

PUBLIC COMPANY LIMITED BY GUARANTEE (NOT-FOR-PROFIT)

Constitution of Grok Academy Limited
ACN 643 542 054

Released under FOI Act 1982
Australian Charities and Not-for-profits Commission

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CONSTITUTION OF GROK ACADEMY LIMITED

1. NAME OF THE COMPANY AND PRELIMINARY

1.1 Name of Company

The name of the Company is Grok Academy Limited.

1.2 Replaceable Rules

The Replaceable Rules do not apply to the Company.

1.3 Interpretation of this Constitution

Definitions and rules of interpretation for this Constitution appear at clause 26.

2. NATURE OF THE COMPANY

- (a) The Company is a not for profit company limited by guarantee and the Company is prohibited from doing anything to change its not for profit status.
- (b) The liability of the Members is limited.
- (c) Every Member undertakes to contribute \$50 to the assets of the Company if it is wound up while they are a Member, or within one year afterwards.

3. PURPOSE

3.1 Purpose of the Company

The purpose of the Company is to advance education and research by educating all learners in transformative computing knowledge, skills, and dispositions, empowering them to meet the challenges and seize the opportunities of the future.

Computing encompasses basic digital literacy through to advanced computer science and related disciplines, and the application of these skills across all disciplines.

3.2 How the Purpose will be achieved

The purpose will be achieved by using one or more of the following:

- (a) researching, developing and delivering educational technology for computing;
- (b) undertaking scientific research into computing education and pedagogy;
- (c) designing and delivering educational resources and programmes in computing;
- (d) teaching and learning in computing;
- (e) training and supporting educators in computing and its pedagogy;
- (f) providing intellectual, technical, and practical leadership in computing education;

- (g) providing expertise and consulting for computing curricula and their implementation;
- (h) integrating the teaching of computing across all disciplines;
- (i) advocating for computing education for all learners, especially under-represented groups; and
- (j) any other activity that contributes to furthering the purpose.

3.3 Tax Concession Charity

- (a) The objects of the Company must be consistent with its requirements to maintain its tax concession charity and deductible gift recipient status (if any) and the Company is prohibited from doing anything to jeopardise this status or including an object or purpose which is inconsistent with either of the following:
 - (i) its not for profit status; or
 - (ii) its tax concession charity and if applicable, its deductible gift recipient status.

3.4 Prohibited Acts

- (a) The Company does not have the power to:
 - (i) issue shares of any kind; or
 - (ii) pay, transfer, apply, directly or indirectly, any portion of the income and property of the Company, by way of dividend, bonus or otherwise howsoever by way of profit, to or for the benefit of a Member.
- (b) The Company must not be operated for the purpose of the profit or gain of any Member.
- (c) Nothing in this Constitution authorises the Company to do an act that is prohibited by law of a State or a Territory of Australia or gives the Company a right that the law of a State or Territory of Australia denies to the Company.
- (d) Even though section 124(1) of the Act may prescribe additional purposes and powers, the Company may only act in furtherance of the purpose described in clause 3.1.

4. MEMBERSHIP

4.1 Membership

- (a) The Members of the Company include the Initial Members and any person and body corporate who support the Purpose of the Company and whom the Board admits to membership in accordance with this Constitution.
- (b) The Board may accept or decline an application for membership and is not bound to give reasons why an application is not accepted.

- (c) Subject to this Constitution, the Board may at its discretion create classes of membership using any criteria the Board alone determines. The Board may not delete a class except as approved by Special Resolution of the Members in general meeting.
- (d) This Constitution forms a contract between the Company and each Member, and between the Members. If the Board requires it, each Member shall execute an undertaking to be bound by this Constitution.
- (e) Membership is personal to each Member and is not transferable.

4.2 Classes of Membership

Initially, the Members of the Company shall be in the following classes:

- (a) Ordinary Members who shall have the right to attend Annual General meetings and shall have equal voting and other rights as designated by this Constitution;
- (b) Individual Members who shall have the right to attend and speak at Annual General meetings but shall not have voting rights;
- (c) Institutional Members who shall have the right to appoint a Representative to attend and speak at Annual General meetings but shall not have voting rights; and
- (d) Foundation Institutional Members who are Institutional Members that may additionally appoint a Representative to the Board at the discretion of the Ordinary Members.

4.3 Becoming a Member

Membership is open to such individuals or bodies corporate as may be admitted by the Board in its discretion. The Board may prescribe the form of application for Membership.

4.4 Notifying Member of Admission

Following admission of a new Member, the Secretary must promptly:

- (a) notify the Member in writing of the admission to membership and
- (b) cause the required details to be entered in the Register.

4.5 Ongoing Member Obligations and Rights

- (a) The Members of the Company agree to be bound by the provisions of this Constitution and relevant by-laws and Rules approved by the Board from time to time.
- (b) Subject to clause 4.1, for so long as a Member abides by the provisions of this Constitution, the Member shall enjoy the rights and privileges of membership under this Constitution and the Act.

- (c) The rights and privileges of every Member are personal to that Member and may not be transferable by any act of that Member or by operation of law.
- (d) Members shall indicate their membership of the Company only in such form and manner and subject to any conditions in any by-laws or Rules approved by the Board from time to time.
- (e) Each Member shall notify the Secretary of any change in the circumstances of the Member which may affect the Member's continued entitlement to membership or class of membership.

4.6 Register of Members

- (a) A Register of the Members must be kept in accordance with the Act.
- (b) The following details must be entered and kept current in the Register in respect of each Member:
 - (i) The full name and contact details (including an email address) of the Member.
 - (ii) The date of admission to and cessation of membership.
 - (iii) Such other information as the Board requires.
- (c) Each Member is responsible to notify the Secretary in writing of any change in that person's name, address, telephone or email address within one month after the change.

4.7 Matters Requiring Prior Written Agreement of Members

Each of the matters requiring prior written agreement of Members entitled to vote are described in Schedule 3.

