

Constitution
of
INTERNATIONAL EDUCATION AGENCY OF PAPUA NEW GUINEA LIMITED

Objects of the Company

1. The business the Company is authorized to carry on is to build, buy, own and operate public educational institutions: including schools, colleges and all other educational facilities of any type whatever; and to do all things necessary and incidental to further that intent and purpose, including but not limited to property development and other investments and related activities of a commercial nature, and at least 80% of the income shall be utilised for that intent and purpose.

Rights and powers attaching to shares

2. A share in the company confers on the holder the rights set out in section 37 of the Act except the rights in section 37(1)(a) to appoint directors, who shall be appointed in accordance with the provisions of clause 5(c) of this constitution, and the right contained in section 37(1) (b) (dividends). The provisions of section 45 of the Companies Act 1997 (Pre-emptive rights) are negated. Every shareholder by consent to this constitution, application for a share or execution of a transfer instrument as transferee acknowledges that its share in the Company is of no commercial value by reason of the restriction on ownership and transfer of share as contained in this constitution. A share is redeemable by the Company if the shareholder ceases to be a qualified person. A share may only be transferred to a qualified person. The names of the shareholders upon registration are set out in Part Two of the First Schedule. For the removal of any doubt, and consistent with Sections 443 and 444 of the Companies Act 1997, it is declared that each and every share issued or proposed to be issued does not entitle or confer on its holder a right to a dividend and that the Company shall not, on its winding up or in any other circumstance, make a distribution in any manner whatsoever to its shareholders, and in the event of the Company being wound up a distribution may only be made to a person other than a shareholder of the Company.

Shareholder's meetings

3. It shall not be necessary for the Company to hold a meeting of the shareholders (general, special or the annual general meeting) if everything required by this constitution or the Act to be done at a meeting is done by resolution in writing which is executed under seal by each of 75% of the shareholders pursuant to section 103 of the Companies Act 1997. A notice to the Company under the seal of the shareholder and signed by the proper officers of the shareholder shall be conclusive evidence of the name of the person authorised to vote on behalf of the shareholder.

Qualifications for holding shares in the Company

4. To acquire and be registered as the holder of a share in the Company the prospective shareholder must be:
 - (a) an association incorporated under the *Association Incorporation Act*.
 - (i) for the purpose of being a member of the Company and

(ii) to represent and promote the interests of a specified educational institution owned and operated by the Company in respect of which no other shareholder is registered.

(b) approved by the board of the Company, which approval may be withdrawn at any time (before or after the association is a member) if in the sole discretion of the board, the association is not acting in the interests of the educational institution whose interest it was formed to promote.

(c) No shareholder shall be entitled to hold more than one share. A prospective shareholder qualified in terms of this clause is a qualified person.

Appointment and removal of directors, vacation of office and remuneration

5. (a) Unless varied by an ordinary resolution of the Company the number of directors shall be not less than ten and not more than eighteen.

(b) The directors of the Company at the date of adoption of this constitution are set out in the first schedule.

(c) Subject to section 130 of the Companies Act 1997

(i) four of the directors shall be elected by the shareholders located in Port Moresby and shall serve a term of duration of three (3) years

(ii) one of the directors shall be elected by the shareholders located in Lae, and shall serve a term of duration of three (3) years

(iii) two directors shall be elected by the other shareholders, and shall serve a term of three (3) years)

(iv) one director shall be elected from the Company employed Principals of the educational institution and shall serve a term of one (1) year.

(v) one director shall be elected by and from the Company employed teachers' representatives of the educational institutions and shall serve a term of one (1) year.

(vi) the board may appoint not more than four directors to represent community interests, and they shall serve a term of three (3) years.

(vii) elections shall be held annually for directors referred to in paragraphs (iv) and (v) and every three (3) years for directors referred to in paragraphs (i), (ii), (iii) and (vi), by postal ballot. Subject to clause (g) each director appointed or elected shall hold office until a replacement is appointed or elected. A retiring director is eligible for re-election.

(d) If any casual vacancy occurs in the membership of the board, it shall be filled in the manner specified in clause 5 (c).

(e) A director vacates office if that director:

(i) resigns by signing a written notice of resignation and delivering it to the address for service of the Company. The notice is effective when it is received or at a later time specified in the notice.

