any of the officers or servants of the Company or to the Member in return for any services rendered by them to the Company in the ordinary and usual course of business; or
- (b) interest on money borrowed from the Member for any of the purposes of the Company (provided the interest rate does not exceed the current bank overdraft rates or interest for moneys lent).

4.4 Payments to Directors

- (a) The Company may make the following payments to a Director:
 - (i) Remuneration in an amount determined by the Member from time to time; or
 - (ii) for the reimbursement of out-of-pocket expenses incurred on reasonable commercial terms in carrying out the duties of a Director where the amount does not exceed an amount previously approved by a resolution of the Directors; or
 - (iii) for any service rendered to the Company in a professional or technical capacity, where the terms of service are on reasonable commercial terms and have been previously approved by a resolution of the Directors.
- (b) The Member shall have a discretion to determine the remuneration of the Directors to be paid by the Company, provided that the Company shall not pay Remuneration for acting as a Director of the Company to any Director who is also an employee of the Diocese or is a member of the clergy of the Church.

4.5 No employment for Directors

The Company must not enter into any employment relationship with any of the Directors, and an employee of the Company shall not be eligible to be a Director.

4.6 Application of Grants

Subject to clauses 4.1 and 4.2, the allocation, distribution, expenditure or appropriation of Grants (including any interest accrued in respect of Grants) must be made in accordance with the terms and conditions that may attach to them and in accordance with any policies and procedures specified in legislation, program guidelines and other conditions issued or prescribed or otherwise imposed by the relevant Government Agency or by its Minister, as applicable.

4.7 Operation of Sandhurst Catholic Schools

Where the Company is functioning in its capacity as an operator of a Sandhurst Catholic School, all of the Company's assets (in so far as they relate to that Sandhurst Catholic School) or income (in so far as it arises from the operation of that Sandhurst Catholic School, including revenue derived from the Commonwealth or a State Government specifically for the operation of that Sandhurst Catholic School) must not be used in any way which results in the Sandhurst Catholic School ceasing to operate on a not-for-profit basis for the purposes of any applicable State or Commonwealth legislation concerning school registration, government funding, charity registration tax exemptions and concessions or any other matter relevant to the operation of the Company.

5. Membership

5.1 Sole Member of the Company

The Bishop is the sole member of the Company.

5.2 Member's rights and powers

- (a) The Member must at all times exercise any of the rights and powers which are required or reserved under this Constitution or by law to be exercised by the Member, in accordance with any relevant decrees, policies, procedures and protocols under Church Laws.
- (b) In the event there is any concern by the Board that the Member's exercise of the rights and powers under this Constitution is not in accordance with the requirements of clause 5.2(a), the Board may have recourse according to the provisions of Church Laws.

5.3 Limited liability

The liability of the Member is limited. If the Company is wound up, the Member undertakes to contribute to the property of the Company for:

- (a) the payment of the debts and liabilities of the Company; and
- (b) the expenses of winding up the Company,

such amount as may be required, not exceeding \$20.00.

6. Board of Directors

6.1 Board of Directors

Subject to the Corporations Act and this Constitution, particularly the requirements set out in Schedule 1, the business of the Company is to be managed under the direction of the

Directors. The Directors may exercise all powers of the Company that are not required by the law or this Constitution (including those matters described at Schedule 1 or Schedule 2) to be exercised by the Member.

6.2 Appointment of Directors

- (a) The Board shall comprise a maximum of twelve (12) Directors appointed by the Member by notice in writing to the Secretary, including a Director who shall be the Delegate of the Bishop.
- (b) The Delegate of the Bishop is appointed to represent the interests of the Bishop on the Board.
- (c) The Member may from time to time increase or reduce the number of Directors, provided that the minimum number must always be three (3).
- (d) The Member may at any time by written notice to the Secretary remove any Director from office.

6.3 Considerations when appointing Directors

In appointing Directors under clause 6.2(a), the Member:

- (a) may take into account any recommendations by the Board;
- (b) will have regard to the skills and experience of the Directors in any discipline, profession or field of knowledge which may be beneficial to the Company; and
- (c) will require each appointee to the office of Director to accept the mission of the Church for Catholic education in the Diocese as articulated from time to time by the Member.

