

2012

COMMUNITY COLLEGES AUSTRALIA LIMITED

A Company Limited by Guarantee and without Share Capital

ACN 123 159 526

ABN 17 123 159 526



CONSTITUTION

Table of Contents

INTRODUCTION	3
LIABILITY OF MEMBERS LIMITED	3
NOTICE	4
OBJECTS OF THE COMPANY	5
POWERS	6
MEMBERSHIP	7
ELIGIBILITY	7
ANNUAL FEES.....	7
RESIGNATION.....	7
EXPULSION.....	8
GENERAL MEETINGS	9
NOTICE FOR GENERAL MEETINGS	9
PROCEEDINGS AT GENERAL MEETINGS	9
Quorum:	9
Proxies:	10
Decision Making:.....	10
Meeting Adjournment:	10
THE BOARD OF DIRECTORS	11
COMPOSITION	11
ELECTION	11
CASUAL VACANCIES	12
BOARD POWERS AND DUTIES.....	12
BOARD MEETINGS.....	13
FINANCE & ADMINISTRATION	15
INCOME, PROPERTY AND FINANCES.....	15
INSPECTION OF BOOKS.....	16
SEAL	16
AUDIT.....	16
WINDING UP	16

COMMUNITY COLLEGES AUSTRALIA LIMITED

CONSTITUTION

INTRODUCTION

1. The name of the company is **Community Colleges Australia Limited**
2. Those provisions of the *Corporations Act 2001 (Cwth)* which operate as replaceable rules do not apply to the company
3. Interpretation
 - 3.1. In this constitution:
 - the company** means Community Colleges Australia Limited
 - member** means an organisation that has all the attributes for, and has been approved for membership by, the company
 - appointed representative** means a natural person who is given the authority from their own organisation to act and represent the member in all official matters pertaining to the company. The appointed representative must be advised to the company
 - the seal means the common** seal of the company
 - the secretary** means a person for the time being appointed in accordance with Pt 2D.4 *Corporations Act 2001* to perform the duties of secretary of the company
 - general meeting** means a meeting of the **members of the company**
 - special meeting** means a general meeting called for a particular purpose
 - the board of directors (the board)** means the directors of the company for the time being holding office pursuant to this constitution
 - publication** shall include documents, sound recordings, filmed television and video recordings, digital data files and all other modes of information distribution
 - 3.2. Unless contrary intention is required, in this constitution:
 - 3.2.1. Reference to the *Corporations Act* means a reference to the *Corporations Act 2001 (Cwth)* as amended from time to time
 - 3.2.2. Rules as to gender and number contained in s.23 *Acts Interpretation Act 1901 (Cwth)* shall apply
 - 3.2.3. Words which import natural persons shall include bodies corporate
 - 3.3. In this constitution, unless contrary intention appears, where a provision of this constitution deals with a matter dealt with by particular provision of the *Corporations Act*, an expression shall have the same meaning as in such provision of the *Corporations Act*

LIABILITY OF MEMBERS LIMITED

4. In the event of the company being wound up, the liability of the members of the company is limited to any outstanding fee due for membership, and where the company's liabilities exceed the company's assets, a nominal amount of \$100.

NOTICE

5. For the purposes of service notice of any matter flowing from the provisions of this constitution, the following rules shall apply:
 - 5.1. A notice may be given by the company to any member or director either by serving it on the member or director personally, or by sending it by prepaid post to the member or director at the address supplied by and recorded for that person or entity in the records of the company;
 - 5.1.1. Where notice is sent by post it shall be deemed to have been effected on the second business day after the date of its posting or at the time when the letter would be delivered in the ordinary course of post;
 - 5.2. Notwithstanding the foregoing, where a member has provided the company with a facsimile service number or an email address for the purpose of service of notices, then such notice may be served on that member by facsimile or email;
 - 5.2.1. A notice sent by facsimile and supported by a transmission report held by the sender is deemed to be served immediately upon completion of sending when the sending is completed within business hours at the location where the addressee's facsimile service is located, or if otherwise at 9:00 am on the next business day at that location;
 - 5.2.2. A notice sent by email is deemed to be served immediately upon completion of sending when the sending is completed within business hours at the location where the addressee's email service is located, or if otherwise at 9:00 am on the next business day at that location;
 - 5.2.3. "Business hours" for the purposes of this clause shall be defined as a time between 9:00am and 5:00pm on any day when the post office is open for business within the postal district where the receiving facility is located.
6. Notice of every general meeting must be given in the manner set out in clause 5 to:
 - 6.1. Every member of the company, excepting only those members in respect of which the company has no registered address, facsimile number or email address for the delivery of notices;
 - 6.2. Any or all auditors appointed pursuant to clause 67 of this constitution;
 - 6.3. Save only as provided in clauses 6.1 and 6.2, no other person shall be entitled to receive notice of general meetings.