(ii) becomes disqualified from being a director pursuant to S.129 (2) of the Act, or

- (iii) attains the age of 72 years, or
 - (iv) dies, or
 - (v) ceases to be a person specified by the provisions of clause 5(c)
 - (vi) is removed pursuant to Clause 5 (g)
- (f) The board shall notify the shareholders when a director vacates office.
- (g) A Director elected pursuant to the provisions of clause 5(c) (i) ,(ii) or (iii) may be removed from office prior to the annual elections by the provision of being declared vacant by a resolution of the relevant committees and conveyed under the respective seals to the Returning Officer.
- (h) The shareholders will determine and authorise the director's remuneration.
- (i) The shareholders may determine and authorise a director being paid an allowance on retirement, resignation, or death of a director. That retirement allowance will not exceed an amount that is equal to the total of the highest three years remuneration from the Company but reduced proportionally where a director has held office for less than 9 years. No retirement allowance will be payable where a director has served less than 35 months.
- (j) The board may authorise the reimbursement of a director for expenses incurred in carrying out his duties as a director.

Board Proceedings

6. The board shall conduct all meetings in accordance with the provisions of the second schedule.

Management

7. (a) The business and affairs of the Company must be managed by, or under the direction of supervision, of the board.

(b) The board may delegate to a committee of directors, or partly of directors and other persons, a director, an employee or committee of employees of the Company, or to a shareholder or any person or committee of persons, any of its powers, other than those specified in schedule 3 to the Act, with or without the power for its delegate to sub-delegate, as the board determines.

(c) The board may appoint a person to the office of Company Secretary and that person shall have the duties the board decides.

Signing documents

8. The board may from time to time authorise any number of directors or employees of the Company to enter into obligations on behalf of the Company and sign documents that are required by law to be by deed by affixing the common seal of the Company. A register of the names and specimen signatures of the persons authorised to affix the common seal and of the uses of the common seal shall be kept by the Board.

Permissive Powers

9. In addition to the powers specified in the Act and this constitution, the Company and/or the board shall have the powers specified in the third schedule.

Interpretation

10. (a) In this constitution:

“Act” means the Companies Act 1997 and any amendment to it.

“Company” means International Education Agency of Papua New Guinea Limited.

“other shareholders” means those shareholders not represented by directors elected pursuant to Clause 5(c) (i) or clause 5(c) (ii).

“teachers ‘representative’” means the teacher in each educational institution who has been elected by the other teachers in the educational institution in which they are employed as the person to represent teachers in that educational institution.

“qualified person” means a person qualified in terms of the provisions of clause 3 of this constitution.

“postal ballot” means postal ballot conducted in accordance with the provisions of the Fourth Schedule.

“Principal” means the person appointed by the Company to be the person in charge of an education institution operated by the Company.

“school” means an educational institution or entity that operates on a physical property owned by the IEA in which education is provided, which is identifiable by name, which is managed on a day to day basis by a Principal, and which is registered by the IEA with the National Department of Education as a school.

“committee” means the managing committee of a shareholder.

“board” means the IEA Bboard of Directors

“director” means a director of the Company.

“educational institution” means schools, colleges, and any other education facilities of any type whatever that are owned or operated by the IEA

“IEA” means the Company

Terms which are defined in the Act have the meaning given by the Act.

The Company, the board, each director, and the shareholders have the rights, powers, duties and obligations set out in the Act except to the extent that they are negated or modified, in accordance with the Act, by this constitution.

First Schedule

Directors (2020)

John Cholai
PO Box 276, Boroko, NCD

Anna Catherine Ballinger-Togolo
PO Box 129, Boroko, NCD

Wellington Warren
PO Box 1825, Boroko, NCD

Lynne Seeto
PO Box 2878, Lae

Peter McBain
PO Box 945, Mt Hagen

Possa Kavora
PO Box 109, Kiunga

Clement Luis
PO Box 306, Madang 511, PNG

Jane Gawi
PO Box 1825, Boroko, NCD

Shareholders

Alotau International School Association Inc. 5-480
PO Box 154 ALOTAU, Milne Bay Province 211

Coronation International School Association Inc. 5-559
PO Box 2989, Lae, Morobe Province 411

Ela Beach International School Association Inc. 5-483
PO Box 282, Port Moresby, National Capital District, 111

Gordon International School Association Inc. 5-484
PO Box 1825, Boroko, National Capital District, 111

