

CONSTITUTION OF UCU Ltd

Australian Company Number (ACN) 119 755 627
Australian Business Number (ABN) 33 119 755 627

A company limited by guarantee

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PRELIMINARY

1. Name of Company

The name of the **company** is UCU Ltd (the **company**).

2. Type of Company

The **company** is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a charity.

3. Limited Liability of Members

The liability of Members is limited to the amount of the guarantee in clause 4.

4. The Guarantee

Each Member must contribute an amount not more than \$1.00 (the guarantee) to the property of the **company** if the **company** is wound up while the Member is a Member, or within 12 months after they stop being a Member, and this contribution is required to pay for the:

- a) debts and liabilities of the **company** incurred before the Member stopped being a Member; or
- b) the costs of winding up.

5. Definitions

In this Constitution, words and phrases have the meaning set out in clause 70.

CHARITABLE PURPOSES AND POWERS

6. Objects

6.1. The **company** is established for the principal and charitable purpose of advancing the education of the University's Students in accordance with this clause 6.

6.2. The **company's** objects are to provide amenities, services and facilities for the benefit of Students of the University in pursuit of the principal and charitable purpose set out in clause 6.1. Without limiting the generality of the **company's** objects, the amenities, services and facilities to be provided will include:

- (a) promoting and supporting the interests and engagement of Students of the University through a range of Student Services;

- (b) organising, assisting and subsidising social and cultural events on campus for members of the University Community;
- (c) receiving funding from the University and distributing and administering such funding as the Directors consider appropriate in pursuit of the **company's** principal and charitable purpose and in accordance with the requirements of the Act and Funding Acts;
- (d) entering into such arrangements with the University or any third parties as the **company** considers necessary or desirable to facilitate the attainment of the objects (for example; catering contracts and contracts for event services);
- (e) investing any net returns generated from the **company's** activities for the benefit of Students of the University to enable such returns to continue to deliver Student Services or decrease the amount of funding received by the **company** from the University or other sources;
- (f) ensuring the provision of amenities, services and facilities for the benefit of Students of the University are of a quality and kind that will enhance their experience and advance their studies at the University;
- (g) carrying out the objects in a manner that ensures (to the extent consistent with its other obligations) the views of Student leaders of the University are considered in the planning, resourcing and evaluation of the functions of the **company** in providing Student Services;
- (h) where amenities, services and facilities are to be provided through funding allocated by the University, ensuring the funds are allocated and applied to the purposes for which they are made available; and
- (i) engaging in any other activity or transaction which is incidental or conducive to the attainment of the objects or otherwise considered by the Directors of the **company** for the time being to be in the interests of the **company**, provided that such activity or transaction is incidental or conducive to the attainment of the objects of the University under the Act.

7. Powers

- 7.1. The **company** has all the powers of a company limited by guarantee under the Corporations Act and the ACNC Act, which may only be used to further the objects of the **company** and to carry out its purpose as set out in clause 6.

8. Not-For-Profit Application of Income and Property

- 8.1. The income and property of the **company** must be applied solely towards the promotion of the objects of the **company** and no portion of it may be paid or transferred, directly or indirectly, to any Member of the **company** whether by way of dividend, bonus or other profits of the **company**, except as provided in clauses 8.2 and 9.
- 8.2. Clause 8.1 does not stop the **company** from doing the following things (provided they are done in good faith):
- (a) reasonably and properly remunerating any Member, officer or servant for any services actually rendered or goods supplied in the ordinary and usual course of business to the **company**,
 - (b) paying or reimbursing out-of-pocket expenses properly incurred by a Member, officer or servant of the **company** on behalf of the **company** where the amount payable does not exceed an amount previously approved by the Directors of the **company**;
 - (c) paying rent for premises reasonably and properly let by any Member of the **company** to the **company**; or
 - (d) paying moneys to any Member, officer or servant of the **company**, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer, where the provision of the service has the prior approval of the Directors and where the amount payable is approved by the Directors and is not more than an amount which commercially would be reasonable payment for the service.

9. Amending the Constitution

- 9.1. Subject to clause 9.2, the Members may amend this Constitution by passing a Special Resolution.
- 9.2. The Members must not pass a Special Resolution that amends this Constitution if passing the resolution will cause the **company** to be in breach of or no longer satisfy the conditions as set out in the ACNC Act for the **company** to maintain its status as a Registered Charity.
- 9.3. Any proposed amendment or repeal of this Constitution must have the prior approval of Council.

MEMBERS

10. Membership

- 10.1. The Members of the **company** are:
- (a) The University, and
 - (b) any other person admitted to membership in accordance with this Constitution.

11. Who can be a Member

- 11.1. The only Member of the **company** is the University unless the Council gives its prior approval to the membership of new Members.
- 11.2. If new Members are approved for membership of the **company** by the Council, the procedure for and date of admission and conditions of membership will be determined by the Council at the relevant time.