OBJECTS OF THE COMPANY

7. The objects for which the company is established are:

7.1. To do all things available to the company to promote the interests of member entities, engaged in delivery of community based education and related activities, which may include seeking out and conducting new business opportunities on behalf of the company and / or its members.

7.2. Without limiting the generality of clause 7.1:

7.2.1. representing the interests and concerns of member entities to governments and relevant authorities;

7.2.2. representing adult and community education and the interests of member entities to corporations, non-government organisations and other appropriate entities and persons;

7.2.3. promoting adult and community education in Australia;

7.2.4. fostering support for and recognition of adult and community education in Australia;

7.2.5. providing a forum for and promoting co-operation and the exchange of information, ideas and concerns among member entities;

7.2.6. committing to building the capacity of the sector;

7.2.7. conducting business in its own name to ensure the financial sustainability of the company without conflict or competition with the existing business of members.

To do all acts which are in the opinion of the directors conducive and incidental to the furtherance of these objects.

POWERS

8. The powers contained in s.124(1) of the Corporations Act do not apply to the company except in so far as they are contained as provisions of this constitution.
9. For the purpose of attaining the objects of the company and for no other purpose, the company shall be empowered as follows:
 - 9.1. To commission the authoring of pertinent publications that the company may consider appropriate to its objects, and to undertake or commission the printing, distribution and publishing of such publications;
 - 9.2. As far as it shall be lawful, to collect funds and to solicit and accept financial and other aid, subscriptions, donations and bequests from persons or entities incorporated or unincorporated of all kinds, and from governments and public bodies;
 - 9.3. To make grants or other aid to member entities, or to such other persons or entities incorporated or unincorporated as may be necessary or desirable in the furtherance of the objects of the company;
 - 9.4. To become a member of, subscribe to, co-operate or amalgamate with any other entity whether or not incorporated and having objects similar to those of the company;
 - 9.5. To purchase, take on lease, hire or otherwise acquire any property real or personal, and any rights or privileges pertinent to or capable of convenient use in connection with the objects of the company;
 - 9.6. To appoint, employ, remove or suspend such employees or other persons as may be pertinent to the objects of the company;
 - 9.7. To construct, alter, maintain or otherwise deal with any buildings, grounds, works, facilities or conveniences where such activities are calculated directly or indirectly to be pursuant to the objects of the company;
 - 9.8. To insure against loss from fire or otherwise the property and interests of the company, and to pay such premiums and related costs as may be required to give effect to such insurance;
 - 9.9. To borrow money, and to secure the payment of such money in such manner as the company shall consider appropriate, and to secure the same for the repayment or performance of any debt, liability, contract, guarantee or other commitment of the company entered into by the company, and in particular by the issue of mortgages or other charges upon all or any of the property of the company (both present and future) and to purchase, redeem or pay off such securities;
 - 9.10. To make, draw, accept, endorse, discount, execute and issue bills of exchange, promissory notes and other negotiable or transferable instruments;
 - 9.11. To sell, manage, develop, improve, lease, exchange, improve, dispose of, turn to account or otherwise deal with the property and rights of the company or any part thereof;
 - 9.12. To take any gift of property real or personal whether subject to any special trust or not, where this is considered in the interests of furthering the objects of the company;
 - 9.13. To acquire by purchase or otherwise and undertake all or any of the property, assets, liabilities and commitments of any one or more of the entities with which the company is authorised to amalgamate;
 - 9.14. To transfer all or any part of the property, assets, liabilities and commitments of the company to any one or more of the entities with which the company is authorised to amalgamate;