5. REMOVAL AND CESSATION OF MEMBERSHIP

A Member may resign from membership of the Company by giving Written Notice to the Secretary, and the resignation shall take effect from the date of receipt of the notice of resignation or such later date as may be stated in the notice.

5.1 Removal from Membership

- (a) Subject to clause 5.1(b), a Member may be removed by special resolution of the Members with a right to vote at a general meeting.
- (b) The following provisions must be fulfilled before a Member can be removed by a resolution of the Members under clause 5.1(a):
 - (i) A majority of the Directors must agree that the Member has failed to comply with a provision of this Constitution or is otherwise no longer considered suitable to be a Member.

- (ii) The Board must give at least two months' Written Notice to the Member of the intention to terminate their membership and the grounds of the intended termination.
- (iii) The Member must be invited, in the Written Notice, to provide to the Board any written representations which the Member wishes the meeting of Members to consider.
- (iv) If the Member makes written representations, and requests that they be notified to the other Members, in sufficient time before the notices of meeting are sent to the Members, the Board must ensure that a copy of the representations is included in the notices calling the meeting.
- (v) If copies of the representations have not been included in the notices of meeting, for any reason, the Member may require the representations to be read out at the meeting.
- (vi) Whether or not representations have been circulated or read, the Member must be given a full and fair opportunity to address the meeting.

5.2 Other Grounds Cessation of Membership

A Member ceases to be a Member:

- (a) if the Member is subject to an act of bankruptcy or insolvency unless the directors, in their discretion, form the opinion that the member may remain a member;
- (b) if the Member, being a company, ceases carrying on a business or is dissolved;
- (c) if the Member becomes of unsound mind or becomes liable to be dealt with in any way under a law relating to mental health and in either case the directors, acting reasonably, form the opinion that the Member no longer has capacity to contribute as a Member;
- (d) the Member has not responded within three months to a written request from the Secretary that they confirm in writing that they want to remain a member; or
- (e) if the Member dies.

5.3 Effect of Cessation of Membership

- (a) Any Member who has been removed as a Member under clause 5.1 or ceases to be a member under clause 5.3 is not entitled to enjoy any of the privileges of membership including receiving notice of, attendance and voting at, any meeting of Members.
- (b) Any Member whose membership has ceased for any reason continues to remain liable for:
 - (i) all money owing by the Member to the Company as at the date of cessation of membership; and

- (ii) subject to clause 2(c), the Guarantee.
- (c) Whenever any person or company ceases to be a Member, the Board shall direct that his or her name or the company's name shall be removed from the Register of Members.

6. NO PROFITS FOR MEMBERS

6.1 Transfer of Income or Property

Subject to clause 6.2, all of the assets and income of the Company shall be applied solely in the furtherance of the objects of the Company and no portion shall be distributed directly or indirectly to any Member.

6.2 Payments, Services and Information

Nothing in clause 6.1 or this Constitution prevents the payment, in good faith, of an amount, calculated on arm's length terms, in respect of:

- (a) professional or technical services actually rendered by a Member to the Company;
- (b) goods supplied to the Company by a Member in the ordinary and usual course of business;
- (c) interest (at a rate not exceeding the lowest rate paid for the time being by the Company's bankers) on term deposits on money borrowed from any Member; or
- (d) reasonable and proper rent for premises demised or let by any Member.
- (e) remuneration payable to a Director or employee of the Company, who is also a Member for professional or technical services actually rendered to the Company in a manner governed by clause 12.1(b); or
- (f) expenses incurred by a Director as specified in clause 12.1(b); or
- (g) reimbursement of reasonable travelling and other expenses incurred by a Member when engaged in the affairs or business of the Company as approved by the Board, the CEO or the Deputy CEO.

7. GENERAL MEETINGS

7.1 Convening of Meetings

The Chair or any Director may at any time request the Secretary to convene a general meeting of the Members and the Secretary must comply with all such requests.

7.2 Notice of General Meeting

- (a) Notice of the meeting of Members must be given individually to each Member entitled to vote at the meeting and to each Director.
- (b) Notice of a general meeting:

- (i) may be given by any form of communication permitted by the Act; and
- (ii) must specify the place, the day and the hour of meeting, the general nature of the business to be transacted and any other matters as are required by the Act.

(c) The Company shall give of no less than 21 days' notice of meeting of Members in accordance with this clause 7.2.

(d) Except for resolutions of Members under section 203D of the Act, the Company may call:

- (i) an Annual General Meeting on shorter notice if all Members entitled to attend and vote at the Annual General Meeting agree beforehand; and
- (ii) any other meeting of Members on shorter notice if all Members entitled to attend and vote at that meeting agree beforehand.

(e) The Company must give the Auditor:

- (i) notice of a general meeting in the same way that a Member is entitled to receive notice; and
- (ii) any other communication relating to the general meeting that a Member is entitled to receive.

(f) The accidental omission to give notice of any general meeting to, or the non-receipt of a notice by, a person entitled to receive notice does not invalidate a resolution passed at the general meeting.

7.3 Cancellation of General Meetings

- (a) The Directors may cancel a general meeting, other than a general meeting which they are required to convene and hold under the Act.
- (b) A meeting may only be cancelled in accordance with clause 7.3(a) if notice of the cancellation is given to all persons entitled to receive notice of the meeting at least two business days prior to the time of the meeting as specified in the notice of meeting.

7.4 Quorum at General Meetings

- (a) A quorum for the purposes of a general meeting of Members shall be at least 66% of the Members who have the right to vote, whether present personally or electronically, by their Representative or by proxy and a quorum must be present at all times during a general meeting.
- (b) In determining whether a quorum is present:
 - (i) individuals who attend as proxies or Representatives are to be counted;

- (ii) if a Member has appointed more than one proxy or Representative, only one of them is to be counted; and
- (iii) if an individual is attending both as a Member and as a proxy or Representative, they are to be counted in their own right as a Member and for each of the proxies the member holds or as a Representative (as the case may be).

