



ASIA PACIFIC INTERNATIONAL COLLEGE PTY LIMITED

A.C.N. 061 101 488

CONSTITUTION

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1. INTERPRETATION

1.1. In this Constitution, unless the contrary intention appears:

1.1.1. **“Academic Board”** means the Academic Board constituted pursuant to Rule 24, and which:

1.1.2. through delegated authority sets and monitors the academic standards through the established academic policy framework and processes necessary to achieve quality academic outcomes that comply with all appropriate higher education regulatory, legislative requirements; and

1.1.3. is responsible and accountable to the Board of Directors.

1.1.4. **“Act”** means the *Corporations Act 2001* as amended from time to time.

1.1.5. **“APIC Logo”** means the logo which is adapted and used by APIC.

1.1.6. **“By-laws”** means the by-laws determined by the Board of Directors under Rules 17.3.1., 23.1 and 28.3 and for the time being in force.

1.1.7. **“Board of Directors”** means all the Directors of the Company or some Directors acting as the Board of Directors in accordance with this Constitution, which:

1.1.7.1. shall exercise competent governance oversight of and be ultimately responsible and accountable for all APIC’s operations in or from Australia, including accountability for the conferral of higher education qualifications and compliance with all required regulatory legislation and requirements appropriate for a Higher Education Provider; and

1.1.7.2. sets overall strategic directions and the framework of policies and procedures, and is ultimately responsible for both corporate and academic outcomes.

1.1.8. **“Chair of the Academic Board”** means the person engaged by the Company to preside over the Academic Board meetings and to ensure that the Academic Board discharges its delegated roles and responsibilities.

- 1.1.9. **“Chair of the Board of Directors”** means the independent Chair of the Board of Directors from time to time in office pursuant to Rule 14, appointed by the Members of the Company.
- 1.1.10. **“APIC” or “Company”** means Asia Pacific International College Pty Limited, A.C.N. 061 101 488, whose Members have adopted this Constitution.
- 1.1.11. **“Director”** means a person holding office as a director of the Company.
- 1.1.12. **“For Cause”** means, when used in connection with removal of a Director from an appointed position, Incompetence and/or conduct where there is a persistent failure to uphold the objects of APIC and which, in the opinion of the Members by Special Resolution, brings APIC into disrepute.
- 1.1.13. **“Governance Charter”** means the Governance Charter as approved by the Board of Directors from time to time.
- 1.1.14. **“Incompetence”** means in connection with the performance or conduct of a Director:
 - 1.1.14.1. a breach of the duties of a Director as defined in the Act or the unwritten law of the States and Territories of Australia, including but not limited to the duties of loyalty and good faith and care and diligence; and/or
 - 1.1.14.2. a failure to meet the performance standards reasonably expected of a person acting as a Director of the Company in the Company’s circumstances.
- 1.1.15. **“Independence”** means a person who is independent of management and who does not have (or intend to have) any material or significant dealings with the Company (or an associated entity) that could interfere with the exercise of independent judgement as a Director.
- 1.1.16. **“Member”** means a shareholder of the Company.
- 1.1.17. **“Ordinary Resolution” or “resolution”** means:
 - 1.1.17.1. in relation to Member resolutions, a resolution passed by more than 50% of the votes cast by Members present (by any means, including voting by proxy) and entitled to vote on the resolution, in accordance with the Act; and

- 1.1.71.2. in relation to resolutions of the Board of Directors, a resolution of a majority of the Directors entitled to vote on the resolution and present at the meeting of the Board of Directors or a resolution passed in accordance with Rule 18.9.2.
- 1.1.18. **"Principal Executive Officer"** means the person appointed pursuant to Rule 19, that is the principal executive officer of APIC, who is appointed by the Board of Directors.
- 1.1.19. **"Registered Office"** means the registered office of the Company as required by the Act, and which will be situated in the State of New South Wales in the Commonwealth of Australia.
- 1.1.20. **"Regulations"** means the Regulations of APIC made under Rules 6.1.11 and 9.1.12.
- 1.1.21. **"Seal"** means the common seal of the Company.
- 1.1.22. **"Secretary"** means a person appointed by the Company to perform the duties of the Company Secretary.
- 1.1.23. **"Special Resolution"** means a resolution passed by at least 75% of the votes cast by Members present (by any means, including voting by proxy) and entitled to vote on the resolution, in accordance with the Act.
- 1.2. Words or expressions contained in this Constitution shall be interpreted in accordance with the provisions of the Act.
- 1.3. Words importing one gender include all other genders.
- 1.4. Words importing the singular include the plural and vice versa.
- 1.5. Clause or rule headings are used for convenience and do not affect the construction of the Constitution.

2. NAME

- 2.1. The name of the Company is **"Asia Pacific International College Pty Limited"**.

3. PROPRIETARY LIMITED COMPANY

- 3.1. The Company is registered as a proprietary company and accordingly must be limited by shares.

4. MEMBERS

- 4.1. The sole Member of the Company is Education Centre of Australia Pty Limited, ACN 111 918 775, which beneficially holds all the (fully paid) ordinary shares in the Company.