6.4 Term

- (a) Each Director will hold office for a term of up to three (3) years as determined by the Member when appointing the Director, after which that Director must retire from office.
- (b) A retiring Director shall be eligible for re-appointment for further terms of up to three (3) years as determined by the Member.

6.5 Vacation of office

In addition to the circumstances in which the office of Director becomes vacant by virtue of the Corporations Act or other provisions of this Constitution, the office of Director is vacated automatically if the Director:

- (a) becomes mentally incapable or the Director's estate is liable to be dealt with in any way under the law relating to mental health;
- (b) is absent from more than three (3) consecutive meetings of Directors without the prior leave of the Board or fails to respond to three (3) consecutive requests for a circulatory resolution in accordance with clause 8.4 to be passed without a meeting of the Directors, unless the Board determines otherwise with the prior written approval of the Member.
- (c) gives a notice of resignation in writing to the Secretary;
- (d) has been:

- (i) disqualified from being a Responsible Entity of a Registered Entity during the preceding 12 months; or
- (ii) suspended or removed as a Responsible Entity of a Registered Entity, under the ACNC Act; or
- (e) ceases to be a fit and proper person for the purposes of the ETR Act.

6.6 Less than minimum number of Directors

The continuing Directors may act despite any vacancy in their body. If the number falls below the minimum number fixed in accordance with this Constitution, the Directors may act only to ask the Member to fill a vacancy on the Board.

7. Direction of the Member

The Member may direct the Board by notice in writing (**Direction**) to:

- (a) adopt, implement or act upon the objectives, priorities, strategies and policies for the Company referred to in the Direction; and
- (b) consider and report to the Member, in a form and within such reasonable time period stipulated in the Direction, the achievement by the Company and the Directors (as the case may be) of the objectives set out in the Direction,

and the Directors must comply with any such Direction.

8. Board of Directors' meetings

8.1 Meetings

The Board may meet together for the dispatch of business and adjourn and otherwise regulate its meetings as it thinks fit.

8.2 Quorum

A quorum of the Board comprises a majority of the Directors eligible to vote. The quorum must be present at all times during the meeting.

8.3 Voting

All resolutions of the Directors must be passed by a majority vote of all Directors entitled to vote on the resolution. The Chair of the Board shall have a casting vote in addition to any vote they have in their capacity as a Director.

8.4 Chair and Deputy Chair of the Board

- (a) The Member shall appoint from among the Directors the Chair and Deputy Chair of the Board, from time to time, and shall determine the period for which such persons are to hold office as Chair and Deputy Chair of the Board, respectively.
- (b) The Chair of the Board shall preside at Directors' meetings.
- (c) Where a meeting of the Board is held and the Chair of the Board is absent or not present within fifteen (15) minutes after the time appointed for the holding of the

meeting or is unwilling to act:

- (i) the Deputy Chair of the Board shall preside at the meeting; and
- (ii) if the Deputy Chair of the Board is absent or not present within ten (10) minutes after the time appointed for the holding of the meeting or is unwilling to act, the Directors present shall elect one of their number to be the chair of that meeting.

8.5 Vacancy of Chair

- (a) The office of the Chair and/or the Deputy Chair of the Board shall become and be vacant:
 - (i) if the Chair and/or Deputy Chair of the Board ceases to be a Director;
 - (ii) by the written resignation of the Chair and/or the Deputy Chair of the Board from the office; or
 - (iii) by written notice of removal given by the Member after consultation with the Directors.
- (b) Where the office of the Chair and/or the Deputy Chair of the Board becomes vacant, a new Chair or Deputy Chair of the Board (as applicable) will be appointed in accordance with clause 8.4.