(c) If a quorum is not present within half an hour from the time appointed for the meeting or a longer period allowed by the Chair:

- (i) if the meeting was convened by or on the requisition of Members, it must be dissolved; or
- (ii) in any other case it must stand adjourned to the same day in the next week at the same time and place or to another day and at another time and place determined by the Board.

(d) If a meeting has been adjourned to another time and place determined by the Board, then notwithstanding any other provision, no less than seven days' notice of the adjourned meeting must be given in the same manner as in the case of the original meeting.

(e) If, at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

7.5 Appointment of Chair and Powers of Chair

- (a) If the Directors have elected one of their number as Chair of their meetings, that person is entitled to preside as Chair at every general meeting. In the absence of the Chair, the deputy Chair of the board is entitled to preside as Chair.
- (b) The Directors present at a general meeting must elect one of their number to Chair the meeting if either of the following applies:
 - (i) a Director has not been elected as the Chair or deputy Chair of Directors meetings; or
 - (ii) the Chair is not present within 15 minutes after the time appointed for the holding of the meeting or he/she is unwilling to act.
- (c) The Chair or, in his/her absence, the Deputy Chair, shall preside as Chair at every general meeting of Members.
- (d) If for any reason there is no Chair nor a Deputy Chair, or neither of them is present within 15 minutes of the time nominated for the meeting to start, the Members who are present and entitled to vote at the meeting shall select one of their number to Chair the meeting.
- (e) The Chair of a general meeting may, in his/her discretion, expel any person from a general meeting if the Chair reasonably considers that the person's conduct is inappropriate.

(f) Subject to the other terms of this document, the ruling of the Chair on all matters relating to the order of business, procedure and conduct of the general meeting is final and no motion of dissent from a ruling of the Chair may be accepted.

7.6 Adjournment of Meetings

- (a) The Chair may, with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting to another time and to another place.
- (b) The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for 30 days or more notice of the adjourned meeting must be given as in the case of an original meeting.
- (d) When a meeting is adjourned for less than 30 days, it is not necessary to give a further notice of the adjourned meeting.

7.7 Voting on Show of Hands

- (a) All resolutions put to the vote of a general meeting of Members must be decided on a show of hands unless a poll is demanded in accordance with clause 7.8.
- (b) On a show of hands, every Member with the right to vote present in person has one vote.
- (c) On a show of hands, a declaration by the Chair that a resolution has been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

7.8 Demand for a poll

- (a) At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded on any resolution (other than on the election of the Chair of a meeting or the adjournment of a meeting) by:
 - (i) at least 2 members present entitled to vote on the resolution; or
 - (ii) members present (having the right to vote at the meeting) with at least 5% of the votes that may be cast on the resolution on a poll; or
 - (iii) the Chair.
- (b) A poll may be demanded:
 - (i) before a vote is taken;
 - (ii) before the voting results on a show of hands are declared; or

(iii) immediately after the voting results on a show of hands are declared.

7.9 Objections to Voter Qualification

- (a) No objection may be raised to the qualification of a voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- (b) An objection to the qualification of a voter must be referred to the Chair, whose decision is final.
- (c) A vote not disallowed according to an objection as provided in this document is valid for all purposes.

7.10 Mode of Meeting for Members

A general meeting may be called or held using any technology that allows all Members ability to fully participate in the meeting. A meeting may be held without the physical presence of any Member. The Members may otherwise regulate their meetings as they think fit.

7.11 Written Resolutions

The Members may pass a resolution in writing without holding a meeting if the following conditions are met:

- (a) The resolution is set out in a document or documents indicating that all of the Members who are entitled to vote are in favour of it.
- (b) A majority of Members who are entitled to vote on the resolution (excluding Members who have been given leave of absence) sign the document or documents or identical copies of it or them (personally or electronically).

7.12 Form of Resolution in Writing

- (a) A resolution in writing may consist of several documents in like form, each signed personally or electronically by one or more Members and if so signed it takes effect on the latest date on which a majority of Members signs one of the documents.
- (b) If a resolution in writing is signed by a proxy of a Member, it must not also be signed by the appointing Member and vice versa.
- (c) A document generated by electronic means which purports to record a resolution of Members is to be treated as a resolution in writing.

7.13 Annual General Meeting of Members

- (a) There is no obligation for the Company to hold an Annual General Meeting. The company is obliged to comply with Governance Standard 2 in being Accountable to Members.

- (b) Despite clause 7.13 (a) the Company shall hold a general meeting or an annual general meeting to meet the requirements, if any, of any grant or other funding.

8. PROXIES

8.1 Proxies and Representatives of Members

- (a) At meetings of Members, each Member entitled to vote may vote in person by its Representative (see clause 9) or by proxy.
- (b) A person appointed as a proxy need not be a Member or a Representative of a Member.
- (c) A person attending as a proxy shall be deemed to have all the powers of the relevant Member, except where expressly stated to the contrary in this Constitution or the Act.

8.2 Appointment of Proxies

A Member may appoint another Member's Representative as their proxy to attend and vote in their place at a general meeting.

8.3 Form of proxy

- (a) A document appointing a proxy must be in a form acceptable to the Company, including that set out in Schedule 4. It must be signed in one of the following ways:
 - (i) signed (including by an electronic signature) by the Member;
 - (ii) signed by the Member's authorised attorney;
 - (iii) if the Member is a body corporate, under seal or signed by an authorised officer or attorney.
- (b) An instrument appointing a proxy shall be valid if it contains the following information:
 - (i) the members' name and address;
 - (ii) the Company's name;
 - (iii) the proxy's name or the office held by the proxy; and
 - (iv) the meetings at which the proxy may be used.
- (c) An appointment of a proxy may be a standing proxy.
- (d) An undated proxy shall be taken to be dated on the day that it is received by the Company.
- (e) Any instrument of proxy in which the name of the appointee is not filled in shall be deemed to be given in favour of the chair of the meeting to which it relates.

(f) If the document appointing a proxy specifies the manner in which the proxy is to vote in respect of a particular resolution, the proxy is not entitled to vote on the resolution except in the manner specified in the document.