12. Cessation of membership

- 12.1. The University may not resign its membership, or otherwise cease to be a Member, unless at the time of ceasing there is at least one other Member of the **company**.
- 12.2. Subject to 12.1 a Member may at any time, by giving notice in writing to the secretary, resign as a Member of the **company**. The resignation will be effective from the date of receipt of the notice by the secretary. That Member's name must be removed from the register of Members. Membership of the **company** automatically ceases:
- (a) in the case of a Member who is a natural person, on the date that the Member:
 - i. dies;
 - ii. becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the laws relating to mental health; or
 - iii. becomes bankrupt; or
 - (b) in the case of a Member which is a body corporate, on the date that:
 - i. a liquidator is appointed in connection with the winding-up of the Member; or

- ii. an order is made by a court for the winding-up or de-registration of the Member.

13. Liability for Amounts

- 13.1. Any Member ceasing to be a Member:
 - (a) will remain liable for and must pay to the **company** any moneys which were due and unpaid on the date of ceasing to be a Member; and
 - (b) will remain liable for amounts which the Member is or may become liable to pay under clause 4.

DISPUTE RESOLUTION AND DISCIPLINARY PROCEDURES

14. Dispute Resolution

- 14.1. The dispute resolution procedure in this clause applies to disputes (disagreements) under this Constitution between a Member or Director and:
 - (a) one or more Members;
 - (b) one or more Directors; or
 - (c) the **company**.
- 14.2. A Member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 15 until the disciplinary procedure is completed.
- 14.3. Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 14.4. If those involved in the dispute do not resolve it under clause 14.3, they must within 10 days:
 - (a) tell the Directors about the dispute in writing;
 - (b) agree or request that a mediator be appointed; and
 - (c) attempt in good faith to settle the dispute by mediation.
- 14.5. The mediator must:
 - (a) be chosen by agreement of those involved, or
 - (b) where those involved do not agree:

- i. for disputes between Members, a person chosen by the Directors;
or
 - ii. for other disputes, a person chosen by either the Commissioner of the Australian Charities and Not-for-profits Commission or the president of the law institute or society in the State or Territory in which the company has its registered office.
- 14.6. A mediator chosen by the Directors under clause 14.5(b)i:
 - (a) may be a Member or former Member of the **company**;
 - (b) must not have a personal interest in the dispute; and
 - (c) must not be biased towards or against anyone involved in the dispute.
- 14.7. When conducting the mediation, the mediator must:
 - (a) allow those involved a reasonable chance to be heard;
 - (b) allow those involved a reasonable chance to review any written statements;
 - (c) ensure that those involved are given natural justice; and
 - (d) not make a decision on the dispute.

15. Disciplining Members

- 15.1. In accordance with this clause, the Directors may resolve to warn, suspend or expel a Member (except for the University), from the **company** if the Directors consider:
 - (a) the Member has breached this Constitution; or
 - (b) the Member's behaviour is causing, has caused, or is likely to cause harm to the **company**.
- 15.2. At least 14 days before the Directors' meeting at which a resolution under clause 15.1 will be considered, the secretary must notify the Member in writing:
 - (a) that the Directors are considering a resolution to warn, suspend or expel the Member;
 - (b) that this resolution will be considered at a Directors' meeting and the date of that meeting;
 - (c) what the Member is said to have done or not done;
 - (d) the nature of the resolution that has been proposed; and

- (e) that the Member may provide an explanation to the Directors, and details of how to do so.
- 15.3. Before the Directors pass any resolution under clause 15.1, the Member must be given a chance to explain or defend themselves by:
 - (a) sending the Directors, a written explanation before that Directors' meeting; or
 - (b) speaking at the meeting.
- 15.4. After considering any explanation under clause 15.3, the Directors may:
 - (a) take no further action;
 - (b) warn the Member;
 - (c) suspend the Member's rights as a Member for a period of no more than 12 months;
 - (d) expel the Member;
 - (e) refer the decision to an unbiased, independent person on conditions that the Directors consider appropriate (however, the person can only make a decision that the Directors could have made under this clause); or
 - (f) require the matter to be determined at a General Meeting.
- 15.5. The Directors cannot fine a Member.
- 15.6. The secretary must give written notice to the Member of the decision under clause 15.4 as soon as possible.
- 15.7. Disciplinary procedures must be completed as soon as reasonably practical.
- 15.8. There will be no liability for any loss or injury suffered by the Member as a result of any decision made in good faith under this clause 15.