5. OBJECTS OF THE COMPANY

- 5.1. The principal object of the Company is to provide and promote higher education, scholarship and research.
- 5.2. Without limiting the generality of Rule 5.1, the Company may pursue the principal object through supplementary objects that may include the following:
 - 5.2.1. to foster, promote and undertake higher education, scholarship and research through the provision of higher education programs which promote the preparation and continuing development of persons who will be capable of assuming positions of responsibility in business and society and in particular:
 - 5.2.1.1. to provide academic programs of appropriate higher education standard;
 - 5.2.1.2. to create an environment for the achievement of excellence in scholarship and research; and
 - 5.2.1.3. to provide an environment that supports the personal and professional development of enrolled students and staff.
 - 5.2.2. to establish, operate, maintain and promote APIC, in accordance with its values, vision and mission;
 - 5.2.3. to develop governance, and financial policies and quality assurance processes that underpin the values and goals of APIC, whilst ensuring the integrity of APIC's academic programs, in line with the quality standards and requirements set out by the relevant national regulatory bodies;
 - 5.2.4. to provide and allocate funds and resources in accordance with the educational objectives of APIC;

- 5.2.5. to establish facilities to enable APIC to implement its educational objectives;
- 5.2.6. to award and confer academic qualifications as authorised by the relevant accrediting authority according to relevant law;
- 5.2.7. to participate in commercial ventures and activities to expand the APIC's revenue and to support its strategic objectives; and
- 5.2.8. to do all such things as are, in the opinion of the Board of Directors, ancillary or conducive to the attainment of all or any of the above objects.

6. POWERS OF THE COMPANY

- 6.1. The Company has, subject to the objects set out in this Constitution, the powers set out in Section 124 of the Act. Without limiting the generality of its powers under Section 124 of the Act, the Company's powers include (but are not limited to):
 - 6.1.1. carrying on the operations of APIC;
 - 6.1.2. acquiring, taking and holding real and personal property (including shares and intellectual property) upon trusts either general or specific and either alone or in conjunction with any other person or company;
 - 6.1.3. acquiring any rights or privileges that the Company may regard as necessary, desirable or expedient for the primary purposes hereof or for promoting its interests;
 - 6.1.4. purchasing, taking on, leasing or exchanging, hiring or otherwise acquiring any real or personal property and maintaining, erecting or altering any buildings or works necessary or convenient for the carrying out of any or all the objects of the Company;
 - 6.1.5. selling, improving, leasing or otherwise dealing with all or any part of the property of the Company;
 - 6.1.6. investing any moneys of the Company not immediately required by the Company upon such securities as may from time to time be determined;
 - 6.1.7. borrowing money or receiving money on deposit;

- 6.1.8. lending money for such purposes as may be pertinent to the objects of the Company and on such terms as may seem expedient;
- 6.1.9. drawing, making, accepting, endorsing, discounting, executing, or issuing promissory notes, bills of exchange, bills of lading, warrants, debentures, deposit receipts, and other transferable instruments;
- 6.1.10. obtaining any order including under an Act of Parliament to enable the Company to carry any of its objects into effect or for effecting any alteration of the Company's Constitution or for any other purpose which may seem expedient and opposing any proceedings or applications which may seem calculated directly or indirectly to prejudice the interests or objects of the Company or any of them;
- 6.1.11. making Regulations for the management of the business of the Company, its officers, employees, and agents, and doing all such other things as may be incidental or conducive to the attainment of the objects of, or to the government and maintenance of the Company;
- 6.1.12. selling or disposing of the assets of the Company or any part thereof in accordance with the Regulations for such consideration as the Board of Directors may think fit and in particular for debentures or securities of any other company or association having similar objects and activities, provided that the Company may not sell or dispose of any intellectual property of the Company without the prior approval of the Members by Ordinary Resolution;
- 6.1.13. doing all such other things as are or may be incidental or conducive to the attainment of any of the above objects; and
- 6.1.14. without prejudice to the provisions of Rule 6.1 of this Constitution, the Company has power:
 - 6.1.14.1. to be a member of a limited company, association, partnership or joint venture formed or entered into anywhere in the world; or
 - 6.1.14.2. to form or participate in the formation of a limited company, association, partnership or joint venture formed or entered into anywhere in the world the objects or purposes of which include one or more of the following objects or purposes:

- 6.1.14.2.1. providing facilities or services for scholarship, research or education;
- 6.1.14.2.2. undertaking research, development, consultancy or other services for commercial organisations, public bodies or individuals;
- 6.1.14.2.3. aiding or engaging in the development or promotion of research or the application or use of the results of such research; or
- 6.1.14.2.4. any other object or purpose which, in the opinion of the Board of Directors, is conducive to the attainment of the Company's objects; and

- 6.1.14.3. to exercise its powers outside the state of its incorporation if necessary or convenient for the purposes of its objects.

7. REGISTRATION AS A HIGHER EDUCATION PROVIDER

- 7.1. The Company is registered as a Higher Education Provider in the Commonwealth of Australia.
- 7.2. The Company shall comply with the requirements of legislative acts and regulatory requirements relevant to the lawful functioning of a Higher Education Provider.