8.4 Verification of Proxies

(a) Notwithstanding any other provision, a proxy shall be deemed to be invalid unless the following provisions are fulfilled:

- (i) Each Member appointing a proxy must send or deliver to the Company, for receipt by 5 p.m. on the last business day before the time for holding the meeting or adjourned meeting at which the proxy proposes to vote, the following:
 - (A) the document appointing the proxy; and
 - (B) if the appointment is signed by the Member's attorney, the authority under which the appointment was signed or a certified copy of that authority.

(b) The required documents must be either sent or delivered to the Company's office address or electronic address, and marked to the attention of the relevant person, as specified for that purpose in the notice convening the meeting.

8.5 Revocation of Appointment of Proxy

A vote given in accordance with the terms of a proxy document or power of attorney is valid despite:

- (a) the death or unsoundness of mind of the appointor, or
- (b) the revocation of the instrument or of the authority under which the instrument was executed,

except where the Secretary has been notified in writing of such event before the commencement of the meeting or adjourned meeting at which the proxy is used, in which case the proxy shall be deemed to be invalid.

9. MEMBERS' REPRESENTATIVES

- (a) If the Company admits bodies corporate to membership, then a Member that is an organisation shall appoint an individual (**Representative**) as a representative to exercise all or any of the powers of the Member under this Constitution or the Act or otherwise at law.
- (b) The appointment may be a standing one.
- (c) The appointment may set out restrictions on the Representative's powers. If the appointment is to be by reference to a position held, the appointment must identify the position.

- (d) A Member may appoint more than one Representative but only one Representative may exercise the body's powers at any one time.
- (e) Unless otherwise specified in the appointment, the Representative may exercise, on the Member's behalf, all of the powers that the Member could exercise at a meeting or in voting on a resolution.
- (f) The nomination of a Representative must be in writing and provided to the Secretary. Where a Member that is an incorporated or unincorporated organisation has not named a Representative, the Representative shall be deemed to be that Member's secretary.
- (g) A Representative will cease to hold their appointment:
 - (i) on the date of receipt by the Secretary of a Written Notice from the Member that it has withdrawn its nomination of the Representative; or
 - (ii) on the date of receipt by the Secretary of a Written Notice from the Representative resigning, refusing or remitting nomination.
 - (iii) If a majority of the Directors resolve that the Representative has failed to comply with a provision of this Constitution or is otherwise no longer considered suitable to be a Representative.

10. BOARD OF DIRECTORS

10.1 Number of Directors

- (a) Unless varied in accordance with clause 10.1 (d), the number of Directors of the Company (together called the **Board**), shall be a minimum of three and a maximum of nine.
- (b) The Initial Directors of the Company are the persons as nominated in Schedule 2.
- (c) The Company must have at least three Directors, two (2) Directors of whom ordinarily reside in Australia.
- (d) The Company may, by ordinary resolution of its Members, increase or decrease the minimum or maximum number of Directors (provided that the minimum must not fall below three as required by the Act) and may also determine in what rotation the Directors appointed as the result of any such alteration are to go out of office.

10.2 Eligibility for Election as Director

- (a) The Company shall appoint a person as a Director by resolution passed in a general meeting.
- (b) The Board shall elect from its Directors such office bearers as it considers necessary.

- (c) The candidate must consent in writing to be a Director.
- (d) The Auditor is ineligible to be elected or appointed as a Director.
- (e) In appointing directors, the Company may specify any conditions on the term of that appointment including but not limited to commencement, duration and reappointment options.

10.3 Casual vacancies

Subject to clause 10.1(a), if a casual vacancy in the Board occurs, it may be filled by the appointment by the Board of a person considered by it to be suitable. The person so appointed shall hold office unless a majority of the members entitled to vote in general meeting disapprove.

10.4 Retirement and Removal from Office

- (a) A Director may retire from office by giving notice in writing to the Company of that Director's intention to retire. A notice of resignation takes effect at the time of giving the notice to the Company or, if another time is specified in the notice, at that time.
- (b) The Members may by Ordinary Resolution remove a Director from office and may by Ordinary Resolution appoint another person as a replacement.

10.5 Vacation of Office

- (a) Without limiting any other provision, the office of a Director becomes vacant if required by the Act, the Charities Legislation or if the Director:
 - (i) becomes an insolvent under administration;
 - (ii) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health and in either case a majority of the other directors, acting reasonably, form the opinion that the Director no longer has capacity to contribute as a Director;
 - (iii) is absent without the consent of the Directors from three consecutive meetings of the Directors and the Board resolves that the office of that Director be vacated; or
 - (iv) becomes prohibited from being a Director by reason of an order made under the Act or Charities Legislation
- (b) The Board may continue to act despite any vacancy in its Membership.

10.6 Members may obtain information about directors' remuneration

The Company must disclose all remuneration paid to the Director, regardless of whether it is paid to the Director in their capacity as a Director or another capacity.

11. CHAIR AND DEPUTY CHAIR

11.1 Chair and Deputy Chair

- (a) At the first meeting of the Board after each annual general meeting, the Board shall elect from amongst the then current Directors:
 - (i) a Chair;
 - (ii) a Deputy Chair.
- (b) The Chair or, in his/her absence, the Deputy Chair, shall preside as Chair at every meeting of the Board.
- (c) If for any reason there is not then a Chair nor a Deputy Chair, or neither of them is present within 15 minutes of the time nominated for the Board meeting to start, the Directors who are present and entitled to vote at the meeting shall select one of their number to Chair the meeting.

12. DIRECTORS' REMUNERATION

12.1 Director's Remuneration and Payment for Expenses

- (a) The Company may not pay any Director any amount except as expressly provided for in this Constitution.
- (b) The company may pay to a Director for:
 - (i) out of pocket expenses reasonably incurred by a Director in the performance of any duty as Director where the amount payable does not exceed an amount approved by the Board; and
 - (ii) any service (including as a Chief Executive Officer or similar role) rendered by the Director to the Company in a professional or technical capacity where the provision of the service has the prior approval of the Board and where the amount payable is approved by the Board and is not more than an amount which commercially would be reasonable payment for the service.
- (c) Directors shall be entitled, on an equitable basis, to be paid all reasonable travelling, accommodation, and other expenses properly incurred by them in attending and returning from meetings of the Board or any of its committee or general meetings or otherwise in the execution of their duties as Directors provided that such expenses have first been approved by the Board.

