

Constitution of Oceania Capital Partners Limited

ACN 111 554 360

Adopted by special resolution at the general meeting of the Company held on [●]

Contents

1.	Preliminary	1
2.	Shares	4
3.	Alteration of capital, shares and rights	6
4.	Certificates	7
5.	Register	8
6.	Lien	8
7.	Calls on Shares	10
8.	Transfer and transmission of Shares	12
9.	Forfeiture of Shares	14
10.	Calling of general meetings	16
11.	Proceedings at general meetings	17
12.	Entitlements to attend and vote at general meetings	21
13.	Class meetings	25
14.	Directors	25
15.	Directors' remuneration	26
16.	Directors' interests	27
17.	Alternate Directors	29
18.	Managing Director and other Executive Directors	29
19.	Powers of the Board	30
20.	Proceedings of the Board	31
21.	Secretary	34
22.	Company administration	34
23.	Inspection and secrecy	35
24.	Dividends and other distributions	36
25.	Winding up	39
26.	Indemnity and insurance	40
27.	Notices	41

Oceania Capital Partners Limited

1. Preliminary

1.1 Definitions

In this Constitution, unless the context otherwise requires:

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

Alternate Director means a person appointed as an alternate director under clause 17.2.

Appointor means in respect of an Alternate Director, the Director who appoints that Alternate Director under clause 17.2.

Auditor means the auditor of the Company from time to time.

Board means the Directors acting collectively under this Constitution.

Business Day has the meaning given in the Act as it applies in Sydney.

Chair means the person appointed as chair of the Board under clause 20.7 from time to time.

Common Seal means the common seal of the Company (if any).

Company means Oceania Capital Partners Limited ACN 111 554 360.

Constitution means this Constitution as amended from time to time and a reference to a particular clause means a clause of this Constitution.

Corporate Representative means a person authorised in accordance with the Act by a Member that is a body corporate to act as its representative at a meeting of Members.

Deputy Chair means the person appointed as deputy chair of the Board under clause 20.7 from time to time.

Director means a person appointed as a director for the time being of the Company (including an Alternate Director).

Dividend means any distribution to Members in relation to Shares as a dividend or interim dividend of any property (including, without limitation, money and paid up shares or other marketable securities of the Company or of any other body corporate) and includes any bonus issue.

Executive Director means the Managing Director (if any) and any other Director who is an employee of the Company or any related body corporate of the Company.

Managing Director means the person (if any) appointed as the managing director of the Company under clause 18.1.

Member means a person whose name is entered in the Register as the holder of a Share.

Member's Liability means, in respect of a Member:

- (a) all money due and payable by the Member to the Company; and
- (b) all money (whether payable or not) called or payable at a fixed time in respect of Shares held by that Member.

Money Due means, where payment in respect of a call is not made on the day specified for its payment under clause 7.4, the amount of money payable in respect of that call plus, subject to clause 7.10:

- (a) interest on that amount at the Prescribed Rate from that day until payment is made; and
- (b) all costs and expenses incurred by the Company because payment was not made on that day.

Prescribed Rate means, in respect of each clause in which that term is used, 10 per cent per annum or any other rate prescribed by the Board from time to time in respect of that clause.

Register means the register of Members kept pursuant to the Act.

Related Body Corporate has the meaning given in the Act.

Secretary means a person appointed as a secretary of the Company from time to time (including any person appointed to perform the duties of a secretary temporarily).

Share means a share in the capital of the Company of whatever class.

Transmission Event means:

- (a) where a Member is an individual:
 - (i) death;
 - (ii) bankruptcy; or
 - (iii) becoming a person who is, or the Member's estate becoming, liable to be dealt with in any way under the law relating to mental health; and
- (b) where a Member is a body corporate, the dissolution of the Member or the succession by another body corporate to the assets and liabilities of the Member.

Voting Member means a Member:

- (a) who is entitled to be present at a general meeting;
- (b) present at the meeting in any of the ways set out in clause 11.1; and
- (c) in respect of whom there is at least one item of business to be considered at the meeting on which the Member is not disqualified from voting.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise:

- (a) the **singular** includes the plural and vice versa;
- (b) where a **word** or **phrase** is defined, its other grammatical forms have a corresponding meaning;
- (c) a reference to a **person** includes a firm, a body corporate, an unincorporated association or an authority and vice versa;
- (d) a reference to this **Constitution** or another **document** includes any variation, novation, replacement or supplement to any of them from time to time;
- (e) a reference to any **legislation** or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and any regulations and statutory instruments issued under it;
- (f) a reference to a person (including a Member) being present at or attending a general meeting is a reference to a person (including a Member) present or attending in person, using any technology (including via one or more instantaneous audio-visual communication devices or audio and visual or virtual communication technology), or by proxy, attorney or Corporate Representative, or in any other manner permitted by the Act;
- (g) where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Board; and
- (h) “writing” and “written” includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise.

1.3 Replaceable Rules not to apply

The replaceable rules contained in the Act do not apply to the Company.

1.4 Voting entitlements and the specified time

To determine, for the purposes of a particular general meeting, the persons who are Members and the numbers of Shares held by each Member, subject to clause 12.3, the Company must have regard only to the position disclosed by the Register at the time of the meeting.

1.5 General authorisation

Where the Act authorises or permits a company to do any thing if so authorised by its constitution, the Company is authorised by this clause to do that thing.

2. Shares

2.1 Capital

The capital of the Company is divided into Shares.

2.2 Issue of Shares

- (a) Subject to the Act and this Constitution, the Company may allot, issue, grant options over or otherwise dispose of Shares to the persons, on the terms and conditions, with the rights and privileges, and at the times that the Board determines.
- (b) The Company may issue preference Shares (including those which may be, or at the option of either or both the Company and the holder are, liable to be redeemed) and may convert any issued Shares into preference Shares, if the rights of the holders of the preference Shares are as set out in clause 2.5 or are approved in accordance with the Act.