MEMBERSHIP

ELIGIBILITY

10. Members of the company shall be such entities as the board admits to membership pursuant to this constitution
11. In order to qualify for the consideration of an application for membership of the company, an entity shall:
 - 11.1. Be an organisation constituted under a State, Territory or Federal Act; and
 - 11.2. Be constituted as a not-for-profit community-managed provider of adult education or training and learning in Australia.
12. An entity shall only become a member of the company following approval of the entity's application for membership by the board of the company, and upon payment of the prescribed membership fee
 - 12.1. the board shall not be required to give any reason for the rejection of any application for membership
 - 12.2. where, after two months following approval of an application has elapsed, the prescribed membership fee remains unpaid the board may, in its discretion, cancel the acceptance of the application for membership by the entity

ANNUAL FEES

13. Each member shall be required to pay an annual membership fee to the company
 - 13.1. The amount of the annual membership fee shall be determined from time to time by the board of directors
 - 13.2. All annual membership fees shall become due and payable on the first day of January in each year
 - 13.3. Where evidence of sufficient cause is adduced, the board may in its absolute discretion reduce, remit or defer any annual membership fee payable by a member entity
 - 13.4. Except as provided by clause 13.3 hereof, if a member fails to pay outstanding membership fees within three months after the due date the membership of the company shall lapse, provided that the board shall retain final discretionary powers in relation to implementation of this clause

RESIGNATION

14. A member may at any time by written notice to the company resign from membership of the company
 - 14.1. a member who resigns shall continue to be liable for:
 - 14.2. any annual fee or arrears due and unpaid as at the date of the resignation;
 - 14.3. any other debt due to the company;
 - 14.4. any sum not exceeding the then current membership fee which relates to any liability as a member by virtue of clause 4

EXPULSION

15. The board may by resolution censure, suspend or expel the member from the company where a member has:
 - 15.1. neglected or wilfully refused or failed to comply with the provisions of this constitution;
 - 15.2. engaged in conduct which, in the opinion of the board, is unbecoming of a member or prejudicial to the interests of the company;
 - 15.3. become insolvent, entered into external administration, compounds for its debts or enters in an arrangement with its creditors.
16. When a resolution pursuant to clause 15 is to be considered by the board
 - 16.1. at least 14 days before the meeting of the board at which the resolution is to be considered, the member whose membership is to be considered shall be given written notice:
 - 16.1.1. of the date, time and place of the meeting;
 - 16.1.2. the proposed resolution;
 - 16.1.3. the nature and particulars of the allegations to be considered
17. At a meeting of directors at which a resolution pursuant to clause 15 is to be considered, and before any such resolution is passed, the member concerned must be provided with the opportunity to present orally or in writing any explanation or mitigating factors the member may think appropriate
18. A member, which is the subject of a resolution pursuant to clause 15, may by notice in writing lodged with the secretary not less than 24 hours before the time of the meeting at which the resolution is to be considered, elect to have the matter dealt with by the company in general meeting
 - 18.1. Where such an election is made, a general meeting of the company shall be called for the purpose;
 - 18.2. If at the general meeting such a resolution is passed by a majority of two thirds of members present and voting, the vote to be taken by ballot, the member shall be sanctioned in accordance with the resolution;
 - 18.3. Where the resolution duly passed approved expulsion of the member, the member shall be expelled forthwith.

GENERAL MEETINGS

NOTICE FOR GENERAL MEETINGS

19. The company must hold an annual general meeting each year in compliance with the provisions of Part 2G.2 Division 8 of the Corporations Act 2001 (Cth).
20. A director may call a general meeting of the company.
21. The directors shall call a general meeting of the company when requested by 10% of the members or at least 12 members, stating in writing the purpose of the meeting, in compliance with s.249D Corporations Act 2001.
22. Where the directors do not within 30 days of a request being received call a general meeting of the company then the provisions of s.249E of the Corporations Act shall apply to the calling of a general meeting by the members.
23. For the purpose of any General Meeting of the Company, written notice of the date, time and location shall be given to all members at least 21 days before the meeting.
24. Notice of a general meeting of the company shall:
 - 24.1. State the general nature of the business to be transacted at the meeting; and
 - 24.2. Where a special resolution is to be proposed at the meeting, set out the intention proposed for the resolution and state the proposed resolution.