12.2 Payment in Good Faith

Any payment made to a Director by the Company under this clause 12 must be made in good faith.

13. POWERS OF DIRECTORS

13.1 Powers of Directors

- (a) The Directors may exercise all of the powers of the Company which are not, by the Act or by this Constitution, required to be exercised by the Members in general meeting or otherwise.
- (b) No delegation by the Board under this clause limits the duties and liability of each Director of the Board.

13.2 Public Statements

- (a) The Board may by resolution authorise the Chair, CEO or another person to make public statements on behalf of the Company.
- (b) No person may make any public statement on behalf of the Company unless authorised by the Board.

13.3 Duties

The Directors must comply with their duties under common law and under the Act, and the Charities Legislation.

13.4 Convening of Directors' Meetings

- (a) A Director may at any time, and a Secretary must on the requisition of a Director, convene a meeting of the Directors.
- (b) The Board shall meet not less than four times per year, but otherwise as necessary to discharge their duties and functions.
- (c) Notice of each meeting of the Directors must be given to each Director at least 48 hours before the meeting, or otherwise as determined by resolution of the Board, except in the case of a Director who is out of Australia or who has been given leave of absence from the Board.
- (d) A Directors' meeting may be called or held using any technology that allows all directors to participate fully in the meeting. The Directors may otherwise regulate their meetings as they think fit.

13.5 Quorum and Voting at Directors' Meetings

- (a) At a meeting of Directors, the number of Directors whose presence is necessary to constitute a quorum is 66% of the Board as then constituted.
- (b) Each Director has one vote.
- (c) Questions arising at a meeting of the Board must be decided in the manner from time to time determined by the Board, and in the absence of any such agreement, by a majority of votes of Directors present and voting.
- (d) In the event of equality of votes, the Chair has a second and casting vote.

13.6 Delegation of Powers to Committee

- (a) Without limiting clause 20.4, the Board may delegate any of their powers, except this power to delegate, to standing or ad hoc committees consisting of such Directors and such other persons as they think fit.
- (b) Board committees may include members who are not Directors or Members of the Company.
- (c) The quorum for committee meetings is the presence in person of a majority of committee members at the time, unless the Board resolves otherwise.
- (d) The meeting procedures of the Board contained in this clause 13 apply to committee meetings (including the Audit Committee) with such modifications as are necessary.
- (e) In the exercise of any powers delegated to it, a committee formed by the Board:
 - (i) must conform to the directions of the Board;
 - (ii) provide such reports as required by the Board; and
 - (iii) otherwise shall conduct its meetings and proceedings in accordance with the provisions of this Constitution, as far as practicable, as if they were meetings and proceedings of the Board.

13.7 Validity of Acts of Directors

All acts done by a meeting of the Board or of a committee appointed by the Board or by a person acting as a Director are valid even if it is later discovered that there is a defect in the appointment of a person to be a Director or a member of the committee or that they or any of them were disqualified or were not entitled to vote.

13.8 Minutes

- (a) The Board must cause minutes of all proceedings of general meetings, of meetings of the Board and of committees formed by the Board to be entered, within one month after the relevant meeting is held, in books kept for the purpose. Such books may be retained electronically.
- (b) The Board must cause all minutes, except resolutions in writing treated as determinations of the Board, to be signed promptly by the Chair of the meeting at which the proceedings took place or by the Chair of the next succeeding meeting.

13.9 Resolution in Writing

- (a) The Board may pass a resolution in writing without holding a meeting if the following conditions are met:
 - (i) The resolution is set out in a document or documents indicating that a majority Directors are in favour of it.

- (ii) A majority of Directors who are entitled to vote on the resolution (excluding Directors who have been given leave of absence) sign the document or documents or identical copies of it or them personally or electronically.
- (b) A resolution in writing may consist of several documents in like form, each signed personally or electronically by one or more Directors and if so signed it takes effect on the latest date on which the last Director who constitutes a majority signs one of the documents.
- (c) In relation to a resolution in writing:
 - (i) a document generated by electronic means which purports record of a resolution of Directors is to be treated as a resolution in writing; and
 - (ii) a document bearing an electronic signature or a facsimile of a signature is to be treated as signed.

13.10 Conflict of Interest

- (a) A Director who has a material personal interest in a matter that relates to the affairs of the Company must give the Board notice of the interest.
- (b) The notice required by clause 13.10(a) must:
 - (i) include details of:
 - (A) the nature and extent of the interest; and
 - (B) the relation of the interest to the affairs of the Company; and
 - (ii) be given at a Board meeting as soon as practicable after the Director becomes aware of his or her interest in the matter, the details of which must be recorded in the minutes of the meeting.
- (c) A Director who has a material personal interest in a matter that is being considered at a Board meeting shall not be present while the matter is being considered at the meeting or vote on the matter unless:
 - (i) the other Directors on the Board who do not have a material personal interest in the matter pass a resolution that:
 - (A) identifies the Director, the nature of his or her interest in the matter and its relation to the affairs of the Company; and
 - (B) states that the Board is satisfied that the interest should not disqualify the Director from voting or being present.
- (d) A Director who votes when not otherwise authorised to do so under this clause shall have his or her vote discounted.
- (e) A Director with an interest in a matter may give the Board standing notice of the nature and extent of this interest.

13.11 Negotiable instruments

- (a) The Board shall determine the mechanism for signing, drawing, accepting, endorsing or otherwise executing a negotiable instrument.
- (b) Receipts for money payable to or receivable by the Company may be signed by a Director or the Secretary or by any other person authorised by the Board to receive money either generally or any particular sum of money on behalf of the Company and such receipt shall be deemed to be valid.