2.3 Applications for Shares

Where the Company receives an application for Shares signed, or otherwise given to the Company in accordance with the Company's instructions, by or on behalf of the applicant and the Company allots Shares to the applicant as a consequence, the application is to be treated as:

- (a) an agreement by the applicant to accept those Shares;
- (b) a request by the applicant for the Company to place the applicant's name in the Register in respect of those Shares; and
- (c) an agreement by the applicant that this Constitution binds the applicant.

2.4 Payment for shares by instalments

Where a Share is allotted on terms that all or any of the amount payable as the issue price of that Share is payable by instalments, the person who is the Member in respect of that Share at the time each instalment is due must pay that instalment.

2.5 Preference Shares

If the Company at any time proposes to issue any preference Shares with the terms set out in this clause 2.5, each preference Share confers on the holder:

- (a) the right to convert the preference Share into an ordinary Share if and on the basis the Board resolves under the terms of issue;
- (b) the right to receive a Dividend at the rate or of the amount (which may be fixed or variable) and on the conditions (including conditions which may be changed or reset at certain times or upon certain events) that the Board resolves under the terms of issue unless, and to extent that, the Board resolves under the terms of issue that there is no right to receive a Dividend, and any such Dividend:
 - (i) is non-cumulative unless, and to the extent that, the Board resolves otherwise under the terms of issue;

- (ii) will rank for payment in priority to ordinary Shares unless, and to the extent that, the Board resolves otherwise under the terms of issue; and
 - (iii) will rank for payment in relation to Shares in any other class of Shares as the Board resolves under the terms of issue;
- (c) in addition to the rights (if any) to receive a Dividend, the right to participate equally with the ordinary Shares in the distribution of profits (or other amounts) available for Dividends if and on the basis the Board resolves under the terms of issue;
- (d) if, and to the extent that any Dividend on the preference Share is cumulative, the right in a winding up or on a reduction of capital, and on redemption in the case of a redeemable preference Share, to payment of the amount of any Dividends accrued but unpaid on the preference Share at the date of winding up or reduction of capital or, in the case of a redeemable preference Share, the date of redemption, with the same priority in relation to each other class of Shares as the priority that applies in relation to the payment of the Dividend;
- (e) if, and to the extent that any Dividend on the preference Share is non-cumulative, and if, and to the extent that, the Board resolves under the terms of issue, the right in a winding up or on a reduction of capital, and on redemption in the case of a redeemable preference Share, to payment of the amount of any Dividends accrued but unpaid on the preference Share for the period commencing on the Dividend payment date which has then most recently occurred and ending on the date of winding up or reduction of capital or, in the case of a redeemable preference Share, the date of redemption, with the same priority in relation to each other class of Shares as the priority that applies in relation to the payment of the Dividend;
- (f) the right in a winding up or on a reduction of capital, and on redemption in the case of a redeemable preference Share, to payment of any amount (which may include the amount paid or agreed to be considered as paid on the preference Share) that the Board resolves at the time of issue, and payment of such amount:
 - (i) will rank for payment in priority to ordinary Shares unless, and to the extent that, the Board resolves otherwise under the terms of issue; and
 - (ii) will rank for payment in relation to any other class of Shares as the Board resolves under the terms of issue;
- (g) the right to a bonus issue or capitalisation of profits in favour of preference Share holders only, if and to the extent the Board resolves under the terms of issue;
- (h) in addition to the rights pursuant to clauses 2.5(a) to 2.5(g) inclusive, the right to participate with the ordinary Shares in profits and assets of the Company, including on a winding up, if and to the extent that the Board resolves under the terms of issue;
- (i) the right to receive notices, reports and accounts and to attend and be heard at all meetings of Members on the same basis as the holders of ordinary Shares;
- (j) no right to vote at meetings of Members except on the questions, proposals or resolutions or during the periods of time or in the

circumstances that the Board resolves under the terms of issue, which, unless the Board resolves otherwise under the terms of issue, are:

- (i) on any matter considered at a meeting if, at the date of the meeting, the Dividend on the preference Shares is in arrears;
 - (ii) on a proposal to reduce the share capital of the Company;
 - (iii) on a resolution to approve the terms of a buy-back agreement;
 - (iv) on a proposal that affects rights attached to the preference Shares;
 - (v) on a proposal to wind up the Company;
 - (vi) on a proposal for the disposal of the whole of the property, business and undertaking of the Company; and
 - (vii) on any matter considered at a meeting held during the winding up of the Company; and
- (k) if voting on any matter in respect of which the holder is entitled to vote is by poll the right to cast the number of votes specified in, or determined in accordance with, the terms of issue for the preference Share.

In the case of a redeemable preference Share, the Company must if required by the terms of issue for that Share but subject to the Act, at the time and place for redemption specified in, or determined in accordance with, those terms of issue, redeem that Share and, subject to the giving or receiving of a valid redemption notice or other document (if any) required by those terms of issue, pay to or at the direction of the registered holder the amount payable on redemption of that Share.

3. Alteration of capital, shares and rights

3.1 Alteration of capital

The Company may from time to time by resolution do any or all of the following:

- (a) consolidate or divide all or any of its share capital into Shares of a smaller or larger amount than its existing Shares;
- (b) sub-divide its Shares or any of them into Shares of smaller amounts if, in the sub-division, the proportion between the amount paid and the amount (if any) unpaid on each Share of a smaller amount is the same as it was in the case of the Share from which the Share of a smaller amount is derived; and
- (c) cancel Shares that, at the date of passing the resolution to that effect, have not been taken or agreed to be taken by any person or that have been forfeited and reduce the amount of its share capital by the amount of the shares so cancelled.

3.2 Additional rights

Where the Company passes a resolution under either clause 3.1(a) or 3.1(b), the Company may also by special resolution determine that, as between the Shares resulting from the consolidation, division or sub-division, one or more of those Shares has some preference or special advantage as regards Dividends, capital, voting or otherwise over or compared with one or more others.