8. MEETINGS OF MEMBERS AND RESOLUTIONS

- 8.1. No annual general meeting need be held, so long as the Company remains a proprietary company.
- 8.2. Rule 8.3 replaces replaceable rule §249C of the Act.
- 8.3. The Board of Directors may call a meeting of the Company's Members at any time and for any purpose connected with Company business.
- 8.4. The Company may hold a meeting of its Members, in accordance with §249S of the Act, at two or more venues using any technology that provides Members with a reasonable opportunity to participate.
- 8.5. Meetings shall be held on the requisition of Members in accordance with the provisions of §249D of the Act.
- 8.6. Not less than twenty-one days' notice of any general meeting (exclusive both of the day on which the notice is served or deemed to be served and of the day of the meeting) specifying those matters required to be specified by §249L of the

Act, including the day, hour, and place or places of the meeting the general nature of the business to be transacted and, if a resolution is to be proposed at the meeting, the intention to propose the resolution and what the resolution is, shall be given in manner hereinafter mentioned or in such other manner as may from time to time be prescribed by the Company in general meeting; but the accidental omission to give notice of any meeting to or the non-receipt of such notice by any of the Members shall not invalidate any resolution passed at any general meeting.

- 8.7. A general meeting may be convened at shorter notice in accordance with §249H of the Act.

9. PROCEEDINGS AT A GENERAL MEETING

- 9.1. Pursuant to the powers conferred by the Act or by this Constitution, the Members of the Company have the power to:
- 9.1.1. change the Company's name by Special Resolution, pursuant to §157 (1) of the Act;
 - 9.1.2. change the Company's type to certain types of company by Special Resolution, pursuant to §162 (1) of the Act;
 - 9.1.3. approve certain related party transactions that confer a financial benefit on a related party of the Company by resolution, pursuant to §208 of the Act;
 - 9.1.4. remove an auditor by resolution, pursuant to Sec 329 (1) of the Act;
 - 9.1.5. apply to the Court for a compulsory winding-up by Special Resolution, pursuant to §461 (1) (a) of the Act;
 - 9.1.6. apply to the Court for a voluntary winding-up, upon a Special Resolution, pursuant to §491 (1) of the Act;
 - 9.1.7. deal with matters referred by the Directors where the Directors are precluded from dealing with the matters themselves on the grounds that there are insufficient Directors to form a quorum as a result of Directors being precluded from voting due to a material personal interest in a matter, pursuant to §195 (4) and §195 (1) of the Act;
 - 9.1.8. appoint persons as Directors pursuant to Rule 15;
 - 9.1.9. remove a Director before the end of the Director's period of office by Ordinary Resolution, in accordance with the Act and this Constitution;

9.1.10. determine the remuneration of Directors pursuant to Rule 17.6;

9.1.11. alter this Constitution pursuant to Rule 34.1; and

9.1.12. make Regulations, being not inconsistent with this Constitution and the Act, pursuant to Rule 6.1.11.

9.2. This Rule 9.2 replaces replaceable rule §249T(1) of the Act:

9.2.1. No business shall be transacted at a general meeting unless the required Members quorum is/are present at the time for the meeting to proceed to the business; and

9.2.2. while the Company has two or more Members, the quorum for a meeting of the Members is two Members and the quorum must always remain present during the meeting.

Rules 9.3 and 9.4 replaces replaceable rule §249U of the Act:

9.3. The nominee of Education Centre of Australia Pty Limited shall be entitled to preside as Chair of every general meeting of the Company.

9.4. The Chair may with the consent of the majority of Members present adjourn any meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

9.5. This Rule 9.5 replaces replaceable rule §250J of the Act:

9.5.1. At any general meeting, a declaration by the Chair that a resolution has been carried on a show of hands and an entry to that effect in the book of minutes of the Company, shall be sufficient evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

9.6. Voting of Members shall take place on the following basis:

9.6.1. every Member shall have one vote, and no more, on a show of hands.

9.7. The Secretary of the Company or such other person as the Members may determine, shall maintain records of all proceedings of meetings of Members and such other matters required by the Act.

10. INCOME AND PROPERTY OF THE COMPANY

10.1. The income and property which the Company receives or holds shall be held and applied largely for the purposes and the benefit of the Company, assuring that APIC can meet its statutory obligations.

11. ISSUING SHARES AND LIMITED LIABILITY

11.1. The Members may by Ordinary Resolution authorise the Directors to make an issue of shares.

11.2. The liability of the Members of the Company is limited to the unpaid share capital of the Company.

12. DIVIDENDS

12.1. The Directors may determine that a dividend is payable and fix the amount, the time for payment, and the method of payment.

12.2. Subject to the terms on which shares are on issue, the directors may pay dividends as they see fit.

13. GOVERNING AUTHORITY

13.1. The governing authority of the Company shall be the Board of Directors.

14. COMPOSITION OF THE BOARD OF DIRECTORS

14.1. The Company must have no less than three (3) Directors and no more than six (6) Directors.

14.2. The Members may by Ordinary Resolution fix, reduce or increase the number of Directors required in Rule 14.1, so long as the minimum number of Directors is at least one.

14.3. The majority of Directors of the Board of Directors must be Independent.

14.4. At least two of the Directors shall ordinarily be resident in Australia.

14.5. The Board of Directors shall consist of the following persons:

14.5.1. an Independent Director to act as Chair of the Board of Directors appointed by the Members by Ordinary Resolution;

- 14.5.2. the Chair of the Academic Board of APIC – an Independent Director appointed by the Members by Ordinary Resolution;
 - 14.5.3. a non-executive Director who is a nominee of Education Centre of Australia Pty Limited (the sole Member at the date on which this Constitution is adopted); and
 - 14.5.4. any other directors appointed pursuant to Rule 15.
- 14.6. The Directors will have the collective competence and experience to understand and undertake a governance role in a Higher Education Provider.