GENERAL MEETINGS OF MEMBERS

16. General Meetings Called by Directors

- 16.1. The Directors may call a General Meeting.
- 16.2. If Members with at least 5% of the votes that may be cast at a General Meeting make a written request to the **company** for a General Meeting to be held, the Directors must:

- (a) within 21 days of the Members' request, give all Members notice of a General Meeting; and
 - (b) hold the General Meeting within two months of the Members' request.
- 16.3. The percentage of votes that Members have (in clause 16.1) is to be worked out as at midnight before the Members request the meeting.
- 16.4. The Members who make the request for a General Meeting must:
 - (a) state in the request any resolution to be proposed at the meeting;
 - (b) sign the request; and
 - (c) give the request to the **company**.
- 16.5. Separate copies of a document setting out the request may be signed by Members if the wording of the request is the same in each copy.

17. General Meetings called by Members

- 17.1. If the Directors do not call the meeting within 21 days of being requested under clause 16.1, 50% or more of the Members who made the request may call and arrange to hold a General Meeting.
- 17.2. To call and hold a meeting under clause 17.1 the Members must:
 - (a) as far as possible, follow the procedures for General Meetings set out in this Constitution;
 - (b) call the meeting using the list of Members on the **company's** register of Members, which the **company** must provide to the Members making the request at no cost; and
 - (c) hold the General Meeting within two months after the request was given to the **company**.
- 17.3. The **company** must pay the Members who request the General Meeting any reasonable expenses they incur as a result of the Directors not calling or holding the meeting.

18. Annual General Meeting

- 18.1. A general meeting, called the annual General Meeting, may be held, at least once in every calendar year.
- 18.2. The business of an annual General Meeting may include:
 - (a) a review of the **company's** activities;

- (b) a review of the **company's** finances;
 - (c) any auditor's report;
 - (d) the election of Directors; and
 - (e) the appointment and payment of auditors, if any.
- 18.3. Before or at the annual General Meeting, the Directors must give information to the Members on the **company's** activities and finances during the period since the last annual General Meeting.
- 18.4. The chairperson of the annual General Meeting must give Members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **company**.

19. Notice of General Meetings

- 19.1. Notice of a General Meeting must be given to:
- (a) each Member entitled to vote at the meeting;
 - (b) each Director; and
 - (c) the auditor (if any).
- 19.2. Notice of a General Meeting must be provided in writing at least 21 days before the meeting.
- 19.3. Subject to clause (b), notice of a meeting may be provided less than 21 days before the meeting if:
- (a) for an annual General Meeting, all the Members entitled to attend and vote at the annual General Meeting agree beforehand; or
 - (b) for any other General Meeting, Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 19.4. Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- (a) remove a Director;
 - (b) appoint a Director in order to replace a Director who was removed; or
 - (c) remove an auditor.
- 19.5. Notice of a General Meeting must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);

- (b) the general nature of the meeting's business; and
- (c) if applicable, that a Special Resolution is to be proposed and the words of the proposed resolution.

19.6. If a General Meeting is adjourned (put off) for one month or more, the Members must be given new notice of the resumed meeting.

20. Quorum at General Meetings

- 20.1. For a General Meeting to be held, at least one Member (a quorum) must be present (in person or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a representative of more than one Member).
- 20.2. No business may be conducted at a General Meeting if a quorum is not present.
- 20.3. If there is no quorum present within 30 minutes after the starting time stated in the notice of General Meeting, the General Meeting is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
- (a) if the date is not specified – the same day in the next week,
 - (b) if the time is not specified – the same time, and
 - (c) if the place is not specified – the same place.
- 20.4. If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

21. Auditor's Right to Attend Meetings

- 21.1. The auditor (if any) is entitled to attend any General Meeting and to be heard by the Members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 21.2. The **company** must give the auditor (if any) any communications relating to the General Meeting that a Member of the **company** is entitled to receive.

22. Representatives of Members

- 22.1. The University may appoint as a representative:
- (a) one individual to represent the Member at meetings and to sign circular resolutions under clause 30, and
 - (b) the same individual or another individual for the purpose of being appointed or elected as a Director.
- 22.2. The appointment of a representative by a Member must:
- (a) be in writing;
 - (b) include the name of the representative;
 - (c) be signed on behalf of the Member; and
 - (d) be given to the **company** or, for representation at a meeting, be given to the chairperson before the meeting starts.
- 22.3. A representative has all the rights of a Member relevant to the purposes of the appointment as a representative.
- 22.4. The appointment may be standing (ongoing).

23. Using Technology to hold Meetings

- 23.1. The **company** may hold a General Meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate, including to hear and be heard.
- 23.2. Anyone using this technology is taken to be present in person at the meeting.

24. Chairperson for General Meetings

- 24.1. The Elected Chairperson is entitled to chair General Meetings.
- 24.2. The Members present and entitled to vote at a general meeting may choose a Director or Member to be the chairperson for that meeting if:
- (a) there is no Elected Chairperson;
 - (b) the Elected Chairperson is not present within 30 minutes after the starting time set for the meeting; or
 - (c) the Elected Chairperson is present but says they do not wish to act as chairperson of the meeting.