3.3 Reduction of capital

The Company may reduce, alter or buy-back its share capital in any manner permitted by the Act.

3.4 Variation of rights

- (a) If at any time the issued Shares are divided into different classes, the rights attached to any class of Shares (unless the terms of issue of that class otherwise provide) may only be varied or abrogated with either:
 - (i) the consent in writing of the holders of 75 per cent of the issued Shares of that class; or
 - (ii) the sanction of a special resolution passed at a separate meeting of the holders of Shares of that class.
- (b) The issue of any new Shares ranking equally, or any conversion of existing securities to Shares ranking equally, with existing Shares is not a variation of the rights conferred on the holders of the existing Shares, unless otherwise provided by the terms of issue of the existing Shares or required by the Act.
- (c) The issue of any new Shares ranking in priority, or any conversion of existing securities to Shares ranking in priority, to an existing class of preference Shares is a variation of the rights conferred on the holders of the existing preference Shares, unless the issue or conversion is expressly permitted by the terms of the existing preference Shares.

3.5 Adjustments

The Board may do anything required to give effect to any resolution or other action authorising or effecting the alteration of the share capital of the Company or the variation or abrogation of rights attaching to any class of Shares or to adjust the rights of all parties and, in particular, may (without limitation):

- (a) round or disregard any fraction of Shares or any fractional entitlement;
- (b) appoint a trustee to deal with any fractions on behalf of Members;
- (c) determine that as between the holders of Shares or other entitlements one or more of them has a preference or special advantage as regards Dividend, capital, voting or otherwise.

4. Certificates

4.1 Certificates of title

Subject to the Act, the Company must:

- (a) issue certificates of title to Shares; and
- (b) ensure that those certificates are in accordance with the Act.

4.2 Entitlement of Member to certificate

Subject to the Act and to clause 4.3, a Member is entitled without charge to one certificate for the Shares of each class registered in the Member's sole name or to several certificates each for a reasonable part of those Shares.

4.3 Certificate for joint holders

Where two or more persons hold any Shares, the Company is only required to issue the same number of certificates as if those Shares were held by one person and delivery of a certificate so issued to any of those persons is sufficient delivery to all of them.

4.4 Replacement of lost certificates

If a certificate is lost or destroyed and the holder of the relevant Shares applies in accordance with section 1070D(5) of the Act, the Company will issue a new certificate in its place.

4.5 Replacement of worn out certificates

Where a certificate is defaced or worn out and is produced to the Company and the Company is paid an amount determined by the Board (which amount may not be more than the amount prescribed for the purposes of section 1070D(4) of the Act), the Company may cancel that certificate and issue a new certificate in its place.

5. Register

5.1 Joint holders

If two or more persons are the holders of a Share, the person whose name first appears in the Register in respect of that Share is to be treated as the sole owner of the Share in relation to all matters concerning the Company (including the giving of notice) except in relation to the transfer of the Share, right to vote, receipt of Dividends, delivery of certificates and liability for instalments or calls.

5.2 Recognition of trusts

Except as required by law or by this Constitution, the Company must treat the person whose name appears in the Register in respect of a Share as the absolute owner of that Share and, accordingly, the Company is not bound to recognise (whether or not it has notice):

- (a) that a person holds any Share on trust; or
- (b) any equitable, contingent, future or partial interest in, or unit of, any Share.

6. Lien

6.1 Lien for calls

To the extent permitted by law, the Company has at any time a first and paramount lien on each Share for all money:

- (a) for a call in respect of that Share which is then due but unpaid;

- (b) owed by any person to the Company in respect of the acquisition of the Share under an employee incentive scheme; or
- (c) payable by the Member under clause 6.3 to the extent that the Company has made a payment in respect of a liability or a requirement referred to in that clause.

6.2 Lien for Member's debts

The Company has, in addition to the lien described in clause 6.1, a first and paramount lien on each Share registered in a Member's name in respect of all money which the Company may be called on by law to pay in respect of the Shares of the Member.

6.3 Lien on payments required to be made by the Company

Where at any time the law of any jurisdiction imposes or purports to impose any immediate, future or possible liability on the Company, or empowers or purports to empower any person to require the Company to make any payment, in respect of any Share registered in the name of a Member (whether alone or jointly) or a Dividend payable in respect of a Share held by that Member, the Company:

- (a) is fully indemnified by that Member from all such liability;
- (b) to the extent permitted by law, has a lien on the Shares registered in the name of that Member for all money paid or payable by the Company in respect of the Shares under or in consequence of any such law together with interest at the Prescribed Rate;
- (c) may recover as a debt due from the Member the amount of that liability together with interest at the Prescribed Rate from the date of payment by the Company (if the payment is made) to the date of repayment by the Member; and
- (d) if to do so is not contrary to the Act may refuse to register a transfer of any Share by that Member until the amount of that liability has been paid to the Company,

and nothing in this clause in any way prejudices or affects any right or remedy which the Company may have (including, without limitation, any right of set-off) and, as between the Company and the Member, any such right or remedy is enforceable by the Company.

6.4 Extent of lien

The liens described in clauses 6.1, 6.2 and 6.3 extend to all Dividends (if any) payable in respect of the Share and to the proceeds of sale of the Share.

6.5 Waiver by Board

The Board may, at any time, exempt a Share from the provisions of clauses 6.1, 6.2 and 6.3 to the extent and on any terms and conditions that it determines.

6.6 Sale under lien

Where:

- (a) the Company has a lien on a Share;
- (b) the sum in respect of which the lien exists is presently payable;

- (c) the Company has given notice to the Member registered in respect of the Share:
 - (i) requiring payment of the amount which is presently payable in respect of which the lien exists; and
 - (ii) specifying a date (which is at least 10 Business Days after the date of the notice) by which and a place at which payment of the amount must be made; and
- (d) the requirements of the notice given under clause 6.6(c) are not fulfilled,

the Company may sell the Share as if it had been forfeited under clause 9.2 and the provisions of clauses 9.5 to 9.13 apply as if the Member's Liability were the Money Due.