15. APPOINTMENT OF DIRECTORS

- 15.1. This Rule replaces replaceable rule §201G of the Act.
The Members may by Ordinary Resolution at any time appoint persons as Directors, provided that the total number of Directors does not at any time exceed the maximum number fixed under Rule 14.1.
- 15.2. Persons appointed to the Board of Directors shall be fit and proper persons, in accordance with regulatory requirements.
- 15.3. In appointing Directors, the Members must have regard to and consider the gender balance of the Board of Directors to achieve gender balance over time.
- 15.4. Subject to these Rules, the term of office of Independent Directors shall be for an initial term of three years, and such Independent Directors may be further appointed by the Members by Ordinary Resolution, subject to satisfactory performance, for a further two successive three-year terms (a maximum of nine years).
- 15.5. Upon the conclusion of the term of office of any Independent Director, or whenever a vacancy occurs in the office of an Independent Director, the Members by Ordinary Resolution shall elect another person to fill that position for such period and on such conditions as the Members determine.
- 15.6. The Board of Directors may from time to time entrust to and confer upon the Chair of the Board of Directors such powers exercisable by the Board of Directors as they may think fit. These powers may be conferred for such time and to be exercised for such objects and purposes, upon such terms and conditions and with such restrictions (if any) as the Board of Directors think expedient. The Board of Directors may from time to time revoke, withdraw, alter, or vary all or any of such powers.

15.7. The term of appointment of the non-executive Director who is a nominee of Education Centre of Australia Pty Limited shall be determined by Education Centre of Australia Pty Limited.

15.8. The Chair of the Academic Board of APIC shall sit as an *ex officio* Director whilst holding the office.

15.9. In exercising their powers and discharging their duties, Directors, must:

15.9.1. be responsible and accountable to the Board of Directors;

15.9.2. act always in the best interests of the Company as a whole, with this obligation to be observed in priority to any duty a Director may owe to those electing or appointing him or her;

15.9.3. act in good faith, honestly and for a proper purpose;

15.9.4. exercise appropriate care and diligence as defined in §180 of the Act;

15.9.5. not improperly use their position to gain an advantage for themselves or someone else; and

15.9.6. disclose and avoid conflicts of interest.

15.10. Disclosure of conflict of interest

15.10.1. A Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of the interest in accordance with §191 and §192 of the Act, and the details must be recorded in the Board of Directors minutes.

15.10.2. All Directors must sign a Disclosure of Interest and Statement of Independence annually.

16. TERMINATION OF DIRECTORS

16.1. The Members may, by Ordinary Resolution, remove a Director before the end of the Director's period of office, in accordance with the Act.

16.2. This Rule replaces replaceable rule §201C of the Act

The Members may, by Ordinary Resolution remove a Director before the end of the Director's period of office, to ensure that the Board of Director's skills base is

current and matches APIC's operating context and strategic direction. Such removal shall follow consultation between the Director, the Chair of the Board of Directors and the Company.

16.3. A Director of the Company may resign as a Director by giving written notice of resignation to the Company at its Registered Office.

16.4. Directors shall vacate their office:

16.4.1. if they become an insolvent under administration;

16.4.2. if they cannot manage the Company because of mental incapacity;

16.4.3. if they are, or become, disqualified from acting as a Director of a company or managing corporations under Part 2D.6 of the Act;

16.4.4. should they or the Board of Directors consider that other professional activities that they undertake present a significant material conflict of interest with the interests of the Company; or

16.4.5. should they choose to retire.

16.5. The replaceable rule contained in §201K of the Act shall not apply to the Company.

16.6. The replaceable rules contained in §198C, §201J and §203F of the Act shall not apply to the Company.

16.7. The Board of Directors shall be deemed to be duly constituted and shall discharge its duties and functions and may exercise its powers and authorities notwithstanding that a Director shall not have been elected as contemplated by the foregoing Rules and notwithstanding any vacancy on the Board of Directors provided that the number of Directors, for the time being, is not less than three (3).

17. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

17.1. The governance and control of the Company shall be vested in the Board of Directors who, in addition to the powers and authorities by this Constitution expressly conferred upon them, may exercise all such powers and do all such acts and things as may be exercised or done by the Company and are not hereby or by statute expressly directed or required to be exercised or done by the Members, but subject nevertheless to any Regulations from time to time made by the Company, provided that no Regulation shall invalidate any prior act of the Board

of Directors that would have been valid if such Regulation had not been made. The Board of Directors may without any further authority carry out all or any of the objects of the Company contained in this Constitution and do all other acts and things in relation thereto as they shall deem expedient.

17.2. The Board of Directors is responsible for determining and monitoring the framework of roles, relationships, systems and processes within and by which authority is exercised and controlled in the Company to achieve its objectives and meet all the legislative and statutory obligations relevant to the lawful functioning of a Higher Education Provider.