Goroka International School Association Inc. 5-485
PO Box 845, Goroka, Eastern Highlands Province 441

International School of Lae Association Inc. 5-490

PO Box 2139, Lae, Morobe Province, 411

Kimbe International School Association Inc. 5-489
PO Box 307, Kimbe, West New Britain Province, 621

Kiunga International School Association Inc. 5-488
PO Box 109, Kiunga, Western Province, 335

Korobosea International School Association Inc. 5-486
PO Box 1319, Boroko, National Capital District 111

Kundiawa International School Association Inc. 5-486
PO Box 165, Kundiawa, Chimbu Province, 411

Madang International School Association Inc. 5-493
PO Box 306, Madang, Madang Province, 511

Mendi International School Association Inc. 5-494
PO Box 57, Mendi, Southern Highlands Province, 251

Mount Hagen International School Association Inc. 5-492
PO Box 945, Mt Hagen, Western Highlands Province, 281

Murray International School Association Inc. 5-491
PO Box 1137, Boroko, National Capital District, 111

Popondetta International School Association Inc. 5-495
PO Box 10, Popondetta, Oro Province, 241

Port Moresby International High School Association Inc. 5-496
PO Box 276, Boroko, National Capital District, 111

Rabaul International School Association Inc. 5-497
PO Box 571, Rabaul, East New Britain Province, 611

Wewak International School Association Inc. 5-499
PO Box 354, Wewak, East Sepik Province, 531

Second Schedule

Proceedings of the Board

Meetings

1. Before the board can transact any business there must be present a quorum of at least one half of the number of directors holding office.
2. If a quorum is not present within 15 minutes of the time appointed for the commencement of the meeting, the meeting shall then stand adjourned for seven days. The quorum for an adjourned meeting of the board shall be those present.
3. A meeting of the board may be held either:
 - (a) by a number of the directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting, or by the contemporaneous linking by telephone or other means of communication of the directors constituting a quorum, whether or not anyone or more of the directors are absent from Papua New Guinea. All such meetings shall comply with the following conditions:
 - (i) all the directors, including alternate directors entitled to receive notice of a meeting of the directors, have received notice of the meeting and be entitled to be linked by telephone or such other means of communication for the purposes of such a meeting;
 - (ii) each of the directors taking part in the meeting by telephone or other means of communication must throughout the meeting be able to hear each of the other directors taking part;
 - (iii) at the commencement of the meeting each director must acknowledge his or her presence for the purpose of a meeting of the board to all other directors taking part;
 - (iv) a director may not leave the meeting by disconnecting the telephone or other means of communication unless he or she has previously obtained express consent of the chairperson of the meeting. A director shall be presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone or other means of communication unless he or she has previously obtained the express consent of the chairperson of the meeting to leave the meeting.
4. The board must ensure that minutes are kept of all proceedings of the board.
5. The minutes of each meeting shall be signed by the chairperson of that meeting or the next.

Notice of meetings

6. The chairperson, or any 2 directors, may summon a meeting of the board at any time.

7. Notice shall be given to each director, delivered by hand or sent by post, telex or facsimile or electronic mail. Any notice must include the date, time and place of the meeting and the matters to be discussed.
8. It shall not be necessary to give notice of a meeting of the board to any director for the time being absent from Papua New Guinea or his or her usual country of residence unless he or she has supplied an alternative address. If such director has appointed an alternate director then notice shall be given to the alternate director.
9. An irregularity in the notice of a meeting or a failure to give notice is waived if all the directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all directors agree to the waiver.

Voting

10. Questions arising at any meeting of the board shall be decided by a majority of votes and each director (or where applicable each alternate director) present shall have one vote.
11. Where there is an equality of votes the chairperson of the meeting shall have a casting vote.

Directors' resolutions outside meeting

12. A resolution in writing, signed or assented to by letter, telegram, cable, telex, facsimile, electronic mail or other written form by all directors including alternate directors (when the person for whom he or she is appointed is unable to act) then entitled to receive notice of a board meeting, is as valid and effective as if it had been passed at a meeting of the board duly convened and held.
13. A resolution under paragraph 12 of this schedule may consist of several documents in like form each signed or assented to by one or more directors, or their alternates, as the case may be.
14. A copy of any such resolution must be entered in the minute book.