6.7 Protection of lien

The Company may do anything necessary or desirable for it to protect any lien, charge or other right to which it is entitled under any law or under these clauses.

7. Calls on Shares

7.1 Calls made by Board

Subject to the terms of issue of a Share, the Board may make calls on a Member in respect of any or all of the amount unpaid on the Share held by that Member unless and to the extent that the terms of issue of the Share make that amount payable at fixed times.

7.2 Terms of call

The Board may do either or both of the following:

- (a) make a call payable by instalments; and
- (b) revoke or postpone any call.

7.3 Time of call

Each call is treated as having been made at the time the Board resolves to make the call.

7.4 Payment of call

A Member subject to a call must pay the amount the subject of the call at the time and place specified in a notice given by the Company to the Member at least 10 Business Days before the time specified for payment.

7.5 Remedies for unpaid call

In addition to all other remedies of the Company, for as long as the amount in respect of a call in relation to a Share is due and payable and not paid, the Member, in respect of that Share, has no right to:

- (a) receive any Dividend; or

- (b) be present at, be counted among the quorum for, or vote, whether in person or by proxy, attorney or representative, at a general meeting of the Company.

7.6 Joint holders' liability

The joint holders of a Share are liable jointly and severally to pay any calls made in respect of the Share.

7.7 Differences in terms of issue

The Board may, on the issue of Shares, differentiate between the holders of those Shares as to the amount to be paid, and times for payment, of calls in respect of those Shares.

7.8 Fixed payments

If the terms of issue of a Share provide for any amount to be payable at a fixed time:

- (a) that amount is payable at that time as if a call had been duly made in respect of it under clauses 7.1 to 7.4 specifying that time as the time for payment of a call for that amount; and
- (b) all the other provisions of this Constitution in respect of calls apply (modified as necessary) on that basis and **call** in this Constitution is to be interpreted accordingly.

7.9 Payment of Money Due

If an amount payable in respect of a call is not paid on or before the day specified for its payment, the person from whom that amount is due must pay the Money Due in respect of that call.

7.10 Waiver of interest or expenses

The Board may waive the payment of all or any part of the Money Due in respect of a call which relates to interest and other costs and expenses.

7.11 Proof of call

If on the trial or hearing of an action for the recovery of the Money Due for a call it is proved that:

- (a) the books of the Company duly record the resolution of the Board making the call;
- (b) the Member sued appears in the Register as a holder of the Share in respect of which the call was made; and
- (c) notice of the call was given to that Member in accordance with this Constitution,

proof of those matters is sufficient and conclusive proof of the debt without it being necessary to prove any other matter (including, without limitation, the appointment of the Directors).

7.12 Prepayment of calls

The Board may:

- (a) accept from a Member a sum representing all or a part of any amount unpaid in respect of a Share although no part of that amount is then the subject of a call;
- (b) authorise the payment by the Company of interest on any sum so accepted, until that sum becomes payable, at any rate not exceeding the Prescribed Rate agreed between the Board and the Member; and
- (c) except where otherwise agreed between the Member and the Company, repay the sum or any part of it,

but payment and acceptance of that sum does not confer any right to participate in profits and must not be considered in ascertaining the amounts of Dividend or surplus in a winding up or distribution attributable to that Share.

8. Transfer and transmission of Shares

8.1 Modes of Transfer

Subject to this Constitution, a Member may transfer all or any of the Member's Shares by instrument in writing which is:

- (a) a sufficient instrument of transfer of marketable securities under section 1071B of the Act;
- (b) in any other usual or common form; or
- (c) in any other form approved by the Board.

8.2 Transfer by instrument

Where a Member seeks to transfer all or any of the Member's Shares in accordance with clause 8.1, the Board may only register a transfer of Shares where an instrument satisfying clause 8.1 is delivered to the Company (including, for this purpose, a person authorised by the Company to receive instruments such as a share registrar of the Company) and the instrument:

- (a) is duly stamped, if necessary;
- (b) is executed by the transferor and (unless the Board otherwise determines in a particular case relating only to fully paid Shares) the transferee, except where a law provides that execution by either or both transferor and transferee is not required or is deemed to be present;
- (c) except where otherwise permitted by law, is accompanied by the certificate for the Shares the subject of the transfer together with such other evidence as the Board may require to prove the title of the transferor's right to transfer the Shares; and
- (d) relates only to Shares of one class.

8.3 Power to refuse registration

- (a) The Board may decline to register a transfer of Shares where any of the requirements of clause 8.2 are not complied with.
- (b) If the Board declines to register a transfer of Shares under clause 8.3(a), the Company must give the party lodging the transfer written notice of the refusal and the reasons for it within 10 Business Days after the date on which the transfer was lodged with the Company, but failure to do so will not invalidate the decision of the Board to decline to register the transfer.

8.4 Power to suspend registration of transfers

Subject to the Act, the Board may suspend the registration of instruments of transfer received under clause 8.2 at such times and for such periods, not exceeding in total 30 days in any year, as it thinks fit.

8.5 Transferor remains Member

The transferor of a Share remains the Member in respect of that Share until the transfer is registered and the name of the transferee is entered in the Register in respect of that Share.

8.6 Retention of instruments

On an instrument of transfer or a purported instrument of transfer being delivered to the Company, property to and title in that instrument (but not the Shares the subject of it) pass to the Company which is entitled as against all persons to the possession of the instrument.

8.7 Powers of attorney

Where a power of attorney granted by a Member is lodged with, or produced or exhibited to, the Company and that power of attorney confers on the attorney power to transfer any or all of the Member's Shares, the Company is entitled to assume, as against the Member, that the power remains in full force and effect and may be relied on by the Company until the Company receives express notice in writing at its registered office of either:

- (a) the revocation of the power of attorney; or
- (b) the death of the Member.