14. CHIEF EXECUTIVE OFFICER (CEO)

- (a) The Board may (but is not required to) appoint any person, including a director, to the position of CEO, to act as chief executive officer of the Company for the period and on the terms (including as to remuneration) the Board see fit.
- (b) The Board may, upon terms and conditions and with any restrictions they see fit, confer on the CEO any of the powers that the Board can exercise.
- (c) The Board may at any time revoke or vary an appointment of, or any of the powers conferred on, the CEO.

15. SECRETARY

- (a) The Board may appoint, and terminate the appointment of, one or more persons to be a Secretary; and
 - (i) determine their terms and conditions of appointment.
- (b) A Secretary shall be responsible to carry out all acts and deeds required by this Constitution, the Act or by law to be carried out by the secretary of the Company.

16. BY-LAWS AND RULES

The Board may, make or adopt by-laws and rules with respect to any matter or thing for the purposes of giving effect to any provision of this Constitution or generally for the purposes of carrying out the objects of the Company, which by-laws and rules shall be binding on the Members, provided that to the extent of any inconsistency, this Constitution shall prevail over all such by-laws and rules.

17. EXECUTION OF DOCUMENTS

- (A) Without limiting the manner in which the Company may execute any contract, including as permitted under section 126 of the Corporations Act, the Company may execute any agreement, deed or other document by:
 - (I) two (2) Directors; or
 - (ii) a Director and a Secretary.

(b) Nothing in this Constitution requires the Company to execute any agreement, deed or other document under common seal for it to be effectively executed by the Company

18. SURPLUS ASSETS ON WINDING UP OR DISSOLUTION

18.1 Surplus Assets on winding up or dissolution of the Company

Without limiting Clause 22, upon the winding up or dissolution of the Company, any remaining property after satisfaction of all debts and liabilities, will not be paid to or distributed among the Members, unless the member or former member is a charity described in clause 18.1 (b) but will be given or transferred to some other charitable institution or organisations which satisfies both of the following requirements:

- (a) has objects similar to the objects of the Company; and
- (b) whose constituent documents have rules prohibiting the distribution of its assets and income to its members (and if at the time of winding up the Company has deductible gift recipient status is an endorsed deductible gift recipient) and as determined by the Members at or before the time of winding up or dissolution of the Company and, in default of any determination, by the Supreme Court of New South Wales.

19. INDEMNITY

19.1 Costs and Expenses

Every Officer and past Officer of the Company may be indemnified by the Company, to the fullest extent permitted by law, against a liability for costs and expenses incurred by that person as an Officer of the Company or a subsidiary of the Company, including without limitation:

- (a) in defending any proceedings, whether civil or criminal, in which judgement is given in favour of the person or in which the person is acquitted, or
- (b) in connection with any application in relation to those proceedings in which the Court grants relief to the person under the Act.

19.2 Liabilities to Third Parties

To the extent permitted by the Act, every officer and past officer of the Company is indemnified against a liability incurred by that person as an officer to a person other than the Company or a related body corporate, except a liability which arises from conduct that involves a lack of good faith.

19.3 Insurance Premiums

The Company may pay the premium on a contract insuring a person who is or has been an officer of the Company against:

- (a) a liability for costs and expenses incurred by the person in defending proceedings arising out of the person's conduct as an officer, whether civil or criminal and whatever their outcome; and
- (b) other liability incurred by the person as an officer of the Company except a liability which arises from conduct that involves a wilful breach of duty in relation to the Company or a contravention of sections 182, 183 or 184(2) or (3) of the Act.

20. ACCOUNTS, AUDIT AND RECORDS

20.1 Accounts

The Board must cause proper accounting and other records to be kept in accordance with the Act or Charities Legislation and must comply with the requirements of the Act and Charities Legislation in respect of reporting and the provision of accounts to Members.

20.2 Audit

- (a) A registered Company auditor must be appointed if required by law.
- (b) The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with law.
- (c) The Board must arrange for the accounts for the last financial year to be audited in accordance with requirements of the Act and Charities Legislation before being submitted to the annual general meeting in accordance with clause 7.13.

20.3 Rights of Inspection

Subject to the Act, the Board shall determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them are open to the inspection of Members other than Directors, and a Member other than a Director does not have the right to inspect any document of the Company except as provided by law or authorised by resolution of the Board.

20.4 Audit Committee

- (a) The Board must at its first meeting after the annual general meeting each year appoint an Audit Committee consisting of at least 3 Directors, who:
 - (i) may or may not be Members of the Company; but
 - (ii) must not be employees of the Company.
- (b) The Audit Committee must:
 - (i) ensure that accurate and up-to-date financial statements are presented to each meeting of the Board;

- (ii) report to each Board meeting on the financial position of the Company; and
- (iii) ensure that the Board complies with its statutory financial and legal obligations.

(c) Nothing in clause 20.4(a) limits the duties and liability of each Director of the Board.

21. FURTHER OBLIGATIONS UNDER AUSTRALIAN CHARITIES LEGISLATION

The Company must comply and the Board must procure that the Company complies with all requirements (whether financial or otherwise) that apply to the Company under the *Charities Legislation* and all related legislation as commenced and amended from time to time.

22. GIFT FUND REQUIREMENTS

22.1 Company May Maintain a Gift Fund

The Company may maintain a Gift Fund in accordance with this clause 22 for so long as it seeks or has obtained endorsement as a DGR from the Australian Taxation Office, or the Company is named as a DGR in ITAA 97.

22.2 Rules Applying to the Gift Fund

The following rules apply to any Gift Fund established and maintained by the Company:

- (a) The Gift Fund must have a name.
- (b) The Company must maintain sufficient documents to provide evidence of the Gift Fund's purpose and operations.
- (c) The Company must maintain a separate bank account for the Gift Fund.
- (d) The following must be credited to the Gift Fund:
 - (i) All gifts of money or property to the Company for the Principal Purpose.
 - (ii) All money or property received by the Company because of those gifts.
- (e) No other money or property may be credited to the Gift Fund.
- (f) The Company must use any gifts, money or property of the kind referred to in clause 22.2(d) only for the Principal Purpose.
- (g) The public will be invited to contribute to the Gift Fund.
- (h) The Gift Fund is managed by the Board of Directors, a majority of whom have a degree of responsibility to the general community, unless delegated pursuant to the provisions contained in this Constitution.