8.6 Circulatory resolutions of Directors

- (a) If a majority of the total number of Directors have provided consent in writing that they are in favour of a resolution of the Directors which has been circulated to the Directors, a resolution in those terms is treated as having been passed at a meeting of the Directors held on the day on which the written consent was provided. If the Directors provide written consent on different days, then a resolution is treated as having been passed on the day on which written consent was last provided by a Director thereby constituting a majority of the total number of Directors. A resolution is not treated as passed on that day if the circular resolution, by its terms, is said to take effect from another specified date.
- (b) For the purposes of clause 8.6(a):
 - (i) 2 or more separate documents containing the written consent of the Directors that they are in favour of a resolution of the Directors are together treated as constituting one document; and
 - (ii) the document or document referred to in this clause 8.6 are treated as constituting a minute of that meeting and must be entered in books kept for that purpose.

8.7 Provision of documents to Member

The Board of Directors must provide to the Member the agenda, meeting papers and minutes in respect of each Board of Directors' meeting within fourteen (14) days following the relevant meeting.

9. Approval of Member

- (a) If the Delegate of the Bishop is of the opinion that any matter presented for decision by the Board on any matter is of such nature that it touches upon the Roman Catholic religion or

upon the purposes, policies or practices of the Company based on that religion, or is otherwise contrary to Church Laws or the welfare or interest of the Church, the Delegate of the Bishop may give to the Board of Directors or the Chair oral notice of such opinion at any time but not later than the second day after a decision by the Board was made, and thereupon for a period of ten days after the date of the Board's decision all action on that decision shall be stayed.

- (b) If during the period of ten days, the Delegate of the Bishop gives written notice to that effect to the Chair or, in his/her absence from Australia, to any Director, then either the decision shall not take effect at all, or its taking of effect shall be postponed either for a limited period or indefinitely according to the terms of the written notice. In providing the notice, the Delegate of the Bishop will act in accordance with the directions of the Member.

10. Observers

- (a) The Board may permit the attendance of any person at any Board meeting where, in the opinion of the Directors, such person may be able to assist the Board regarding any matter before it.
- (b) The Member is entitled to receive notice of each Directors' meeting at the time the Directors are notified of the meeting and is entitled to attend the meeting, but does not have a right to vote.
- (c) The Member may authorise the attendance at any Directors' meeting of any person who, in the opinion of the Member may be able to assist the Board regarding any matter before it.

11. Secretary

- (a) The Board shall appoint a Secretary of the Company for a term and on conditions determined by them.
- (b) The Secretary of the Company is entitled to attend and be heard on any matter at all Board of Directors' and general meetings.
- (c) The office of the Secretary shall become and be vacant:
 - (i) by the written resignation of the Secretary from the office; or
 - (ii) by written notice of removal given by the Board.

12. Committees

12.1 Delegation to committee

The Board of Directors may constitute and appoint such committees (consisting of at least one Director) as it thinks fit, with responsibilities in areas relevant to the operations of the Company from time to time. The Board may delegate any of their powers (other than this power of delegation) to such committees as it thinks fit. The Board may at any time revoke, withdraw, alter or vary all or any of such powers. No delegation will prevent the exercise of any power by the Board

12.2 Committee powers

Any committee so formed must, in the exercise of the powers so delegated, or functions entrusted, conform to any directions that may at any time be imposed by the Board. Any

power exercised by a committee will be deemed to have been exercised by the Board.

12.3 Terms of reference

Subject to this Constitution, each committee will have terms of reference specified by the Board.

13. Policies

13.1 Power of Board to make Policies

Subject to and consistent with this Constitution, the Board may from time to time make Policies for or with respect to all matters relating to the organisation, management and good governance of the Company, including Sandhurst Catholic Schools.

13.2 Variation of Policies

The Board may, by resolution, repeal, revoke, alter, amend or otherwise modify a Policy or part of a Policy.

13.3 Consistency with mission of Church

The power of the Board to make any Policy under this clause 13, is subject to the Board ensuring that at all times any such Policy is consistent with the beliefs, traditions, practices and canonical decrees of the Church or any Direction issued from time to time by the Member in accordance with clause 7 of this Constitution.

14. Executive Director of Catholic Education

14.1 Executive Director of Catholic Education

The Executive Director of Catholic Education, subject to the directions of the Board, is responsible to the Board for the leadership, stewardship and management of the Company and the education, care and welfare of its students.