17.3. Without prejudice to the general powers conferred by the preceding Rule and of the other powers conferred by this Constitution, the Board of Directors may:

17.3.1. from time to time make, vary, and repeal its By-laws for the management of the business of the Company, its officers, employees, and agents, provided that it may not vary, or repeal Regulations made by the Members;

17.3.2. determine who shall be entitled to sign on the Company's behalf bills, notes, receipts, acceptances, endorsements, cheques, releases, contracts, and all other documents and deeds;

17.3.3. make and give receipts, releases, and other discharges for money payable to the Company and for the claims and demands of the Company;

17.3.4. enter into all such negotiations and contracts, and rescind and vary all such contracts, and execute and do all such acts, deeds, and things in the name and on behalf of the Company as they may consider expedient for or in relation to the purposes of the Company;

17.3.5. take steps to protect intellectual property rights including the registration of trademarks; and

17.3.6. adopt all such other measures and do all such acts as they may consider advisable for the purposes of the Company.

17.4. The Board of Directors may by resolution:

17.4.1. delegate any of its functions under this Constitution to any committee, officer or officers of the Company, provided such delegation meets all regulatory and legislative requirements (and shall ensure that it

delegates authority to the Academic Board in accordance with Rule 24);
and

17.4.2. revoke or vary a delegation provided under Rule 17.4.1.

17.5. The Principal Executive Officer of APIC is responsible and accountable to the Board of Directors for the effective implementation of the Company's corporate and academic objectives.

17.6. The Board of Directors may establish branch offices and agencies at places in Australia and appoint any person or persons to be representatives or agents, in any country or place out of the said state with such powers and authorities upon such terms and with such remuneration as the Board of Directors shall think fit.

18. PROCEEDINGS OF THE BOARD OF DIRECTORS

18.1. This Rule replaces replaceable rules §248F and §248G of the Act. The Board of Directors may convene, adjourn, and otherwise regulate their meetings as they think fit. The quorum necessary for the transaction of business at meetings of the Board of Directors shall be half of the number of Directors, plus one, provided that Independent Directors make up the majority of the quorum. Questions arising at any meeting of the Board of Directors shall be decided by a majority of votes of those entitled to vote on the resolution, and each Director of the Board of Directors will have one vote only; in case of an equality of votes, the Chair of the Board of Directors will have a second or casting vote.

18.2. This Rule replaces replaceable rule §248E of the Act
The Chair of the Board of Directors shall chair the Board of Directors meetings. In the absence of the Chair of the Board of Directors, the Directors present will choose one of the Directors to be Chair of such meeting.

18.3. This Rule replaces replaceable rule §248C of the Act
The Chair or any three Directors of the Board of Directors may at any time (and the Company Secretary shall upon the request in writing of the said three Directors of the Board of Directors) convene a meeting of the Board of Directors.

18.4. This Rule replaces replaceable rule §202A of the Act
Subject to Rule 9.1.10 above, the Directors of the Company are to be paid the remuneration that the Members determine by Ordinary Resolution. The Company may also pay the Director's travelling and other expenses that they properly incur for:

- 18.4.1. attending Directors' meetings or any meetings of committees of Directors;
 - 18.4.2. attending any general meetings of the Company; and
 - 18.4.3. in connection with the Company's business.
- 18.5. The provisions contained in §198D of the Act shall not apply to the Company.
- 18.5.1. The Board of Directors may delegate any of their powers to committees consisting of such persons as they think fit (and such delegation must be recorded in the meeting minutes), and any committee so formed:
 - 18.5.1.1. shall exercise the powers delegated and conform to any terms or by-laws that may be imposed on them by the Board of Directors (and the effect of the committee exercising power in this way is the same as if the Board of Directors had exercised the power);
 - 18.5.1.2. may obtain and consider the advice of a person or persons with relevant expertise (as determined by the Board of Directors on reasonable grounds), whether or not such persons are Directors of the Board of Directors, at any meeting(s) of the said committee;
 - 18.5.1.3. shall make, in considering the advice of the individuals constituting the committee, an independent assessment of the information or advice.
- 18.6. A committee shall have as chair of its meetings such person as is designated by the Board of Directors as chair of the committee, and if no such chair is designated or if such designated person is not present at the time appointed for the holding of a committee meeting, the committee members present shall choose one of their number to be Chair of such meeting.
- 18.7. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the committee members present, and in case of an equality of votes, the Chair shall have a second or casting vote.
- 18.8. All acts done by any meeting of a committee shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any member or members of the committee acting as aforesaid, be as valid as if every such person had been duly appointed and was qualified to be a member of the committee.

18.9. This Rule replaces replaceable rule §248A of the Act

- 18.9.1. This Rule replaces the replaceable rule of the Act entitled “Circulating resolutions of companies with more than one (1) director”.
- 18.9.2. A resolution in writing signed by two-thirds of the Directors of the Board of Directors and containing a statement that they are in favour of the resolution set out in the document shall be as valid as if it had been passed at a meeting of the Board of Directors duly-called and constituted.
- 18.9.3. For the purpose of Sub-Rule 18.9.2, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 18.9.4. For the purpose of Sub-Rule 18.9.2, a Director may signify assent to a resolution in writing by:
 - 18.9.4.1. signing the document in which the resolution is set out and providing it to the Company by personal delivery or post; or
 - 18.9.4.2. notifying the Director’s assent by sending:
 - 18.9.4.2.1. an electronic message from the electronic address notified to the Company by the Director; or
 - 18.9.4.2.2. such other form of electronic communication consented to by the Board of Directors and which contains a statement that the Director is in favour of the resolution set out in the document and which complies with any other verification of the transmission that the Board of Directors may require from time to time.
- 18.9.5. For the purpose of Sub-Rule 18.9.4, if a Director signifies a desire for the resolution to be discussed at a meeting of the Board of Directors or a response not indicating assent the resolution shall be held over to the next meeting of the Board of Directors.