- (i) The Gift Fund is controlled and administered by the Board of Directors which only include persons or institutions which have a degree of responsibility to the community as a whole, unless delegated pursuant to the provisions contained in this Constitution.

22.3 Winding Up of Gift Fund

Despite clause 22.2 if the Gift Fund or the Company is wound up or ceases to be a DGR for any reason, any surplus assets of the Gift Fund remaining after the payment of liabilities attributable to it must be transferred to a fund, authority or institution which is charitable, and to which income tax deductible gifts can be made. For the avoidance of doubt, if a Gift Fund operated by the Company is wound up but the Company remains a DGR and operates any other gift fund in accordance with this clause 22, any surplus assets of the Gift Fund that is being wound up may be transferred to any other gift fund operated by the Company.

22.4 Definitions

In this clause 22 the following definitions apply:

- (a) **DGR** means a 'deductible gift recipient' within the meaning of section 30-227 of ITAA 97.
- (b) **Gift Fund** means a fund that is maintained for the Principal Purpose.
- (c) **ITAA 97** means Income Tax Assessment Act 1997 (Cth).
- (d) **Principal Purpose** means the purposes of the Company as reflected in the objects of the Company specified in clause 3.1 or any of those purposes.

22.5 Financial Year

The financial year of the Company is from 1 July to 30 June.

22.6 Payments

- (a) All payments by the Company must be:
 - (i) specifically authorised by the signatories approved by the Board, and
 - (ii) in the case of cheques – signed by, at least 2 persons nominated by the Board in writing.
- (b) The Board may nominate a list of individuals or positions to be signatories for the purpose of clause 22.6(a).

22.7 Records

- (a) The Board must provide for the safe keeping of the records of the Company.
- (b) Members may inspect records of the Company permitted by the Act.

- (c) Members may not inspect the records of the Company that relate to confidential personal, employment, commercial and legal matters.
- (d) Copies of the constitution and Members resolutions must be freely available to Members.

23. NOTICES

23.1 Method of sending notices

In addition to the method for giving notices permitted by statute, a notice or communication by the Company, an officer of the Company or a Member in connection with this Constitution may be given to the address by the methods set out in the first column of the following table. The notification is effective on the date set out in the second column.

Method of notification	Date deemed receipt of notification
By personal delivery	Date of delivery
By sending it by prepaid ordinary post (airmail if outside Australia) to a street or postal address of the addressee	One day after it is posted
By sending by fax to the recipient's fax number	Date of an error free fax transmission report from the sender's fax machine.
By email sent to the recipient's email address	The day following the date on which the email is sent.

23.2 Notices to legal representatives

A notice may be given by the Company to the legal representative of a Member by sending it through the post in a prepaid letter addressed to them by name or by their title as representatives of the relevant member or at the address (if any) within the Commonwealth of Australia supplied for the purpose by the persons claiming to be entitled or (until such an address has been supplied) by giving the notice in any manner in which it might have been given if the death, lunacy, liquidation or bankruptcy had not occurred.

23.3 Notices to foreign residents

Subject to clause 23.2 notices and other documents for members outside the Commonwealth of Australia shall be forwarded to those members by airmail or by facsimile or by email at the address or facsimile number or email address outside the Commonwealth of Australia supplied to the Company by them.

23.4 Notices of general meetings

Notice of every general meeting shall be given, in any manner authorised, to:

- (a) every member; and
- (b) the Auditor (if any) for the time being of the Company.

23.5 Signature on notices

The signature to any notice to be given by or on behalf of the Company may be written, printed or stamped.

24. GENERAL

24.1 Exercise of power

Except as specifically contemplated by this Constitution, the Company may exercise any power, take any action or engage in any conduct or procedure which under the Act a public company limited by guarantee has the power to do.

24.2 Amendment of Constitution

This Constitution may be amended or repealed by Special Resolution in accordance with the Act.

24.3 Copy of Constitution

The Company must send a copy of this Constitution to a member of the Company within seven days if the member asks the Company in writing for a copy and pays the fee (up to the amount prescribed by the Act) required by the Company as approved by the Board.

25. DISPUTE RESOLUTION

- (a) If Members are unable to agree on any matter in relation to the Company, including but not limited to fundraising, any of the members in dispute may give written notice to the Company and the other members stating details of the matter in dispute and requiring that the matter be resolved by a general meeting between the members.
- (b) The Board must convene a general meeting of the Members to discuss the dispute. The Board shall use its reasonable endeavours to convene the meeting within 28 days of the serving of notice of a dispute under clause (a). The Members must meet in good faith to seek to resolve any area of dispute.
- (c) If the Members in dispute cannot resolve the dispute within seven days of the initial meeting as set out in clause (b) above, the Members in dispute agree to refer the dispute to mediation established in accordance with the rules of the Australian Disputes Centre Limited.
- (d) The Members to the dispute and the Company are entitled to be represented by a qualified legal practitioner at any such mediation.
- (e) The Members in dispute agree to meet the costs of their own representation and to share equally in the costs incurred by the mediation being conducted.

- (f) Pending determination of any dispute in relation to the Company each member agrees to continue to perform all of its obligations as a member of the Company.
- (g) This clause shall not prohibit a member from seeking urgent interlocutory relief from the Courts if that member will incur irreparable harm if not permitted to do so.