8.8 Transmission of Shares

- (a) If a Member dies the only persons the Company will recognise as having any title to or benefits from the Member's Shares or any benefits accruing in respect of those Shares are:
 - (i) their legal personal representative where the deceased was a sole holder; and
 - (ii) the survivor or survivors where the deceased was a joint holder.
- (b) A person who becomes entitled to a Share as a result of a Transmission Event may, upon producing such evidence as the Board may require to prove their entitlement elect:
 - (i) to be registered as the holder of the Share by signing and serving on the Company a notice in writing stating that election; or

- (ii) to have another person registered as the transferee of the Share by effecting a transfer of the Share to that other person.
- (c) The provisions of this Constitution relating to the right to transfer Shares, and the registration of transfers of Shares, apply, so far as they can and with such changes as are necessary, to any transfer under clause 8.8(b)(i) as if the relevant Transmission Event had not occurred and the transfer were executed or effected by the registered holder of the share.
- (d) For the purpose of this Constitution, where two or more persons are jointly entitled to any Share as a result of a Transmission Event they will, upon being registered as the holders of the Share, be taken to hold as joint tenants and clause 5.1 will apply.
- (e) Despite clause 8.8(a), the Board may register a transfer of Shares signed by a Member prior to a Transmission Event even though the Company has notice of the Transmission Event.

9. Forfeiture of Shares

9.1 Forfeiture notice

If an amount payable in respect of a call is not paid on or before the day specified for its payment, the Board may at any time until the amount (including interest and other costs and expenses incurred by the Company by reason of the non-payment) is paid give the relevant Member a notice which:

- (a) requires the Member to pay the Money Due;
- (b) specifies a date (which is at least 10 Business Days after the date of the notice) by which and a place at which payment of the Money Due must be made; and
- (c) states that if payment is not made on or before the date and at the place specified, the Share to which the call relates is liable to be forfeited.

9.2 Forfeiture

If the requirements of a notice given under clause 9.1 are not satisfied, the Share in respect of which the notice was given may, at any time after the date specified in clause 9.1(b) and before the payment required by the notice has been made, be forfeited by the Board by a resolution to that effect.

9.3 Forfeiture includes unpaid Dividends

Forfeiture of a Share under clause 9.2 includes all Dividends payable by the Company on the forfeited Share which have not been paid before the forfeiture.

9.4 Notice of forfeiture

Where a Share is forfeited under clause 9.2, the Company must promptly give notice of the forfeiture to the Member holding the Share immediately before the resolution of the Board for its forfeiture was passed, and the Company must promptly enter the forfeiture (together with its date) in the Register.

9.5 Forfeited Shares are the property of the Company

A Share forfeited under clause 9.2 immediately becomes the property of the Company and the Board may sell, re-allot or otherwise dispose of that Share on the terms and conditions, as it thinks fit.

9.6 Cancellation of forfeiture

At any time before the sale or disposition of a Share under clause 9.5, the Board may cancel the forfeiture of that Share under clause 9.2 on any terms and conditions it determines.

9.7 Surrender as forfeiture

Where the Board is entitled to forfeit a Share under clause 9.2, it may accept the surrender of that Share on any terms and conditions it determines and a Share so surrendered may be disposed of in the same way as a Share forfeited under clause 9.2.

9.8 Effect of forfeiture

A person who held a Share which has been forfeited under clause 9.2 ceases to be a Member in respect of the forfeited Share, but remains liable to pay to the Company the Money Due and this liability only ceases when the Company receives payment of all the Money Due.

9.9 Board may waive

The Board may elect not to enforce payment, in whole or in part, of amounts owing to the Company under clause 9.8.

9.10 Evidence of forfeiture

As against all persons claiming to be entitled to a Share, a statement in writing declaring that the person making the statement is a Director or Secretary and that the Share was forfeited on a date specified in the statement in accordance with this Constitution is sufficient evidence of the facts set out in the statement and of the right of the Company to dispose of the Share.

9.11 Transfer of forfeited Shares

The Company may do any thing (and execute any document) to transfer a Share forfeited under clause 9.2 to a person to whom it is sold, re-allotted or disposed of and may receive the consideration provided for that Share and register the transferee as the holder of the Share.

9.12 Application of proceeds

The Company may apply the proceeds of any sale, re-allotment or disposal of a Share in such manner as the Company sees fit.

9.13 Title to transferee

Where a Share is transferred under clause 9.11, the title of the transferee is not affected by any irregularity or invalidity relating to the forfeiture or the sale, re-allotment or disposal of the Share and the remedy of any person is solely in damages and only against the Company.

10. Calling of general meetings

10.1 Calling of general meeting

- (a) The Board may call a general meeting of the Company at any time.
- (b) Except as permitted by the Act, no Member may call or arrange to hold a general meeting of the Company.

10.2 Notice of general meeting

Except as permitted by the Act, a general meeting must be called on at least the minimum number of days' notice required by the Act (which, at the date of adoption of this Constitution is 21 days) and in accordance with the procedures set out in the Act.

10.3 Contents of notice

A notice of a general meeting must:

- (a) comply with the Act; and
- (b) without limiting paragraph (a), set out the place (if applicable), the day and the time for the meeting (and, if the meeting is to be linked to one or more separate meeting places by technology under clause 11.2(a) or be held as a virtual meeting under clause 11.2(c), the technology that will be used to facilitate the holding of the meeting in that manner).

10.4 Omission to give notice

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

10.5 Cancellation or postponement of meeting

Where notice of a general meeting has been given, the Board may by notice given to all persons entitled to be given notice of the general meeting, change the place for or the method of holding of, postpone or cancel the general meeting. However, a general meeting called under section 249D of the Act:

- (a) may not be postponed beyond the date by which that section requires it to be held; and
- (b) may not be cancelled without the consent of the requisitioning Member or Members.

10.6 Adjournment of meeting

The chair of a general meeting at which a quorum is present:

- (a) may with the consent of the meeting by resolution; and
- (b) must, if so directed by the meeting by resolution,

adjourn the meeting from time to time and from place to place.