PROCEEDINGS AT GENERAL MEETINGS

Quorum:

25. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business
26. No resolution shall be passed at any general meeting unless a quorum of members is present at the time when the resolution is put to the vote at the meeting
27. A quorum at a general meeting of the company shall be 10 members
28. If, within half an hour after the time appointed for the meeting, a quorum is not present:
 - 28.1. the meeting is dissolved if the meeting has been convened upon request of the members;
 - 28.2. in any other case, the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other day, time and place as the directors may determine;
 - 28.3. if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the members present (being not less than 7) shall constitute a quorum.

Proxies:

29. A member of the company may assign a proxy to another member of the company
30. A proxy must be signed by the appointed representative of the member giving the proxy, and must be notified in writing to the company secretary 24 hours before the commencement of the meeting
31. The proxy instrument will provide for the member to instruct the proxy to vote in favour or against any proposed resolutions, on notice
32. Proxies shall not be included for the purposes of achieving a quorum

Decision Making:

33. The chairman shall preside at every general meeting of the company
 - 33.1. If there is no chairman, or if the chairman is not present within 15 minutes after the time appointed for the meeting, or if the chairman is unwilling to act, then the deputy chairman shall be preside at the meeting
 - 33.2. If the deputy chairman is not present or is unwilling to act, the members present may elect one of their number to be chairman of the meeting
34. At a general meeting, any resolution put to the vote at the meeting shall be decided on a show of hands unless a secret ballot is called
35. A secret ballot may be called by the Chairman or at least 5 members before the resolution is put to the vote. The demand for a secret ballot may be withdrawn at any time prior to handing ballot papers to members
36. Where a secret ballot is called a scrutineer shall be appointed by the Chairman and they shall conduct the ballot. In any case of doubt as to the formality or otherwise of any ballot paper the scrutineer shall refer the same to the Chairman of the meeting whose decision shall be final
37. A member may vote in person through the appointed representative or by proxy and each member shall have one vote, except for the Chairman of the meeting who have a casting vote as well as their deliberative vote

Meeting Adjournment:

38. The chairman of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
39. Where a meeting has been adjourned for more than 30 days, notice of the adjourned meeting must be given as in the case of the original meeting

THE BOARD OF DIRECTORS

COMPOSITION

40. From the 2012 Annual General Meeting the board of directors shall comprise 9 directors elected by members of the company
41. A director must:
 - 41.1. Be an appointed representative of a member of the company
 - 41.2. Not be an employee of the company
 - 41.3. Represent the interests of the company as a whole rather than those of a particular constituency
42. The office bearers of the company shall comprise:
 - (a) a chairman
 - (b) a deputy chairman
 - (c) a treasurer

ELECTION

43. The requirements for nomination and election of directors shall be as follows:
 - 43.1. Any two members of the company may nominate the duly appointed representative of another member to serve as a director;
 - 43.2. The nomination, signed by the appointed representative of the proposers and by the nominee, shall be lodged with the secretary not less than 21 days before the annual general meeting at which the election is to take place;
 - 43.3. If the number of nominees exceeds the number of vacancies to be filled, notification of an election to be held at the AGM, together with each nominee's biography, will be sent with the AGM notice;
 - 43.4. For the election at the AGM, balloting lists shall be prepared containing only the names of the nominees in alphabetical order;
 - 43.5. Each member present, or their proxy, at the annual general meeting is entitled to vote for any number of such nominees not exceeding the number of vacancies;
 - 43.6. The result of the ballot for election of directors will be announced at the AGM;
 - 43.7. A director elected in accordance with this constitution shall take office at the end of the annual general meeting at which the election occurs and, subject to other provisions of this constitution, shall hold office for 3 years.
 - 43.8. On completion of their term a director may nominate again for a further 3-year term.