18.10. A written record of resolutions passed under Rule 18.9.4.2 shall be created outlining the Directors who have indicated assent and shall be confirmed at the next meeting of the Board of Directors.

18.11. The Secretary shall maintain minutes:

18.11.1. of all appointments of officers;

18.11.2. of the delegation of any of the Board of Director's powers to a committee of the Board of Directors;

18.11.3. of the names of the Directors of the Board of Directors present at each meeting of the Board of Directors and any committee created by the Board of Directors;

18.11.4. of all orders made by the Board of Directors and committees created by the Board of Directors;

18.11.5. of all resolutions and proceedings of meetings of the Board of Directors and committees and any such minutes of any such meetings of the Board of Directors or of any committee or of the Company, if purporting to be signed by the Chair of such meeting or by the Chair of the next succeeding meeting, shall be received as prima facie evidence of the matters stated in such minutes.

19. APPOINTMENT OF A PRINCIPAL EXECUTIVE OFFICER

19.1. In consultation with the Company, the Board of Directors shall from time to time appoint a person as the Principal Executive Officer with such title and for such period and on such conditions as the Board of Directors determines.

19.2. The Principal Executive Officer of the Company, subject to the Company's Constitution, shall possess such powers and perform such duties as the Constitution and Regulations prescribe or, subject to the Constitution and Regulations, as the Board of Directors determines.

19.3. Where a person appointed as Principal Executive Officer is already a Director of the Board of Directors, the office that they held as such Director shall be declared vacant and thereupon the appropriate steps shall be taken pursuant to these Rules to fill the vacancy.

19.4. The Board of Directors may remove the Principal Executive Officer from office For Cause.

19.4.1. Notice of intention to move a resolution to remove the Principal Executive Officer from office must be given to the Directors and the Principal Executive Officer at least two weeks before the meeting of the Board of Directors to vote on the removal is to be held.

19.4.2. The Principal Executive Officer is entitled to put their case to the Board of Directors either;

19.4.2.1 by giving the Chair of the Board of Directors a written statement of fewer than 1,000 words which is to be distributed to the Directors before the meeting or, if there is not the time to distribute the statement before the meeting, to be read out at the meeting before the resolution is voted on; or

19.4.2.2. by speaking to the motion at the meeting.

20. APPOINTMENT OF AN ACTING PRINCIPAL EXECUTIVE OFFICER

20.1. Where the Principal Executive Officer is absent or suffers ill-health, the Board of Directors may appoint an Acting Principal Executive Officer, which will normally be the Dean of Asia Pacific International College, but may be another suitably qualified person.

20.2. If a person is appointed as Acting Principal Executive Officer, the person so appointed shall during the period of their appointment have all the powers and duties of the Principal Executive Officer.

20.3. The Board of Directors may remove an Acting Principal Executive Officer from office by resolution.

21. RE-ELECTION OR RE-APPOINTMENT

21.1. Subject to the Act and to this Constitution, nothing shall prevent any person from being immediately, or at any time, re-elected to any office or place under the Company if they are otherwise qualified for the time being of holding that office or place.

22. APPOINTMENT OF SECRETARY

22.1. The Secretary shall in accordance with the Act be appointed as Company Secretary by the Company for such term and upon such terms and conditions as to remuneration or otherwise, as it thinks fit, and any person so appointed may be removed by it.

23. BY-LAWS

23.1. The Board of Directors may from time to time make By-laws not inconsistent with the Company's Constitution or Regulations with respect to any matter whatsoever pertaining to APIC and, without prejudice to the generality of the foregoing, with respect to the following matters:

- 23.1.1. the method of recommending appointment or election of Directors;
- 23.1.2. the manner and time of convening, holding and adjourning the meetings of the Board of Directors, and the conduct and record of the business of the Board of Directors;
- 23.1.3. the establishment and appointment of committees of the Board of Directors;
- 23.1.4. the employment of staff and other officers of APIC;
- 23.1.5. the granting of all degrees and other academic awards as are accredited by Australia's higher education regulator;
- 23.1.6. fees charged by APIC;
- 23.1.7. the affiliation, association or connection with APIC of any educational institution wheresoever situated;
- 23.1.8. research, development, consultancy and other services undertaken by APIC for commercial organisations, public bodies or individuals;
- 23.1.9. property, buildings and traffic;
- 23.1.10. discipline;
- 23.1.11. copyright and patents; and
- 23.1.12. any other matter in relation to which:
 - 23.1.12.1. the Board of Directors by virtue of another provision of these Rules may make By-laws; or
 - 23.1.12.2. it is necessary to make By-laws for the good governance of APIC or for the management of its affairs.