26. DEFINITIONS AND INTERPRETATION

26.1 Definitions

In this Constitution, except where the context requires otherwise:

- (a) **ACNC Act** means the *Australian Charities and Not for Profits Commission Act 2012 (Commonwealth)*.
- (b) **Act** means the *Corporations Act 2001 (Commonwealth)*.
- (c) **AGM** means an annual general meeting of the Members of the Company and, where the context requires, means the specific annual general meeting in the context.
- (d) **Board** means the board of Directors of the Company, unless the context demands otherwise.
- (e) **CEO** means the chief executive, referred to in clause 14.
- (f) **Chair** means the Chair of the Board, elected from time to time in accordance with this Constitution.
- (g) **Charities Legislation** means the *Australian Charities and Not for Profits Commission Act 2012 (Commonwealth)* and all laws, regulations, rules and compulsory guidelines which apply to the Company as a charity in Australia, as amended or replaced from time to time.
- (h) **Company** means Grok Academy Limited.
- (i) **Director** means a person elected or appointed in accordance with this Constitution to perform the duties of a director of the Company.
- (j) **Guarantee** means the amount of the Member's guarantee as specified in clause 2(c).
- (k) **Initial Members** means the people listed in Schedule 1
- (l) **Institutional Members** means the organisation or organisations admitted to membership of the Company as such..
- (m) **Member** means the people and organisations that, at the relevant time, are, Individual, Institutional, or Ordinary Members of the Company admitted in accordance with this Constitution.

- (n) **Ordinary Member** comprise individuals who have been admitted to membership of the Company as such
- (o) **Officer** has the meaning given in section 9 of the Act.
- (p) **Old Company** means the predecessor to the Company.
- (q) **Ordinary Members** means the people admitted to membership of the Company as such.
- (r) **Ordinary Resolution** means any resolution passed by a simple majority of persons entitled to vote.
- (s) **Register** means the register of Members kept by the Company under the Act.
- (t) **Replaceable Rules** means the Replaceable Rules contained in the Act.
- (u) **Representative** means, in relation to a Member, the representative of the Member appointed under clause 9.
- (v) **Seal** means, if the Company has one, the common seal of the Company.
- (w) **Secretary** means a person appointed to perform the duties of a secretary of the Company.
- (x) **Special Resolution** means a resolution that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

26.2 References to Law and the Constitution

- (a) A word or phrase used in the Act that is given a special meaning for the purposes of the relevant part of the Act, unless this Constitution specifically states otherwise, has the same meaning in this Constitution.
- (b) A reference to:
 - (i) any legislation includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation, or
 - (ii) this Constitution, where amended, means this Constitution as so amended.

26.3 Interpretation

In the interpretation of this document, the following provisions apply unless the context otherwise requires:

- (a) The singular denotes the plural and vice versa.
- (b) Any gender denotes the other genders.
- (c) A person denotes an individual and a body corporate.

- (d) Where a word or phrase is given a defined meaning any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (e) Headings and any table of contents must be ignored in the interpretation of this Constitution.
- (f) Unless the context otherwise requires a reference to a time of day means that time of day in the state or territory in which the registered office of the Company is situated.
- (g) For the purposes of determining the length of a period (but not its commencement) a reference to:
 - (i) a day means a period of time commencing at midnight and ending 24 hours later
 - (ii) a month means a calendar month which is a period commencing at the beginning of a day of one of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of that next month.
- (h) Where a period of time is specified and is to be calculated before or after a given day, act or event it must be calculated without counting that day or the day of that act or event.
- (i) A provision of this Constitution, except that specifying the time for deposit of proxies with the Company, which has the effect of requiring anything to be done on or by a date which is not a business day must be interpreted as if it required it to be done on or by the next business day.
- (j) A reference to a business day means a day during which banks are open for general banking business in New South Wales.
- (k) A reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under the statute.
- (l) Where a reference is made to a document or agreement or a provision of a document or agreement, such reference shall be deemed to refer to that document, agreement or provision as amended, supplemented, replaced or novated.
- (m) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (n) This Constitution shall be construed according to the laws of New South Wales.
- (o) This Constitution is designed for a public company limited by guarantee which is:

- (i) incorporated under the Act; and
- (ii) a charity registered under the ACNC .

(p) If the Act and/or the Charities Legislation is repealed or amended, then this Constitution may require amendment.

(q) To the extent of any inconsistency between this Constitution and a mandatory requirement of a relevant law (including the Act and the ACNC Act), the relevant law takes priority.

(r) A word or expression that is defined in the Act has the same meaning as in this Constitution.

(s) **“written notice” or “notice in writing”** includes notice given by way of:

- (i) facsimile; and
- (ii) electronic transmission;

(t) **“writing”** includes any mode of reproducing words in a tangible and permanently visible form including in electronic form;

Schedule 1 – Membership**1. INITIAL MEMBERS**

- (a) James Richard Curran
- (b) David Brian Lowe
- (c) Tara Murphy

Released under FOI Act 1982
Australian Charities and Not-for-profits Commission

Schedule 2 – Initial Board**1. INITIAL DIRECTORS**

- (a) James Richard Curran
- (b) David Brian Lowe
- (c) Tara Murphy

Schedule 3 – Matters requiring prior written agreement of voting Members

- (a) The voting rights of new classes of Members proposed by the Board.
- (b) Admission of new members to classes of members who have voting rights.

Released under FOI Act 1982
Australian Charities and Not-for-profits Commission



Schedule 4 – Proxy Form

**GROK ACADEMY LIMITED
ACN 643 542 054**

I,

(full name of member)

of.....

(address)

being a member of the above Company.

hereby appoint.....

(full name of proxy)

of (full name of party)

(Insert address)

as proxy of the appointing member

Annual General Meeting

at the Special General Meeting of the Company to be held on
the..... day of...../20.....
and at any adjournment of that meeting.

My proxy is authorized to vote (please tick selected option):

- in favour of
- against
- abstain
- as they see

for the following resolutions [insert]

.....
Signature authorised signatory of member appointing proxy

.....

NOTES: In accordance with clause 8.4 of the Constitution; this proxy must be provided to the Company no later than by p.m. on the last business day before the time for holding the meeting or adjourned meeting.

Please send all proxy forms to: [insert contact details].