25. Role of the Chairperson

- 25.1. The chairperson is responsible for the conduct of the General Meeting and for this purpose must give Members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- 25.2. The chairperson does not have a casting vote.

26. Adjournment of Meetings

- 26.1. If a quorum is present, a General Meeting must be adjourned if a majority of Members present direct the chairperson to adjourn it.
- 26.2. Only unfinished business may be dealt with at a meeting resumed after an adjournment.

MEMBERS' RESOLUTIONS AND STATEMENTS

27. Single Member

- 27.1. Nothing in this Constitution limits the **company's** power under the Corporations Act to pass a resolution as a circulating resolution or, while the **company** has only one Member, by recording the resolution and signing the record.
- 27.2. Where the **company** has one Member only, a document signed by that Member which records a decision of the Member:
 - (a) constitutes a decision of the **company** and is valid and effective as if it were a resolution duly passed at a meeting of Members; and
 - (b) has effect as a minute of that decision.

28. Members' Resolutions and Statements

- 28.1. Members with at least 5% of the votes that may be cast on a resolution may give:
 - (a) written notice to the **company** of a resolution they propose to move at a General Meeting (**Members' resolution**); or
 - (b) a written request to the **company** that the **company** give all of its Members a statement about a proposed resolution or any other matter that may properly be considered at a General Meeting (**Members' statement**).

- 28.2. A notice of a Members' resolution must set out the wording of the proposed resolution and be signed by the Members proposing the resolution.
- 28.3. A request to distribute a Members' statement must set out the statement to be distributed and be signed by the Members making the request.
- 28.4. Separate copies of a document setting out the notice or request may be signed by Members if the wording is the same in each copy.
- 28.5. The percentage of votes that Members have (as described in clause 28.1) is to be worked out as at midnight before the request or notice is given to the **company**.
- 28.6. If the **company** has been given notice of a Members' resolution under clause 28.1(a), the resolution must be considered at the next General Meeting held no more than two months after the notice is given.
- 28.7. This clause does not limit any other right that a Member has to propose a resolution at a General Meeting.

29. Company Must Give Notice of Proposed Resolution or Distribute Statement

- 29.1. If the **company** has been given a notice or request under clause 28:
- (a) in time to send the notice of proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting, it must do so at the **company's** cost; or
 - (b) too late to send the notice of proposed Members' resolution or a copy of the Members' statement to Members with a notice of meeting, then the Members who proposed the resolution or made the request must pay the expenses reasonably incurred by the **company** in giving Members notice of the proposed Members' resolution or a copy of the Members' statement. However, at a General Meeting, the Members may pass a resolution that the **company** will pay these expenses.
- 29.2. The **company** does not need to send the notice of proposed Members' resolution or a copy of the Members' statement to Members if:
- (a) it is more than 1,000 words long;
 - (b) the Directors consider it may be defamatory;
 - (c) clause 29.1(b) applies, and the Members who proposed the resolution or made the request have not paid the **company** enough money to cover the cost of sending the notice of the proposed Members' resolution or a copy of the Members' statement to Members; or

- (d) in the case of a proposed Members' resolution, the resolution does not relate to a matter that may be properly considered at a General Meeting or is otherwise not a valid resolution able to be put to the Members.

30. Circular Resolutions of Members

- 30.1. Subject to clause 30.2, the Directors may put a resolution to the Members to pass a resolution without a General Meeting being held (**circular resolution**).
- 30.2. The Directors must notify the auditor (if any) as soon as possible that a circular resolution has or will be put to Members and set out the wording of the resolution.
- 30.3. Circular resolutions cannot be used:
 - (a) for a resolution to remove an auditor, appoint a Director or remove a Director; or
 - (b) where the Corporations Act or this Constitution requires a meeting to be held.
- 30.4. A circular resolution is passed if all the Members entitled to vote on the resolution sign or agree to the circular resolution, in the manner set out in clause 30.4 or clause 30.6.
- 30.5. Members may sign:
 - (a) a single document setting out the circular resolution and containing a statement that they agree to the resolution; or
 - (b) separate copies of that document, as long as the wording is the same in each copy.
- 30.6. The **company** may send a circular resolution by email to Members and Members may agree by sending a reply email to that effect, including the text of the resolution in their reply.

VOTING AT GENERAL MEETINGS

31. How Many Votes a Member has

- 31.1. Each Member has one vote.