23.2. The Board of Directors may by resolution repeal, rescind, revoke, alter, vary, amend or otherwise modify any By-law or part thereof.

24. ACADEMIC BOARD

24.1. The Board of Directors shall ensure that there is an Academic Board with delegated authority for academic governance.

24.2. The Academic Board is the academic governance body within APIC's institutional governance framework. It shall oversee and be accountable for all academic decision-making processes through an established academic policy and process framework in accordance with all higher education regulatory and legislative requirements.

25. COMPOSITION OF THE ACADEMIC BOARD

25.1. The Academic Board shall have no less than five (5) members and no more than ten (10) members.

The Academic Board shall consist of the following members:

25.1.1. An Independent Director as Chair of the Academic Board appointed by the Members, in consultation with the Board of Directors;

25.1.2. Up to four (4) further independent members appointed by the Board of Directors;

25.1.3. Up to four (4) members from APIC academic staff as identified in the Academic Board's Terms of Reference in the Governance Charter;

25.1.4. At least one enrolled student of APIC.

25.2. In appointing Academic Board members, the Board of Directors must have regard to and consider the gender balance of the Academic Board, with the goal of the Academic Board to achieve gender balance over time.

25.3. Subject to these Rules, the term of office of members shall be as specified in the Governance Charter.

26. ACADEMIC BOARD PROCESSES

26.1. Academic Board processes are defined in the Governance Charter.

27. SEAL

27.1. The Board of Directors shall provide a common seal of the Company, and such seal shall be kept by such person and in such a place and in such a manner as the Board of Directors may think fit, and the Board of Directors shall have the power to use such seal in the execution of all or any of the powers hereby vested in them; but it shall not be affixed to any document except pursuant to a resolution of the Board of Directors. The affixing of the Seal shall be attested by the Chair or Secretary and at least one other member of the Board of Directors, or in such other way as the Board of Directors may from time to time determine, and such attestation shall be sufficient evidence of the authority to affix the Seal. Documents not requiring the Seal to be affixed may be signed by a Director and a Secretary or by two Directors.

28. COMPANY ACCOUNTS

28.1. The Board of Directors shall cause accurate accounts to be kept of the sums of money received and expended by the Company and the matters in respect of which such receipts and expenditure take place, and of all the property, assets, credits, and liabilities of the Company.

28.2. Records of all accounts shall be kept at the registered office of the Company, or at such other office or offices as the Board of Directors may from time to time think fit.

28.3. The Board of Directors shall from time to time determine at what times and places and under what terms or By-laws the accounting records of the Company shall be open to the inspection by the Members.

28.4. There shall be attached to the financial statements of the Company statements made and signed in accordance with the provisions of Section 295 of the Act.

29. AUDIT

29.1. The Company shall make an annual return in accordance with the requirements of the Act.

29.2. The Members in General Meeting shall, if required under the Act, appoint an independent auditor or auditors to the Company and its associated entities. The Act shall regulate their qualification, appointment, remuneration, removal rights and duties. The auditor's management report will be provided to the Audit and Risk Committee and to the Board of Directors.

30. ANNUAL REPORT

- 30.1. An annual report of the Company may be used for reporting the business outcomes for the year and may include a report on risk management within the organisation.

31. NOTICES

- 31.1. Any notice required by law or under the Act to be given to any Member, shall be given by serving it on him or her personally or sending it by post or email to him or her at his registered address, or (if a Member has no registered address within Australia) to the address, if any, supplied by such Member to the Company for the giving of notices. Where a notice is delivered personally, it shall be deemed to have been given when delivered. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting on the business day after the date of its posting, and in any other case in accordance with Rule 31.2.
- 31.2. Any notice if served by post shall be deemed to have been served at ten a.m. of the morning of the third day after the day when the letter containing the notice was posted, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and stamped and put into a post office in the Commonwealth of Australia. Any notice if served by electronic means is taken to be given on the same day or on the business day after it is sent if it is not sent before 4pm on a business day in the place that the communication is sent and in proving such service it is sufficient to prove the transmission of the notice and produce the transmission record.
- 31.3. Notice of every general meeting shall be given in any manner herein before authorised to:
- 31.3.1. every Member who is entitled to receive notices in accordance with the Act;
 - 31.3.2. the auditor or auditors for the time being of the Company; and
 - 31.3.3. the Directors.

32. INDEMNITY

- 32.1. Rule 32:

- 32.1.1. “legal action” means any legal proceeding or action whatsoever, and, without limiting the generality of the above, includes a threatened or prospective legal action, a quasi-judicial proceeding and investigative or disciplinary proceeding conducted by a Government authority or pursuant to statute against an officer of the Company, but does not include a legal proceeding to which the Company itself or a related body corporate is or is proposed to be a party, having an interest adverse to that of the officer.
- 32.1.2. “liabilities” include, but are not limited to, expenses, awards of damages and compensation, amounts paid in settlement, fines, penalties, interest, legal costs (on a solicitor and client basis) and disbursements, but “liabilities” do not include a liability to the Company itself or to a related body corporate, other than a liability for costs and expenses incurred by the officer;
- 32.1.2.1. in defending proceedings, whether civil or criminal, in which judgment is given in favour of the officer or in which the officer is acquitted; or
- 32.1.2.2. in connection with an application, in relation to such proceedings, in which the Court grants relief to the officer under the Act;
- 32.1.2.3. and “liabilities” do not include liability for a pecuniary penalty order under the Act or liability for a compensation order in relation to an application for a pecuniary penalty order under the Act.
- 32.1.3. “officer” when used in Rule 32 of this Constitution is as defined in APIC’s Directors and Officers insurance policy.
- 32.1.4. “performance of duties” includes an attempt to perform duties and a failure to perform duties.
- 32.2. Subject to Sub-Rule 32.3 and to §199A of the Act, the Company shall indemnify an officer against all liabilities incurred in consequence of any legal action to which that officer is a party or to which it is proposed that the officer be a party arising out of or in connection with the officer’s performance of duties as an officer.
- 32.3. The indemnity granted by Rule 32.2 does not extend to liabilities incurred as a result of:

- 32.3.1. legal action initiated or threatened by the officer without the prior written consent of the Board of Directors, unless the Board of Directors in its absolute discretion, otherwise determines;
- 32.3.2. the deliberate commission of a tort or other civil wrong, or dishonest or malicious conduct by the officer;
- 32.3.3. the commission of a criminal offence by the officer.
- 32.3.4. unless the officer did not intentionally commit the acts or omissions constituting the offence; or,
- 32.3.5. where the liability is to the Company itself or to a related body corporate unless the liability is for costs and expenses incurred by the officer
 - 32.3.5.1. in defending proceedings, whether civil or criminal, in which judgment is given in favour of the officer or in which the officer is acquitted; or
 - 32.3.5.2. in connection with an application, in relation to such proceedings, in which the Court grants relief to the officer under the Act;
 - 32.3.5.3. conduct (including omissions) of an officer, where that officer fails to satisfy the Board of Directors that he or she held an honest and reasonable belief that the conduct would further the legitimate interests of the Company;
 - 32.3.5.4. liabilities (other than those imposed by a court or other public authority without the consent of the officer) incurred by the officer without the prior written consent of the Board of Directors, such consent not to be unreasonably withheld, unless the Board of Directors, in its absolute discretion, otherwise determines.
- 32.4. No indemnity shall be granted under Sub-Rule 32.2 unless the officer gives notice in writing to the Board of Directors as soon as is reasonably practicable after becoming aware of any occurrence which may result in an indemnity being sought under Rule 32.2, unless the Board of Directors, in its absolute discretion, otherwise determines.
- 32.5. It is a condition of the grant of an indemnity under Rule 32.2 that the Company or its nominee shall be entitled to take over and conduct in the name of the officer

the conduct and settlement of the legal proceeding (other than the defence to a criminal prosecution), and that the officer shall not admit any civil liability or settle any claim against that officer without the consent of the Board of Directors.

32.6. Where the officer is not eligible for an indemnity under Rule 32.2:

32.6.1. The Board of Directors may, in its absolute discretion but subject to §199A of the Act, pay all or part of the legal costs (on a solicitor and client basis) of an officer who is in name or substance a defendant to any legal action, whether civil or criminal, where the Board of Directors considers, in its absolute discretion, that the reasons the officer has been made a defendant include the fact that he or she is an officer, and that it would be just and proper for this Company to make the payment;

32.6.2. The Board of Directors shall be under no legal obligation to make a payment authorised under Rule 32.6.1 or to consider whether a payment should be made in any individual case;

32.6.3. The Board of Directors may impose such conditions as in its absolute discretion it sees fit on the making of a payment under Rule 32.6.1.

33. CONDUCT OF MEETINGS USING TECHNOLOGY

33.1. Meetings of Members and meetings of the Board of Directors may be duly convened and held by way of telephone, video conferencing link-up or another medium for electronic communication available for such purpose from time to time if:

33.1.1. the number and category of persons participating and physically present would represent a quorum as set out in the Constitution;

33.1.2. due notice of the meeting and intention to use a medium of electronic communication has been given to all persons entitled to attend the meeting;

33.1.3. each of the participants acknowledges:

33.1.3.1. such participant's presence to the Chair;

33.1.3.2. that the meeting is being convened as a duly constituted meeting;

33.1.3.3. that the participant can hear the other participants;

33.1.3.4. the Chair is satisfied with the identification of each of the participants at the commencement of the meeting and the presence of a quorum; and

33.1.3.5. voting of the participants on all issues can be ascertained by the Chair.

33.1.4. No person participating in any meeting conducted pursuant to this Rule shall disconnect communication during the course of any meeting without the consent of the Chair and in default of such consent or proven failure of the connection all participants at the commencement of the meeting shall be deemed to have been present and to have formed part of the quorum during the whole of that meeting.

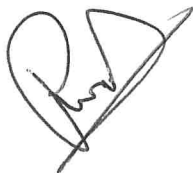
33.1.5. The Chair shall sign minutes of the proceedings conducted as aforesaid and such minutes shall be prima facie evidence of the matters discussed and resolutions passed thereat.

34. ALTERATION OF THIS CONSTITUTION

34.1. A resolution altering or repealing any Rule or Sub-Rule of this Constitution (including this Rule) and constitution version must be passed by Special Resolution of the Company.

DOCUMENT ENDS HERE

For Education Centre of Australia Pty Ltd



Rupesh K. Singh
DIRECTOR