Alternate directors

15. A director may appoint any person approved by the board to act as his or her alternate director at one or more meetings of the board. Notice of any appointment may be given in writing or by telegram, cable, telex, facsimile or electronic mail to the Company. Any appointment may be revoked by notice to the company in like manner at any time.
16. An alternate director may, in the absence of his or her appointer, attend, speak and vote at the board meeting referred to in the notice and vote on directors resolutions under paragraph 12 of this schedule, but may not exercise any of a directors other powers.

Interests

17. A director of the Company must disclose his or her interests to the Company in accordance with the Act as soon as possible after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the Company.
18. A director of the Company who is interested in a transaction entered into, or to be entered into, by the company, may:

- (a) vote on a matter relating to the transaction; and
- (b) attend a meeting of directors at which a matter relating to the transaction arises, but may not be included among the directors present at the meeting for the purpose of a quorum; and
- (c) sign a document relating to the transaction on behalf of the Company and do any other thing in his or her capacity as a director in relation to the transaction.

Chairperson

- 19. The directors shall from amongst their own number elect the chairperson, but the chairperson cannot be an employee of the Company.
- 20. The Chairperson shall preside at all meetings of the board.
- 21. If the chairperson is absent or unable to act, the directors present shall appoint one of their number to act as chairperson.

Third Schedule

Permissive Powers

Repurchase of shares

1. The Company may
 - (a) purchase or otherwise acquire shares issued by it;
 - (b) subject to the Act, hold shares issued by it.
2. Subject to the Act, shares acquired or purchased pursuant to paragraph 1 of this schedule shall not be deemed to be cancelled immediately on acquisition but may be reissued by the board in accordance with the Act.
3. The board may make an offer to acquire shares if the Company by means of an offer to the shareholder in accordance with the Act.
4. The board may make an offer under paragraph 3 of this schedule only if it has previously resolved that:
 - (a) the acquisition in question is in the best interests of the Company; and
 - (b) the terms of the offer and the consideration offered for the shares are fair and reasonable to the Company; and
 - (c) it is not aware of any information that will not be disclosed to the Shareholders which is material to an assessment of the value of the shares, and as a result of which the terms of the offer and consideration offered for the shares are unfair to the Shareholder.
5. The above resolution must set out in full the reasons for the director's conclusions.
6. The directors who vote in favour of a resolution under paragraph 4 of this schedule must sign a certificate as to the matters set out in that paragraph and may combine that certificate with the certificate required under the Act.

Indemnity and Insurance

7. The Company shall indemnify a director or employee of the Company or a related Company in respect of:
 - (a) any costs incurred by him or her in any proceeding:
 - (i) that relate to liability for any act or omission in his or her capacity as a director or employee; and
 - (ii) in which judgement is given in his or her favour, or in which he or she is acquitted, or which is discontinued.
 - (b) either of the following, if it is not for criminal liability in respect of a breach, in the case of a director, of duty specified in the Act, in the case of an employee, of any fiduciary duty owed to the Company or related Company:
 - (i) liability to any person other than the Company or a related Company for any act or omission in his or her capacity as a director or employee, or

- (ii) costs incurred by that director or employee in defending or settling any claim or proceeding relating to any such liability.
- 8. The Company may, with the prior approval of the board, effect insurance for a director or employee of the Company or a related Company in respect of:
 - (a) liability, not being criminal liability, for any act or omission in his or her capacity as a director or employee; or
 - (b) costs incurred by the director or employee in defending or settling any claim or proceeding relating to any such liability, or costs incurred by that director or employee in defending any criminal proceedings in which he or she is acquitted.
- 9. For the purpose of paragraph 7 and 8 of this schedule the words “director”, “effect insurance”, “employee”, “indemnify” and indemnity” shall have the same meaning given to them in s. 140(9) of the Act.

Share register

- 10. The board may divide the share register into two or more registers, which may be kept in different places.

Fourth Schedule

1. Invitation to nominate

In each year immediately after commencement of the first teaching term the board shall cause an invitation to nominate to be sent:

- (a) in the case of election of the Principal's Representative, to each eligible voter, and,
- (b) in the case of election of a Teacher's Representative, to each eligible voter of each educational institution.
- (c) in the case of election of directors under clause 5 © (i)(ii) or (iii) to the chairperson of the committee of the shareholders.