32. Challenge to Member's Right to Vote

- 32.1. Only a Member or the chairperson may challenge a person's right to vote at a General Meeting.
- 32.2. If a challenge is made under clause 32.1, the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

33. How Voting is Carried Out

- 33.1. Voting must be conducted and decided by:
 - (a) a show of hands;
 - (b) a vote in writing; or
 - (c) another method chosen by the chairperson that is fair and reasonable in the circumstances.
- 33.2. On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- 33.3. The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

34. When and How a Vote In-Writing Must Be Held

- 34.1. A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
 - (a) at least five Members present;
 - (b) Members present with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded); or
 - (c) the chairperson.
- 34.2. A vote in writing must be taken when and how the chairperson directs, unless clause 34.2 applies.
- 34.3. A vote in writing must be held immediately if it is demanded under clause 34.1:
 - (a) for the election of a chairperson under clause 24.1; or
 - (b) to decide whether to adjourn the meeting.
- 34.4. A demand for a vote in writing may be withdrawn.

DIRECTORS

35. Number of Directors

- 35.1. The **company** must have at least four and no more than nine Directors.

36. Appointment, Eligibility and Composition of the Board

- 36.1. The Board will comprise of Directors nominated by the Vice-Chancellor and approved by Council.
- 36.2. At least one Director must be independent, meaning they must not be an officer, Council member or student of the University.
- 36.3. The Vice-Chancellor may remove and replace any Director with the prior approval of Council.
- 36.4. A person is eligible for appointment as a Director of the **company** if they:
- (a) have the prior approval of Council to their appointment;
 - (b) give the **company** their signed consent to act as a Director of the **company**; and
 - (c) are not ineligible to be a Director under the Corporations Act or the ACNC Act.
- 36.5. Unless otherwise determined by the **company** in a General Meeting, a Director need not be a Member of the **company** as a qualification for office.
- 36.6. All acts done by any meeting of the Directors, committee of Directors, or person acting as a Director are valid notwithstanding any defect in the appointment of a person.

37. Executive Directors

- 37.1. The initial executive directors shall be comprised of:
- (a) the Elected Chairperson; and
 - (b) the secretary.

38. Election of Chair and other Executive Directors

- 38.1. The Directors must elect a Director as the **company's** Elected Chairperson.

- 38.2. Following election of the Elected Chairperson, all other executive director positions shall be elected by the Directors.
- 38.3. All elections are by show of hands.
- 38.4. The Elected Chairperson has a casting vote.

39. Term of Office and Vacancies

- 39.1. Each Director must retire after three years from the date of their appointment.
- 39.2. A Director who retires under clause 39.1 may seek reappointment for a further three years.
- 39.3. If any vacancy occurs in the Board for any reason, that vacancy must be filled within two calendar months (or such longer period as the Directors may otherwise resolve) by the remaining Directors, who must in each case appoint a person nominated by the Vice-Chancellor and approved by Council.
- 39.4. The person filling the vacancy is appointed for the remainder of the term of office of the Director who created the vacancy.
- 39.5. All such appointments must be made in writing and signed by a majority of the continuing Directors.

40. When a Director stops being a Director

- 40.1. A Director stops being a Director if they:
 - (a) give written notice of resignation as a director to the **company**;
 - (b) die;
 - (c) are removed as a director by the Vice-Chancellor;
 - (d) are absent for three consecutive Directors' meetings without approval from the Directors; or
 - (e) become ineligible to be a Director of the **company** under the Corporations Act or the ACNC Act.

POWERS OF DIRECTORS

41. Powers of Directors

- 41.1. The Directors are responsible for managing and directing the activities of the **company** to achieve the objects and purposes set out in clause 6.
- 41.2. The Directors may use all the powers of the **company** except for powers that, under the Corporations Act, the ACNC Act or this Constitution, may only be used by Members or the Vice-Chancellor.
- 41.3. The Directors must decide on the responsible financial management of the **company** in accordance with the University's financial guidelines and the Funding Acts including:
- (a) any suitable written delegations of power; and
 - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 41.4. The Directors cannot remove an auditor. Auditors may only be removed by a Members' resolution at a General Meeting in accordance with the requirements of the Corporations Act.
- 41.5. If the number of Directors is reduced to fewer than four the continuing Directors may act for the purpose of increasing the number of Directors to four (or higher if required for a quorum) or calling a General Meeting, but for no other purpose.

42. Appointment of Chief Executive Officer

- 42.1. The Directors may, on the terms and conditions and with any restrictions as they think fit:
- (a) appoint and confer powers upon on a chief executive officer; and
 - (b) appoint a person as acting chief executive officer during any period of temporary absence of the chief executive officer.

43. Delegation of Directors' Powers

- 43.1. The Directors may delegate any of their powers and functions to a committee, a Director, an employee of the **company** (such as a chief executive officer) or any other person, as they consider appropriate.

43.2. The delegation must be recorded in the **company's** minute book.

44. Payments to Directors

44.1. The **company** must not pay fees to a Director for acting as a Director.

44.2. The **company** may:

- (a) engage a Director as an employee or in any other capacity (other than auditor), and in respect of that engagement may be appointed on terms as to remuneration, tenure of office and otherwise as agreed by the Directors if the amount is no more than a reasonable fee for the work done, or
- (b) reimburse a Director for expenses properly incurred by the Director in connection with the affairs of the **company**.