CASUAL VACANCIES

44. The board may appoint a specialist in a specific area who is not an authorised representative of a Member to act as a Director if there is a vacancy caused by less than 9 directors standing for election, or if a vacancy occurs as a result of clause 45. Any director appointed by this clause shall be required to retire at the next annual general meeting.
45. The office of director is vacated if the director:
 - 45.1. Dies;
 - 45.2. becomes disqualified from managing a corporation by operation of any order under the Corporations Act 2001;
 - 45.3. becomes insolvent under administration, or makes an arrangement or composition with his or her creditors generally;
 - 45.4. becomes of unsound mind or a person whose person or estate falls within the purview of the protective provisions of any law relating to mental health;
 - 45.5. resigns his or her office by notice in writing to the company;
 - 45.6. ceases to be an appointed representative of a member entity of the company;
 - 45.7. is the appointed representative of a member entity which is suspended from membership by operation of clause 15 of this constitution
 - 45.8. for more than 4 months is absent without permission of the board from meetings of the board held during that period

BOARD POWERS AND DUTIES

46. The business and affairs of the company are to be managed by the board
47. Without limiting the generality of clause 45, the board may exercise all the powers of the company:
 - 47.1. to borrow and raise money;
 - 47.2. consistent with the provisions of clause 10.2 of this constitution, to determine who is authorised on behalf of the company to sign, draw, accept, endorse or otherwise execute cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, receipts, acceptances, endorsements, releases, contracts and documents;
 - 47.3. to pay all costs, charges and expenses incidental to the promotion, management and regulation of the company;
 - 47.4. to make, amend and repeal regulations in relation to the affairs of the company, where such regulation shall not be inconsistent with the Corporations Act 2001, this constitution or the directions of the company in general meeting
 - 47.4.1. any regulation for the time being in force shall be binding on the members of the company as if it were part of this constitution
 - 47.4.2. the company in general meeting shall have the power to amend or disallow any regulation in force from time to time
48. Pursuant to s.204D of the Corporations Act 2001, the board shall appoint a secretary for such term and on such conditions as it thinks fit and may remove any secretary so appointed

49. Except to the extent that is prohibited from so doing by the Corporations Act 2001, the company shall
- 49.1. Indemnify every person who is or has been a director, secretary or other officer of the company against:
 - 49.1.1. any liability other than a liability for legal costs incurred in that company; and
 - 49.1.2. any liability for legal costs incurred in connection with proceedings relating to or in defending an action for a liability incurred in that capacity; and
 - 49.1.3. may pay or agree to pay a premium in respect of a contract insuring any such person against any such liability

BOARD MEETINGS

50. Consistent with statutory requirements, and with the provisions of this constitution, the board of directors shall make such arrangements for the convening and regulation of its meetings as it shall consider appropriate
- 50.1. A meeting of the board may be called or held using any technology allowing all persons participating in a meeting to hear each other at the same time, consented to by all the directors.
 - 50.2. Any director participating in such a meeting is for the purposes of this constitution deemed to be personally present at the meeting
51. A quorum at all board meetings shall be 5 directors
52. The continuing directors may act notwithstanding any vacancy on the board
- 52.1. If the number of directors is reduced to less than the number required for a quorum pursuant to clause 50, the remaining directors may act:
 - 52.1.1. for the purpose of increasing the number of directors;
 - 52.1.2. for the purpose of calling a general meeting of the company; and
 - 52.1.3. for no other purpose
53. Unless otherwise provided by this constitution, questions arising are to be decided by a majority of votes
- 53.1. a determination by a majority of directors present shall be deemed a determination of the directors
 - 53.2. in the event of an equality of votes, the chairman of the meeting has a second or casting vote
54. The chairman of the company must preside at every meeting of the board
- 54.1. when there is no chairman, or if at any meeting the chairman is not present within 15 minutes after the appointed time for the meeting, or if the chairman is not willing to act, the deputy chairman of the company shall be the chairman of the meeting;
 - 54.2. if the deputy chairman is not present, or is not willing to act, the directors present may choose one of their number to be chairman of the meeting

55. Conflicts of interests

55.1. No director may vote on or in relation to any resolution touching upon any contract or proposed contract in which that director has any material interest

55.1.1. a director having a material personal interest in a matter for consideration at any meeting of the board shall not

- a. be present while the matter is being considered at the meeting; or
- b. vote on the matter

55.1.2. Where a director votes in contravention of clause 54.1.1(b), that vote shall be of no value

56. The board may delegate any of its powers to committees. Any committee so formed shall conform to any requirements that may be imposed on it by the Board.