2. The invitation to nominate shall state:

- (a) the name of the office to be filled;
- (b) that a nomination for principal representative and teacher representative must be in writing endorsed with the written consent of the nominee, and the signatures of the nominator and the seconder, all of whom must be eligible voters;
- (c) that a nomination for director can only be put forward by the resolution of a committee. The nomination must be in writing, endorsed with the consent of the nominee, and the common seal and the authorised signatures of the nominator. A seconder shall not be required.
- (d) that the successful candidate will become a director of the Company and subject to the provisions of the Companies Act 1997;
- € that nominations must be received by post/delivery, facsimile or email and in the case of facsimile or email to be followed immediately by the original document to reach the office of Company Returning Officer on or before the date specified in the invitation to nominate.
- (f) if the number of nominations fill the existing vacancies, no election shall be held and the nominees shall be declared elected.

3. Distribution of Postal Ballots

Within seven 97) days of the last day for receipt of nominations the board shall cause to be sent to each eligible voter, in respect of the ballot for which he is an eligible voter:

- (a) a ballot paper containing in alphabetical order the names of the valid nominees received and beside each name a place to mark the voters preference and an endorsement that a valid vote requires each nominee to be ranked.
- (b) an instruction sheet advising the voter to preferentially number the candidates by placing a "1" beside the name of the most preferred candidate and a "2" beside the second candidate and so on until all candidates have been ranked. Place the completed ballot paper in the envelope marked "Ballot paper" and seal it, and to place that sealed envelope and the completed application to vote in the envelope marked "Returning Officer" and return the envelope to reach the office of the Company Returning Officer no later than the date specified in the instruction sheet.

- (c) an application to vote form to be completed with the name of the voter and a declaration that he is employed as a Principal or is the 'Teachers Representative' (as the case may be) of an educational institution owned or operated by the Company or a shareholder.
- (d) an envelope marked "Ballot Paper"
- (e) an envelope marked "Returning Officer, Election of Principals Representative (or teachers Representative, or Election of Directors, Port Moresby, Lae or Other, as the case might be) c/- the Chief Executive Officer.

4. Counting of the Vote and Declaration of the Result

- (a) only votes received by the Returning Officer by the due date shall be counted. As soon as practicable after the due date, the Returning Officer and the scrutineer shall open all of the envelopes containing the applications to vote and the sealed envelopes opened, whether or not the applicant to vote is an eligible voter. If the applicant is determined to be ineligible, the contents of the envelope shall be returned to it, the envelope re-sealed and marked "ineligible". On completion of this examination, the envelopes marked "ineligible" and all other applications to vote shall be sealed up in an envelope or other container and the seal signed by the Returning Officer and Scrutineer.
- (b) the Returning Officer and the Scrutineer shall then open the envelopes marked "Ballot Paper" and count the number of number "1" votes cast for each candidate. Where this system leads to a tie or does not fill all the vacancies, the "first past the post system" shall be abandoned in favour of a preferential system using the votes received. Where the preferential system is used, a ballot paper shall be declared invalid by the Scrutineer if all the candidates are not ranked in preferential order. The Returning Officer shall sign a certificate declaring the candidate with the most votes duly elected as a director of the Company and the Scrutineer shall co-sign the certificate. The Ballot Papers shall be placed in an envelope or other container, sealed up and the seal signed by the Returning Officer and the Scrutineer.
- (c) the board shall cause a copy of the Returning Officer's certificate to be sent to each educational institution owned or operated by the Company as soon as possible after the declaration of the results of the election.

5. Retention and disposal of Election Material

- (a) The sealed containers of ineligible voting papers, applications to vote and ballot papers shall be retained until end of the financial year in which the election is held and then destroyed.

6. Definitions and interpretation

In this schedule:

"Eligible Voter" means in the case of an election for a Principal's Representative, a principal employed at an educational institution owned or operated by the Company or in the case of an election for a Teachers Representative, a teacher employed at an educational institution owned or operated by the Company who is the teacher's representative for that School and in the case of a director to be elected pursuant to

clause 5(c) (i) , (ii) or (iii) a shareholder qualified within the terms of one of those paragraphs.

“Principal’s Representative” means an election to fill the position of director created by clause 5(c) (iv) of the Constitution;

“Teacher’s Representative” means the office of director created by the provisions of clause 5(c)(v) of the Constitution.

“Returning Officer” means a person appointed by the Company but not a person eligible to vote in the election.

“Scrutineer” means a person appointed by the Company but not a person eligible to vote in the election.