44.3. Any payment made under clause 44.1 must be approved by the Directors.

44.4. The **company** may pay premiums for insurance indemnifying directors, as allowed for by law (including the Corporations Act) and this Constitution.

45. Execution of Documents

45.1. The **company** may execute a document without using a common seal if the document is signed by:

- (a) two Directors of the **company**, or
- (b) a Director and the secretary.

DUTIES OF DIRECTORS

46. Duties of Directors

46.1. The Directors must comply with their duties as Directors under legislation and common law, including but not limited to the Corporations Act, ACNC Act and with the duties described in Governance Standard 5 of the regulations made under the ACNC Act which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a Director of the **company**;
- (b) to act in good faith in the best interests of the **company** and the University;

- (c) to further the charitable purpose(s) of the **company** set out in clause 6;
- (d) not to misuse their position as a Director;
- (e) not to misuse information they gain in their role as a Director;
- (f) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 47;
- (g) to ensure that the financial affairs of the **company** are managed responsibly; and
- (h) not to allow the **company** to operate while it is insolvent.

47. Conflicts of Interest

- 47.1. A Director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution):
- (a) to the other Directors; or
 - (b) if all of the Directors have the same conflict of interest, to the Members at the next General Meeting, or at an earlier time if reasonable to do so.
- 47.2. The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.
- 47.3. Each Director who has a material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution) must not, except as provided under clause (b):
- (a) be present at the meeting while the matter is being discussed; or
 - (b) vote on the matter.
- 47.4. A Director who has a material personal interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution) may still be present and vote if:
- (a) their interest arises because they are a Member of the **company** and the other Members have the same interest;
 - (b) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the **company** (see clause 65);
 - (c) their interest relates to a payment by the **company** under clause 64 (indemnity) or any contract relating to an indemnity that is allowed under the Corporations Act;

- (d) the Australian Securities and Investments Commission (**ASIC**) makes an order allowing the Director to vote on the matter; or
- (e) the Directors who do not have a material personal interest in the matter pass a resolution that:
 - i. identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the **company**; and
 - ii. says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

DIRECTORS' MEETINGS

48. Directors Meetings

- 48.1. The Directors may decide how often, where and when they meet.
- 48.2. Notwithstanding clause 48.1, the Directors must meet at least four times per annum including any General Meeting.
- 48.3. The chairperson may invite a Student who is a member of the University Student Representative Council (**SRC**), or Students who are members of the SRC to attend a Directors' Meeting.

49. Calling Directors' Meetings

- 49.1. A Director may call a Directors' meeting by giving at least 72 hours notice to all of the other Directors.
- 49.2. A Director may give notice in writing or by any other means of communication that has previously been agreed to by all of the Directors.

50. Chairperson for Directors' Meetings

- 50.1. The Elected Chairperson is entitled to chair Directors' meetings.
- 50.2. Where a Directors' meeting is held and:
 - (a) there is no chairperson; or
 - (b) the chairperson is not present within 15 minutes after the time appointed for the meeting or does not wish to act as chairperson of the meeting,the Directors present may choose one of their number to be chairperson of the meeting.

51. Quorum at Directors' Meetings

- 51.1. Unless the Directors determine otherwise, the quorum for a Directors' meeting is a majority (more than 50%) of Directors.
- 51.2. A quorum must be present for the whole of the Directors' meeting.

52. Using Technology to Hold Directors' Meetings

- 52.1. The Directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the Directors.
- 52.2. The Directors' agreement may be a standing (ongoing) one.

53. Passing Directors' Resolutions

- 53.1. A Directors' resolution must be passed by a majority of the votes cast by Directors present and entitled to vote on the resolution.

54. Circular Resolutions of Directors

- 54.1. The Directors may pass a circular resolution without a Directors' meeting being held.
- 54.2. A circular resolution is passed if all the Directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 54.2 or clause (b).
- 54.3. Each Director may sign:
 - (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 54.4. The **company** may send a circular resolution by email to the Directors and the Directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- 54.5. A circular resolution is passed when the last Director signs or otherwise agrees to the resolution in the manner set out in clause 54.2 or clause (b).

SECRETARY

55. Role of Secretary

- 55.1. The role of the secretary includes but is not limited to:
- (a) such duties as are required of a company secretary by the Corporations Act and the ACNC Act;
 - (b) those duties required of that individual by this Constitution;
 - (c) such other duties as may at any time be directed by this Constitution;
 - (d) maintaining a register of the **company's** Members; and
 - (e) maintaining the minutes and other records of General Meetings (including notices of meetings), Directors' meetings and circular resolutions.