14.2 Appointment

The Board shall have the power to appoint or reappoint a person to the office of Executive Director of Catholic Education on such terms, conditions and remuneration as the Board determines, subject to the prior approval of the Member. The Board shall have the power to suspend or remove the Executive Director of Catholic Education from office, subject to the prior approval of the Member.

14.3 Delegations to the Executive Director of Catholic Education

- (a) The Board may from time to time delegate to the Executive Director of Catholic Education such of the powers exercisable under this Constitution by the Board as it sees fit (including the powers of delegation), and may confer such powers for such objects and purposes, and upon such terms and conditions, and with such restrictions, as the Board thinks expedient, but not to the exclusion of, or in substitution for, all or any of the powers of the Board. The Board may at any time or times alter, revoke, withdraw or vary all or any of such delegations.
- (b) The Executive Director of Catholic Education is delegated the responsibility for the employment of all staff of the Company in accordance with Board policy.

14.4 Directors' meetings

- (a) The Executive Director of Catholic Education shall receive notice of and attend all Directors' meetings except where otherwise requested by the Board.
- (b) For the avoidance of doubt:
 - (i) the Executive Director of Catholic Education may speak, but not vote, at Directors' meetings;
 - (ii) the Executive Director of Catholic Education is not to be counted towards quorum at Directors' meetings; and
 - (iii) the Executive Director of Catholic Education shall not be eligible to be a Director.

14.5 Acting Executive Director of Catholic Education

- (a) The Executive Director of Catholic Education may appoint a person to the position of Acting Executive Director of Catholic Education in his or her place for any period of absence for less than two months.
- (b) If the Executive Director of Catholic Education is for any reason unable to appoint an Acting Executive Director of Catholic Education for any period of less than 2 months, the Board may appoint an Acting Executive Director of Catholic Education.
- (c) If the Executive Director of Catholic Education is for any reason unable to fulfil the function of Executive Director of Catholic Education for a period of more than two months, the Board may appoint an Acting Executive Director of Catholic Education, with the approval of the Member.
- (d) Any Acting Executive Director of Catholic Education appointed by the Executive Director of Catholic Education or Board, whilst acting in that position, has all the powers and is subject to all the constraints as if the Acting Executive Director of Catholic Education were the Executive Director of Catholic Education. The Board shall have the power to re-appoint, suspend or remove the Acting Executive Director of Catholic Education from office, subject to the prior approval of the Member.

15. Disputes

15.1 Responsibility for disputes

The Member is responsible for resolving the following disputes and complaints in accordance with this clause 15:

- (a) disputes and complaints between Directors or between Director(s) and the Executive Director of Catholic Education which are referred to the Member by the Board or the Executive Director of Catholic Education or that the Member otherwise becomes aware of;
- (b) any dispute about the nature of the practices of religious worship and instruction at a Sandhurst Catholic School and whether such practices are in accordance with the doctrine, rites and practices of the Church; and
- (c) any other dispute that the Member, due to holding the office of Bishop of the Diocese, is responsible for managing.

15.2 Determination of Disputes

- (a) The Member may, without the need to give any reasons:
 - (i) dismiss a Dispute;
 - (ii) investigate or otherwise deal with a Dispute in such manner as the Member determines; and/or
 - (iii) make such other decision with respect to a Dispute as the Member so determines.
- (b) The Member's determination of a Dispute is final.

16. Accounts

16.1 Preparation of accounts

- (a) The Board must cause the Company to prepare financial accounts in accordance with the law.
- (b) The Board must cause the Company to prepare a financial report, a Director's report and any other reports that comply with the ACNC Act and any other relevant legislation.

16.2 Auditing of financial report

The Board must cause the Company's financial report for each financial year to be audited by the Auditor and obtain an auditor's report in accordance with any requirements of the ACNC Act and any other relevant legislation. Audited financial reports provided to the Member are conclusive.

16.3 Inspection of books

- (a) The Member may inspect the books of the Company at its request.
- (b) The following persons may at any reasonable time access and inspect any financial record of the Company:
 - (i) any nominee of the Member authorised in writing by them, subject to the terms of such authorisation;
 - (ii) the Auditor; and
 - (iii) any Director.