10.7 Business at adjourned meeting

The only business which an adjourned general meeting may deal with is business which was left unfinished from the general meeting which was adjourned.

10.8 Notice of adjourned meeting

No notice need be given of an adjourned general meeting (or of the business to be transacted at it) except if a general meeting is adjourned for more than 15 Business Days, in which case notice of the adjourned meeting must be given as if it were notice of the original meeting.

10.9 Forms of a notice of general meeting and appointment of proxy

Unless the law provides otherwise, a notice of general meeting and appointment of proxy form:

- (a) need not be provided physically in writing;
- (b) may be provided to Members using one or more technologies to communicate the contents; and
- (c) may be provided to Members using one or more technologies to communicate details of an online location where they can be viewed or downloaded.

11. Proceedings at general meetings

11.1 Representation of Members

A Member may attend a general meeting at which the Member is entitled to be present in any of the following ways (if applicable to the Member):

- (a) in person;
- (b) by proxy;
- (c) by attorney; or
- (d) in the case of a Member which is a body corporate, by a Corporate Representative.

In clauses 11, 12 and 13, 'Member' includes a Member present in any of these ways.

11.2 Separate meeting places and virtual general meetings

- (a) One or more separate meeting places may be linked to the main place of a general meeting. If one or more separate meeting places are linked to the main place of a general meeting by one or more instantaneous audio-visual communication devices which, by themselves or in conjunction with other arrangements:
 - (i) gives the general body of Members in the separate meeting place(s) a reasonable opportunity to participate in proceedings in the main place;

- (ii) enables the chair to be aware of proceedings in the other place(s); and
- (iii) enables the Members in the separate meeting place(s) to vote on a show of hands or on a poll (as the case may be),

a Member present at the separate meeting place(s) is taken to be present at the general meeting and entitled to exercise all rights as if he or she was present at the main place.

- (b) If, before or during the meeting, any technical difficulty occurs where one or more of the matters set out in clause 11.2(a) is not satisfied, the chair may:
 - (i) adjourn the meeting until the difficulty is remedied; or
 - (ii) continue to hold the meeting in the main place (and any other place(s) linked under clause 11.2(a)) and transact business, and no Member may object to the meeting being held or continuing.
- (c) Unless the law requires otherwise, a virtual general meeting may be held without there being a physical meeting place by using any technology, including by one or more instantaneous audio-visual communication devices or audio and visual or virtual communication technology, on the basis that:
 - (i) the notice convening the general meeting refers to the main regulations, rules and procedures governing how the meeting is to be conducted;
 - (ii) a Member participating at the meeting is taken to be present at the meeting for all purposes (including for the purposes of determining a quorum);
 - (iii) a Member participating at the meeting is entitled to exercise all rights as a Member at the meeting including the right to vote (as applicable) on a show of hands or a poll; and
 - (iv) the Members participating at the meeting should be able to hear the meeting in real time and should be given a reasonable opportunity to participate including being able to ask questions or to make comments (provided that an inability of one or more Members to do so will not affect the validity of the meeting or any business conducted at it for so long as sufficient Members are able to do so as are required to constitute a quorum).
- (d) Nothing in clause 11.2 is to be taken to limit the powers conferred on the chair by law.

11.3 Quorum

- (a) No business may be transacted at a general meeting unless a quorum of Members is present at the commencement of business.
- (b) A quorum of Members is two Voting Members unless there is only one Member, in which case a quorum is that Member.
- (c) In determining whether a quorum is present, individuals attending as proxies, attorneys or Corporate Representatives are counted. However, if a Member has appointed more than one proxy, attorney or Corporate Representative, only one for them is counted. If an individual is attending

both as a Member and as a proxy, attorney or Corporate Representative, the individual is counted only once.

11.4 Failure of quorum

If a quorum is not present within 30 minutes of the time notified for a general meeting:

- (a) where the meeting was called upon a requisition of Members as permitted by the Act, the meeting is dissolved; and
- (b) in any other case:
 - (i) the meeting stands adjourned to the day, and at the time and place or method that the Board may determine and notify to the Members or, if no determination is made, to the same day in the next week at the same time and place or method; and
 - (ii) at the adjourned meeting, if a quorum is not present within 30 minutes of the time notified for the meeting, the meeting is dissolved.

11.5 Chair

The Chair (if any) is or, if the Chair is absent or is unwilling or unable to be the chair of the general meeting, the Deputy Chair (if any) is, if willing and able, to be the chair of any general meeting.

11.6 Chair absent

Where a general meeting is held and either no person specified in clause 11.5 is present within 30 minutes of the time notified for the meeting or the person is present but is unwilling or unable to be the chair of the general meeting:

- (a) the Directors present may elect one of their numbers to be the chair of the general meeting; and
- (b) if there is no Director present or if no Director present at the meeting is able and willing to be the chair of the general meeting, the Voting Members present must elect one of their number to be the chair of the general meeting.

11.7 Chair disqualified

If the chair of a general meeting is unwilling or unable to be the chair for any part of the business of the meeting:

- (a) the chair may withdraw as chair for that part of the business and may nominate any person who would be entitled under clauses 11.5 or 11.6 to chair the meeting for that part of the business; and
- (b) after that part of the business is completed, the person so nominated must cease to chair the meeting and the chair resumes as the chair of the meeting.

11.8 Responsibilities of chair

The chair of a general meeting is responsible for the general conduct of the meeting and to ascertain the sense of the meeting concerning the business transacted at it and for these purposes may, without limitation:

- (a) prescribe procedures and make rulings, in each case finally and conclusively;
- (b) in addition to other powers to adjourn, adjourn the meeting for any time or any business of the meeting without the concurrence of the meeting if the chair determines it is desirable for the orderly conduct of the meeting or the conduct of a poll; and
- (c) determine conclusively any dispute concerning the admission, validity or rejection of a vote.

11.9 Method of voting

Every resolution put to a vote at a general meeting (except where there is an election of Directors by ballot) must be determined by a show of hands unless a poll is properly demanded in accordance with the Act.