56.1. Notwithstanding the generality of clause 56, the board may not delegate powers which are required to be exercised by the board pursuant to the Corporations Act 2001 or this constitution

57. Resolutions at deemed meetings of directors

57.1. If all of the directors have signed a document containing a statement affirming that they are in favour of a resolution of the board in terms set out in the document, a resolution in those terms is deemed to have been passed at a meeting of the board on the day and at the time when then document was last signed by a director

57.2. For the purpose of clause 56.1, two or more documents containing statements in identical terms each of which is signed by one or more directors are together deemed to constitute one document containing a statement in those terms signed by the directors on the days and at the times when they signed the separate documents

57.3. A reference in clause 56.1 to all of the directors does not include a reference to a director who, at a meeting of the board, would not be entitled to vote on the resolution

58. The board shall cause minutes to be made:

58.1. of the names of the directors present at all meetings of the company and of the board;

58.2. of all of the proceedings at every meeting of the company and of the board;

58.3. of all appointments of officers and servants; and

58.4. such minutes shall be signed by the chairman of the meeting at which the proceedings occurred, or by the chairman of the next succeeding meeting

INCOME, PROPERTY AND FINANCES

59. The income, property and funds of the company shall be applied solely in furtherance of the objects of the company and for no other purpose
60. Except as herein provided, no member entity, director or officer of the company shall receive in any manner a profit or other benefit pecuniary or otherwise from the company by way of dividend, salary, directors' fee, bonus or otherwise, other than:
- 60.1. reimbursement of expenses incurred on the business of the company, duly authorised by the directors or by the company in general meeting;
 - 60.2. remuneration in respect of any service rendered to the company in a capacity other than performance of the duties of a director or officer, where that service is performed on reasonable commercial terms approved by resolution of the board;
 - 60.3. reimbursement of any reasonable amount expended on or in connection with promoting and setting up the company;
 - 60.4. payment in respect of goods supplied in the ordinary course of business;
 - 60.5. remuneration as an employee of the company, provided that the employment be on terms approved in advance by resolution of the board;
 - 60.6. payment of interest on money lent to the company, where the rate of interest shall not exceed the rate of interest from time to time charged or chargeable by the company's principal banker in respect of an overdrawn account of the company;
 - 60.7. payment of reasonable and proper rent for premises leased to the company, the standard of reasonableness to be determined by reference to the market;
61. The financial records of the company shall be maintained in compliance with the requirements of Part 2M.2 of the *Corporations Act 2001*
62. The directors shall be responsible for the implementation of appropriate controls over dealing with the company's funds and property, and in particular and without limiting the generality of this clause:
- 62.1. the funds of the company shall be deposited without addition or deduction in a current account with a bank or financial institution approved as a Trustee Security
 - 62.2. all cheques, drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by any two directors, or by one director and an employee authorised by the board
63. The board shall lay before the company at each annual general meeting, and shall duly distribute copies of every:
- 63.1. annual financial report;
 - 63.2. report of the Chairman for each year;
 - 63.3. report of the auditor(s) on the financial report for the financial year last ended

INSPECTION OF BOOKS

64. Except as is provided for by law, a member of the company has no right to inspect any document of the company unless authorised by the board or by the company in general meeting

SEAL

65. The company seal may not be used except by authority of the board,

66. Every instrument to which the seal is affixed must be attested by the signatures of two Directors, or a Director and the Company Secretary

67. The board shall provide for the safe custody of the company seal

AUDIT

68. The company shall appoint an auditor pursuant to Part 2M.4 Division 6 of the Corporations Act 2001, and do all such things as may be required by that Act to comply with all the requirements of that Division.

WINDING UP

69. Where, upon winding up of the company and after satisfaction of all of its debts and liabilities there remains any property whatsoever, that property shall be returned to the members, provided that any member of the company at the time of such winding up that does not satisfy the qualifying criteria in clause 15 shall be prohibited from participation in any distribution of property.

70. The distribution of property will be based on the final year's member fee as per turnover calculation