17. Audit

17.1 Appointment of Auditor

- (a) A properly qualified Auditor or Auditors shall be appointed and his/her or their duties regulated in accordance with the Corporations Act and the ACNC Act.
- (b) The remuneration of the Auditor may be determined by the Directors at a Directors' meeting.

17.2 Removal of Auditor

Subject to the requirements of the Corporations Act and the ACNC Act, the Company may remove an Auditor by resolution of the Member.

18. Dissolution, school closure and distribution of surplus

18.1 Distribution of surplus on Catholic School closure

If any surplus remains following the closure of any Sandhurst Catholic School operated by the Company, the surplus will not be paid to or distributed to the Member but will be distributed as follows:

- (a) where the surplus comprises of Grants (including any interest accrued in respect of Grants), such surplus is to be given, transferred or otherwise applied in accordance with the conditions attaching to the Grant; and
- (b) in any other case, the surplus must only be used by the Company in the operation of other Sandhurst Catholic Schools.

18.2 Distribution of surplus on winding up

If any surplus remains following the winding up of the Company, the surplus will not be paid to or distributed to the Member but will be distributed as follows:

- (a) where the surplus comprises of Grants (including any interest accrued in respect of Grants), such surplus is to be given, transferred or otherwise applied in accordance with the conditions attaching to the Grant; and
- (b) in any other case, the surplus must be given or transferred in accordance with Church Laws to a charitable institution, body, entity or organisation in Australia with similar purposes to the Company and whose governing documents prohibit the distribution of its income and property among its members to an extent at least as great as is imposed on the Company under this clause 18.2,

such institution, body, entity or organisation to be determined by the Member at or before the winding up and in default, by application to the Supreme Court of Victoria for determination.

19. Indemnity

19.1 Indemnity for liability

To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act, the Company indemnifies every person who is or has been an officer of the Company against:

- (a) any liability (other than for legal costs) incurred by that person as such an officer of the Company; or
- (b) reasonable legal costs incurred in defending an action for a liability incurred by that person as such an officer of the Company; or
- (c) in connection with or arising from any inquiry or investigation by an Authority or External Administrator involving that person as an officer of the Company.

19.2 Indemnity in respect for premiums

To the extent permitted by law and subject to the restrictions in section 199B of the Corporations Act, the Company may at any time pay premiums in respect of a contract insuring a person (whether with others or not) who is an officer of the Company. The liability insured against may not include that which the Corporations Act prohibits. Any such premium in relation to a Director is not regarded as Remuneration of the Director.

19.3 GST

The amount of any indemnity payable under clause 19.1 will include an additional amount (**GST amount**) equal to any GST payable by the officer being indemnified (**Indemnified Officer**) in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST amount.

19.4 Reporting on indemnities and insurances

Subject to any exception provided for in the Corporations Act, full particulars of the Company's indemnities and insurance premiums in relation to the officers must be included each year in the Directors' report.

19.5 Interpretation

For the purposes of this clause 19, "officer" means:

- (a) a Director;
- (b) a member of a Committee;
- (c) a Secretary; and
- (d) an executive officer of the Company as defined by the Corporations Act.

20. Amendment

- (a) Subject to clause 20(b), any amendments to this Constitution must be approved by the Member. For the avoidance of doubt, the Board may make recommendations to the Member for amendments to the Constitution, from time to time.
- (b) No amendment may be made to this Constitution which would render the Company ineligible for registration as a charity with the ACNC, or cease to meet the requirements for registration as a proprietor of schools with the VRQA under the ETR Act.

21. Interpretation

21.1 Definitions

In this Constitution unless the contrary intention appears:

ACNC means the Australian Charities and Not-for-profits Commission or its successor.

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) as modified or amended from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Company.

Acting Executive Director of Catholic Education means the person appointed to serve in this role in accordance with clause 14.5.

Auditor means the person appointed for the time being as auditor of the Company.