11.10 Demand for poll

A demand for a poll under clause 11.9 may be made by:

- (a) the chair of the general meeting; or
- (b) a Voting Member in accordance with the Act.

11.11 No poll on election of chair or adjournment

A demand for a poll may not be made in respect of either:

- (a) the election by the general meeting of the chair of the meeting; or
- (b) unless the chair of the meeting otherwise determines, the adjournment of the meeting.

11.12 Effect and withdrawal of demand for poll

A demand for a poll:

- (a) does not prevent the continuance of a general meeting for the transaction of any business except in respect of the resolution for which the poll is demanded; and
- (b) may be withdrawn.

11.13 Votes on show of hands

Where a resolution is determined by a show of hands:

- (a) a declaration by the chair of the general meeting that the resolution has been carried, carried unanimously, carried without dissent, carried by a particular majority or lost is conclusive evidence of the fact so declared without proof of the number or proportion of votes cast for or against the resolution; and

- (b) any entry in the book containing the minutes of that general meeting recording that declaration is conclusive evidence of the fact that the declaration was made as so recorded.

11.14 Conduct of poll

If a poll is properly demanded for the voting on a resolution:

- (a) if the resolution is for the adjournment of the general meeting, the poll must be taken immediately in the manner that the chair of the meeting determines and declares to the meeting;
- (b) in all other cases, the poll must be taken at the time and in the manner that the chair of the general meeting determines and declares to the meeting;
- (c) the result of the poll, as disclosed by the chair of the general meeting at which the result is declared, is a resolution of the general meeting at which the poll is demanded; and
- (d) an entry in the book containing the minutes of the general meeting at which the result is declared recording that declaration is conclusive evidence of the fact that the declaration was made as so recorded.

11.15 Direct votes

The Board may decide that, at any general meeting, a Member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution. A “direct vote” includes a vote delivered to the Company by post, fax or other electronic means approved by the Board. The Board may prescribe regulations, rules and procedures in relation to direct voting, including specifying the form, method and timing of giving a direct vote at a meeting in order for the vote to be valid.

11.16 Resolutions determined by majority

Both on a show of hands and on a poll, a resolution is passed if more than one half of the total number of votes cast on the resolution are cast in favour of that resolution.

11.17 Casting vote of chair

If on a resolution proposed as a resolution at a general meeting there is an equality of votes (whether on a show of hands or on a poll), the chair of the meeting may exercise a casting vote in addition to all other votes which the chair may have (unless the chair is not entitled for some other reason to cast a vote on the resolution in which case the resolution is not passed).

12. Entitlements to attend and vote at general meetings

12.1 Entitlement to notice and to attend

Subject to this Constitution (including, without limitation, clause 7.5) and any terms of issue of any Share, each Member and each Director is entitled to notice of each general meeting and to be present and to speak at that general meeting. The Auditor is entitled to notice of each general meeting and to be present and to speak at that general meeting on any part of the meeting’s business that concerns the Auditor in the capacity as auditor of the Company.

12.2 Entitlement to vote

Subject to this Constitution (including, without limitation, clause 7.5), the Act and any terms of issue of any Share:

- (a) subject to clause 12.6(d), on a show of hands each Member has one vote; and
- (b) on a poll, each Member has:
 - (i) one vote for each fully paid Share held by the Member;
 - (ii) for each partly paid Share held by the Member, a fraction of a vote equivalent to the proportion which the amount paid (not credited) on the Share is of the total amounts paid and payable, whether or not called (excluding amounts credited) on the Share.

12.3 Vote of transmittee

A person entitled to transmission of a Share under clause 8.8 who, at least 48 hours before the time notified for a general meeting (or an adjourned meeting), satisfies the Board of that person's right to that Share, may vote at that general meeting in respect of that Share as if the person were registered as the holder of the Share.

12.4 Vote of Member of unsound mind

If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under a law relating to mental health, that Member's committee or trustee or other person who properly has the management of the Member's estate may, if that person has at least 48 hours before the time notified for a general meeting (or an adjourned meeting) satisfied the Board of that person's relationship to the Member or the Member's estate, exercise the rights of the Member in respect of the general meeting as if the committee, trustee or other person were the Member.

12.5 Joint holders' votes

Where more than one person (including, for the purposes of this clause, the several legal personal representatives of a dead Member) holds a Share:

- (a) each of those persons may tender a vote in respect of the Share either in person or by proxy, Corporate Representative or attorney, as if the person were the sole holder of the Share; but
- (b) if two or more of those persons tender a vote on any resolution, the only vote which is to be counted in respect of that Share is the vote tendered by the most senior of those persons (seniority being conclusively ascertained by the order of names in respect of that Share in the Register).

12.6 Voting by proxy

- (a) A Member who is entitled to vote at a general meeting of the Company may appoint not more than two proxies to attend and vote at the general meeting in place of the Member.
- (b) A proxy need not be a Member.
- (c) If a Member appoints one proxy, that proxy may, subject to the Act, vote on a show of hands.

- (d) If a Member appoints two proxies and both attend a general meeting, neither proxy may vote on a show of hands.
- (e) A proxy may demand or join in demanding a poll.
- (f) Subject to the Act, a proxy may vote or abstain as he or she chooses.

12.7 Appointment of proxy

- (a) An appointment of proxy is valid if it:
 - (i) is signed, or otherwise authenticated in a way permitted by the Act, by the Member making the appointment; and
 - (ii) contains the information required by section 250A(1) of the Act.
- (b) The Board, or the Chair and the Secretary, may approve a form or means of appointment from time to time.