MINUTES, RECORDS AND INSPECTION

56. Minutes

- 56.1. The **company** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of General Meetings;
 - (b) minutes of circular resolutions of members;
 - (c) a copy of a notice of each General Meeting; and
 - (d) a copy of a Members' statement distributed to Members under clause 28.
- 56.2. The **company** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of Directors' meetings (including meetings of any committees), and
 - (b) minutes of circular resolutions of Directors.
- 56.3. The Directors must ensure that minutes of a General Meeting or a Directors' meeting are signed within a reasonable time after the meeting by:
- (a) the chairperson of the meeting, or
 - (b) the chairperson of the next meeting.
- 56.4. The Directors must ensure that minutes of the passing of a circular resolution (of Members or Directors) are signed by a Director within a reasonable time after the resolution is passed.

57. Financial and Related Records

- 57.1. The **company** must make and keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance; and
 - (b) enable true and fair financial statements to be prepared and to be audited.
- 57.2. The **company** must also keep written records that correctly record its operations.
- 57.3. The **company** must retain its records for at least seven years.
- 57.4. The Directors must take reasonable steps to ensure that the **company's** records are kept safe.
- 57.5. The Directors must ensure that the **company** will comply, and assist the University to comply, with the provisions of the Act and the Funding Acts relating to accounts and audit.
- 57.6. The **company** must cause a report by a registered company auditor on the accounts of the **company** to be made every 12 months and to be submitted to the Council within three months after the end of each 12 month period to which the report relates.
- 57.7. In addition to its other financial obligations under this clause, the **company** must cause reports to be made in accordance with the University Controlled and Related Entities Policy as in force from time to time.

58. Inspection

- 58.1. The University may inspect books of the **company** at any time.
- 58.2. The Directors may authorise any other Member to inspect books of the **company** to the extent, at the time and places and under the conditions that the Directors consider appropriate.
- 58.3. A Member (other than a Director or the University) does not have the right to inspect any document of the **company** except as provided by the Corporations Act or as authorised by the Directors.

NOTICE

59. What is Notice?

- 59.1. Anything written to or from the **company** under any clause in this Constitution is written notice and is subject to clauses 60 to 62, unless specified otherwise.

60. Notice to the Company

- 60.1. Written notice or any communication under this Constitution may be given to the **company**, the Directors or the secretary by:
- (a) delivering it to the **company's** registered office;
 - (b) posting it to the **company's** registered office or to another address chosen by the **company** for notice to be provided; or
 - (c) sending it to an email address or other electronic address notified by the **company** to the Members as the **company's** email address or other electronic address.

61. Notice to Members

- 61.1. Written notice or any communication under this Constitution may be given to a Member:
- (a) in person
 - (b) by posting it to, or leaving it at the address of the Member in the register of Members or an alternative address (if any) nominated by the Member for service of notices;
 - (c) sending it to the email or other electronic address nominated by the Member as an alternative address for service of notices (if any); or
 - (d) if agreed to by the Member, by notifying the Member at an email or other electronic address nominated by the Member that the notice is available at a specified place or address (including an electronic address).
- 61.2. If the **company** does not have an address for the Member, the **company** is not required to give notice in person.

62. When Notice is Taken to Be Given

- 62.1. A notice:
- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered;
 - (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs; or
 - (c) sent by email or other electronic method, is taken to be given on the business day after it is sent.

FINANCIAL YEAR

63. Company's Financial Year

- 63.1. The **company's** financial year is from 1 January to 31 December, unless the Directors pass a resolution to change the financial year.

INDEMNITY, INSURANCE AND ACCESS

64. Indemnity

- 64.1. The **company** indemnifies each officer of the **company** out of the assets of the **company**, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the **company**.
- 64.2. In this clause, 'officer' means a Director or secretary and includes a Director or secretary after they have ceased to hold that office.
- 64.3. In this clause, 'to the relevant extent' means:
- (a) to the extent that the **company** is not precluded by law (including the Corporations Act) from doing so; and
 - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 64.4. The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **company**.

65. Insurance

- 65.1. To the extent permitted by law (including the Corporations Act), and if the Directors consider it appropriate, the **company** may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the **company** against any liability incurred by the person as an officer of the **company**.

66. Directors' Access to Documents

- 66.1. A Director has a right of access to the financial records of the **company** at all reasonable times.
- 66.2. If the Directors agree, the **company** must give a Director or former Director access to:
- (a) certain documents, including documents provided for or available to the Directors; and
 - (b) any other documents referred to in those documents.

WINDING UP

67. Surplus Assets not to be Distributed to Members

- 67.1. If the **company** is wound up, any surplus assets must not be distributed to a Member or a former Member of the **company**, unless that Member or former Member is a charity described in clause 68.1.