Authority means:

- (a) a Royal Commission, Board of Inquiry, Parliamentary Committee or similar body;
- (b) the Australian Securities & Investments Commission, the Australian Competition and Consumer Commission, and any other regulatory authority;
- (c) a department of any Australian government or of any other jurisdiction;
- (d) a public authority;
- (e) an instrumentality, agent or appointee of the Crown in right of the Commonwealth, in right of a State or in right of a Territory or the equivalent of any of them in any other jurisdiction;
- (f) any other body exercising statutory or prerogative power;
- (g) a government, a governmental, semi-governmental or judicial person, authority, body or entity;
- (h) a statutory corporation; or
- (i) a person, authority, body or entity (whether autonomous or not) who is charged with the administration of law.

Bishop means the present Bishop of the Diocese while remaining such Bishop and his successor for the time being as such Bishop or otherwise the person for the time being exercising Episcopal jurisdiction in the Roman Catholic Church over the faithful of the Diocese.

Board means the board of Directors of the Company.

Catholic School means a primary or secondary school which is understood as Catholic pursuant to the Code of Canon Law (canon 803 §1).

Church means the Roman Catholic Church.

Church Laws means the universal laws of the Church and the Code of Canon Law, including the norms and conventions of the Diocese.

Code of Canon Law means the Code of Canon Law promulgated by Pope John Paul II on 25 January 1983 or its successor and any other universal or particular legislation promulgated by the competent ecclesiastical authority.

Committee means a committee established in accordance with clause 12.

Company means Catholic Education Sandhurst Limited ACN 643 894 384.

Constitution means the constitution of the Company as amended from time to time.

Controller has the meaning given by the Corporations Act.

Corporations Act means the *Corporations Act 2001 (Cth)* as modified or amended from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Company.

Delegate of the Bishop means a Director appointed pursuant to clause 6.2(a) to represent the interests of the Bishop on the Board.

Diocese means the Catholic Diocese of Sandhurst, being the district in the State of Victoria over which as regards the faithful, the Bishop exercised Episcopal jurisdiction.

Directors means all or some of the Directors acting as the Board.

Dispute means a dispute of the type described in clause 15.

Executive Director of Catholic Education means the person appointed to serve as the chief executive officer of the Company in accordance with clause 14.

External Administrator means a liquidator, provisional liquidator, Controller or an administrator.

ETR Act means the *Education and Training Reform Act 2006 (Vic)* as modified or amended from time to time and includes any regulations made under that Act, specifically the *Education and Training Reform Regulations 2017 (Vic)* and any exemption or modification to that Act applying to the Company.

Government Agency means any government or any governmental, semi-governmental or administrative department, entity, agency, authority, commission, corporation or body (including those constituted or formed under any statute) where the department, entity, agency, authority, commission, corporation or body is subject to the control or direction of the Commonwealth of Australia or a State or Territory of Australia.

Grant means a financial assistance arrangement or contribution, whether as capital or otherwise, provided by a State, the Commonwealth, a Government Agency, a private corporation or others, for a specific purpose and period, either by a progress payment or lump sum.

GST has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* as modified or amended from time to time.

Member means the sole member of the Company pursuant to clause 5.1.

Objects means the objects of the Company set out in clause 3.

Policies means the policies of the Company made under clause 13.

Registered Entity has the meaning given in the ACNC Act.

Remuneration includes, without limitation, salaries, wages, commissions, fees, rewards, allowances or bonuses.

Replaceable Rules means the provisions of the Corporations Act that apply as replaceable rules, being those listed in the table in section 141 of the Corporations Act.

Responsible Entity has the meaning given in the ACNC Act.

Secretary means any person appointed by the Board under clause 11 to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of those joint secretaries.

Sandhurst Catholic School means a school conducted, operated and maintained by the Company in accordance with its Objects.

VRQA means the Victorian Registration and Qualifications Authority or its successor, being the Government Agency responsible for the registration and regulation of schools in Victoria.

21.2 Interpretation

- (a) In this Constitution, except where the context otherwise requires, an expression in a clause of this Constitution has the same meaning as in the Corporations Act. Where the expression has more than one meaning in the Corporations Act and a provision of the Corporations Act deals with the same matter as a clause of this Constitution, that expression has the same meaning as in that provision.
- (b) In this Constitution, except where the context otherwise requires:
 - (i) the singular includes the plural and vice versa, and a gender includes other genders;
 - (ii) another grammatical form of a defined word or expression has a corresponding meaning;
 - (iii) 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;
 - (iv) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
 - (v) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency; and
 - (vi) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.

Schedule 1 Decisions of Directors subject to approval of Member

| | Matter | Clause | Description/requirement |
|---|--|--------|---|
| 1 | Confirming a Director's position | 6.5(b) | The Directors must not confirm a Director's position under clause 6.5(b) without the Member's prior written approval. |
| 2 | Appointing and removing the Executive Director of Catholic Education | 14.2 | The Directors must ensure that the Company does not employ (or otherwise appoint), re-appoint, suspend or terminate the Executive Director of Catholic Education without the Member's prior written approval. |
| 3 | Appointing and removing an Acting Executive Director of Catholic Education | 14.5 | The Directors must ensure that the Company does not employ (or otherwise appoint) an Acting Executive Director of Catholic Education for a period of more than two months, or re-appoint, suspend or terminate an Acting Executive Director of Catholic Education, without the Member's prior written approval. |
| 4 | Delegations and financial limits Direction of Member | 6.1 | <p>The Directors must not, and must ensure that the Company does not, operate outside the authorised delegations and financial limits provided by the Member (and as amended from time to time) and outside or inconsistent with any Direction provided by the Member from time to time under clause 7, without the prior written approval of the Member.</p> <p>The delegations may relate to any matter dealing with real property including encumbrances, borrowings, major capital expenditure and other matters that concern the operations of the Company for which canonical approvals are required to be obtained before a transaction or action can be undertaken.</p> |
| 5 | Establish any subsidiary or other new entity, joint venture or other corporate affiliation | 6.1 | The Directors must not, and must ensure that the Company does not, establish any subsidiary or other new entity, joint venture or other corporate affiliation without the prior written approval of the Member. |
| 6 | Open a new school, permanently close an existing school, or cease to conduct any major service, program or work provided or performed by the Company | 6.1 | The Directors must ensure that the Company does not open a new school, permanently close an existing school or cease to conduct any major service, program or work provided or performed by the Company without the prior written approval of the Member. |
| 7 | Revoke or jeopardise revocation of the Company's status as a registered charity or the registration of the Company as proprietor of schools | 6.1 | The Directors must not, and must ensure that the Company does not, revoke or jeopardise revocation of its status as a charity registered with the ACNC, or its status as a proprietor of registered schools with the VRQA, without the prior written approval of the Member. |

Schedule 2 **Reserved decisions for the Member and the Delegate of the Bishop**

In exercising any rights reserved for the Member or the Delegate of the Bishop under this Constitution as listed below, the Member or the Delegate of the Bishop (as applicable) will comply with Church Laws and any relevant decrees, policies, procedures and protocols.

Powers reserved for the Member

- (a) change the minimum or maximum number of Directors (clause 6.2(b));
- (b) appoint or remove a Director (including the Delegate of the Bishop) or determine a Director's term of office (clauses 6.2(a), 6.4(a) and 6.5(b));
- (c) issue a Direction to the Board to adopt, implement or act upon the objectives, priorities, strategies and policies for the Company (clause 7);
- (d) appoint or remove the Chair and Deputy-Chair of the Company (clause 8.4 or 8.5);
- (e) receive agenda, papers and minutes of Board meetings (clause 8.7);
- (f) through the Delegate of the Bishop, intervene to veto the decisions of the Board within the prescripts of clause 9 (clause 9); and
- (g) authorise the attendance of an observer at a Board meeting (clause 10);
- (h) approve the appointment, re-appointment, suspension or removal of the Executive Director of Catholic Education (clause 14.2);
- (i) approve the appointment, re-appointment, suspension or removal of the Acting Executive Director of Catholic Education (clause 14.5);
- (j) authorise any nominee of the Member to access or inspect any financial record of the Company (clause 16.3(b)(i));
- (k) amend the constitution of the Company (clause 20(a));
- (l) wind up the Company and determine distribution of any surplus (clause 18.2);
- (m) change the company type of the Company; and
- (n) change the name of the Company.

Powers reserved for the Delegate of the Bishop

- (a) veto the decisions of the Board in accordance with the prescripts in clause 9 (clause 9).