68. Distribution of Surplus Assets

- 68.1. Subject to the Corporations Act, the Act, any other applicable law or a court order, any Surplus Assets that remain after the **company** is wound up must be distributed to one or more charities:
- (a) with charitable purpose(s) similar to, or inclusive of, the purpose(s) in clause 6; and
 - (b) which also prohibit the distribution of any Surplus Assets to its Members to at least the same extent as the **company**.
- 68.2. The decision as to the charity or charities to be given the Surplus Assets must be made by a Special Resolution of Members at or before the time of winding up. If the Members do not make this decision, the **company** may apply to the Supreme Court to make this decision.

COUNCIL AND FINANCE COMMITTEE

69. Reporting to the University

- 69.1. This clause 69 applies for as long as the University is the sole Member of the **company**.
- 69.2. Any decision of the Directors of the **company** that falls within the following thresholds must be approved by the Finance Committee of Council (which may in turn refer it to Council) before it is put into effect:
- (a) the investment of an amount greater than the Expenditure Threshold by the **company** in any venture or capital acquisition;
 - (b) the purchase or sale of an asset for an amount greater than the Expenditure Threshold;
 - (c) the commencement or cessation or purchase or sale of an operation which, on a financial year basis, represents or is budgeted to represent 15% or more of the revenue of the **company**;
 - (d) the entering into of a contract which involves the expenditure of an amount greater than the Expenditure Threshold over the life of the contract; or
 - (e) the creation or closing by the **company** of any subsidiary or controlled entity.
- 69.3. The Directors are authorised to act in the best interests of the University in the circumstances contemplated by section 187 of the Corporations Act.

DEFINITIONS AND INTERPRETATION

70. Definitions

- 70.1. In this Constitution:

Act means the *University of Canberra Act 1989* (ACT).

ACNC Act means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth).

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

Council means the Council of the University of Canberra.

Director/s means the Directors of the **company** in office at any given time.

Elected Chairperson means a person elected by the Directors to be the **company's** chairperson under clause 38.

Expenditure Threshold means the expenditure limit above which the approval of Council or a standing committee of Council is required, as notified to the **company** in writing or as published from time to time in the University's policy on delegation of expenditure authority or other financial delegation documents.

Funding Acts means the *Higher Education Funding Act 1988* (Cth) and the *Higher Education Support Act 2003* (Cth).

General Meeting means a meeting of Members and includes the annual general meeting, under clause 18.

Member/s means any person entered into the Register of Members as a Member of the **company**.

Registered Charity means a charity that is registered under the ACNC Act.

Special Resolution means a resolution:

- (a) of which notice has been given under clause 19.5(c); and
- (b) that has been passed by at least 75% of the votes cast by Members present and entitled to vote on the resolution.

Student means a person enrolled in a course of study including a higher degree by research, at the University.

Student Services means events, support and activities including:

- (a) organising, assisting and subsidising sporting and recreational programs for members of the University Community including managing sporting and recreational facilities on campus;
- (b) providing spaces for meetings and gatherings for the University Community;
- (c) providing a range of appropriate, and appropriately priced food and beverage options for purchase by Students;
- (d) providing a range of appropriate food and beverage options for purchase by staff of the University, guests and visitors, including the provision of on campus catering functions;
- (e) providing personal and professional development opportunities for Students to be involved in the **company** activities (for example; event planning, marketing, sports management; community radio); and
- (f) encouraging the continuing involvement of alums in the life of the University and connecting alums to current Students.

Surplus Assets means any assets of the **company** that remain after paying all debts and other liabilities of the **company**, including the costs of winding up.

University means:

- (a) when referred to in a geographical sense, the place known as “the University of Canberra”; and
- (b) when referred to in any other sense, the body corporate known as University of Canberra ABN 81 633 873 422.

University Community includes persons employed by the University, students, members of Council, consultants of the University and persons attending the University campus for functions and events.

Vice-Chancellor means the Vice-Chancellor of the University.

71. Interpretation

71.1. In this Constitution:

- (a) a reference to the **company** is a reference to UCU Ltd (ACN 119 755 627), a not-for-profit public company limited by guarantee;
- (b) words in the singular include the plural and vice versa;
- (c) the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (d) the words ‘including’, ‘for example’, or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression; and
- (e) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).

72. Corporations Act and ACNC Act

72.1. The replaceable rules set out in the Corporations Act are displaced by this Constitution and do not apply to the **company**.

72.2. In the event that any of the provisions of this Constitution are in breach of any of the provisions of the ACNC Act or the Corporations Act then the provisions will be read down to the extent that they will comply with the ACNC Act and Corporations Act and any provision that is in breach of those Acts will be deemed to be struck out and will not form part of this Constitution.

CONSTITUTION OF UCU Ltd

- 72.3. Unless the context requires otherwise, a word or expression that is defined in the Corporations Act or the ACNC Act, or used in the Corporations Act or the ACNC Act and covering the same subject, has the same meaning as in this Constitution.