12.8 Lodgement of appointments of proxies and attorneys

- (a) Subject to clause 12.8(c), an appointment of a proxy or attorney must be received by the Company at least 48 hours (unless that period is reduced in the notice of meeting to which the proxy relates or by clause 12.8(f)) before the time for holding the general meeting (or resumption of an adjourned general meeting) at which the appointee proposes to vote.
- (b) If the appointment purports to be signed or otherwise authenticated under a power of attorney or other authority, the original authority or a certified copy of it must be received by the Company by the time determined under this clause 12.8.
- (c) The Company receives an appointment or document required by this clause 12.8:
 - (i) when the appointment or document is received at:
 - (A) the Company's registered office;
 - (B) a fax number at the Company's registered office; or
 - (C) a place, fax number or electronic address specified for that purpose in the notice of general meeting; and
 - (ii) without limiting clause 10.9, if the notice of meeting specifies other electronic means by which a Member may give the appointment or document, when the appointment or document has been given by those electronic means.
- (d) The Company may, by written or oral communication, clarify with a Member any instruction on an appointment of proxy or attorney which is received by the Company within a period referred to in clause 12.8(a) or clause 12.8(f) (as applicable). The Company may amend the contents of any appointment of proxy or attorney to reflect any clarification in instruction received from the Member and the Member at that time appoints the Company as its attorney for this purpose.
- (e) Where an appointment of a proxy or attorney has been received by the Company by the time determined under clause 12.8(a) and the Company

considers that the appointment has not been duly signed or authenticated, the Company, in its discretion, may:

- (i) return the appointment to the appointing Member; and
 - (ii) request that the Member duly sign or authenticate the appointment and return it to the Company within a period determined by the Board under clause 12.8(f).
- (f) Where clause 12.8(e) applies:
- (i) the 48 hour period referred to in clause 12.8(a) is reduced to any lesser number of hours before the time for holding the relevant general meeting (or resuming the adjourned general meeting) determined by the Board and notified to the appointing Member; and
 - (ii) the appointment of proxy or attorney is effective for the scheduled general meeting or adjourned general meeting (as the case may be) if the appointment and any other document required by clause 12.8(b) is received by the Company at least the number of hours determined by the Board under clause 12.8(f)(i) before the time for holding the relevant meeting or resuming the adjourned meeting (as the case may be).
- (g) Nothing in clauses 12.8(d), 12.8(e) or 12.8(f) requires the Board or the Company to do anything referred to in those clauses.

12.9 Corporate Representatives

- (a) Any Member that is a body corporate may appoint an individual as its Corporate Representative as provided by the Act. The appointment may be a standing one.
- (b) The appointment of a Corporate Representative may set out restrictions on the Corporate Representative's powers.
- (c) The original form of appointment of a Corporate Representative, a certified copy of the appointment, or a certificate of the body corporate evidencing the appointment of a Corporate Representative is prima facie evidence of a Corporate Representative having been appointed.
- (d) The chair of a general meeting may permit a person claiming to be a Corporate Representative to exercise his or her powers even if he or she has not produced a certificate or other satisfactory evidence of his or her appointment.

12.10 Ruling on entitlements and votes

An objection may be raised with the chair of a general meeting as to the qualification of a purported voter or the admission or rejection of a vote by any person present and entitled (or claiming to be entitled) to vote but that objection may be made only at the general meeting or adjourned meeting at which the purported voter wishes to vote or the vote objected to is given or tendered and, in relation to that objection:

- (a) the decision of the chair is final and conclusive; and
- (b) a vote not disallowed as a result is valid and effective for all purposes.

13. Class meetings

All the provisions of this Constitution relating to a meeting of Members apply so far as they are capable of application and with any necessary changes to a meeting of a class of Members required to be held pursuant to this Constitution or the Act except that:

- (a) a quorum of Members is two Voting Members who hold Shares of the class unless there is only one Member who holds Shares of the class, in which case a quorum is that Member; and
- (b) any Voting Member who holds Shares of the class may demand a poll.

14. Directors

14.1 Number of Directors

The number of the Directors (excluding Alternate Directors) must be not less than three nor more than eight. The Company may by resolution increase or reduce the maximum number of Directors.

14.2 Continuing Directors

The Directors holding office at the date of adoption of this Constitution continue in office subject to this Constitution.

14.3 Qualification of Directors

A Director need not be a Member.

14.4 Additional Directors

The Directors shall have power at any time to appoint any other person as a Director either to fill a casual vacancy or as an addition to the Board but the total number of Directors may not exceed the maximum number fixed by the Constitution.

14.5 Removal of Director

The Company may:

- (a) by resolution in accordance with section 203D of the Act remove a Director from office; and
- (b) by resolution fill the office vacated by a Director who is removed under clause 14.5(a) by electing another person in that office.

14.6 Vacation of office

The office of a Director automatically becomes vacant if the Director:

- (a) becomes an insolvent under administration;
- (b) is not permitted by the Act (or an order made under the Act) to be a Director;

- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (d) is removed as a Director under the Act or this Constitution;
- (e) either personally or by an Alternate Director fails to attend Board meetings for a continuous period of six months without leave of absence from the Board; or
- (f) resigns either by reason of these clauses or by notice in writing to the Company.

14.7 Less than minimum number of Directors

Where the office of a Director becomes vacant, the continuing Directors may continue to act except where the number of Directors falls below the minimum number set by clause 14.1, in which case the continuing Directors may act only:

- (a) to appoint Directors up to that minimum number;
- (b) to call a general meeting; or
- (c) in emergencies.

15. Directors' remuneration

15.1 Fees of Non-executive Directors

The fees of the Directors (excluding any Executive Directors):

- (a) may not in any period of 12 months starting at the end of a financial year of the Company (a **year**) exceed in aggregate the amount last fixed before the end of that year for those fees by a resolution of the Company;
- (b) are to be allocated to those Directors as determined by the Board (including those Directors), or, if there is no such determination in any year, equally between them; and
- (c) accrue from day to day.

15.2 Additional remuneration for extra services

If a Director, having been requested to do so by the Board, either performs extra services or makes any special exertions for the Company (including, without limitation, going or living abroad), the Company may remunerate that Director by the payment of a fixed sum determined by the Board and that remuneration may be either in addition to or in substitution for any remuneration to which that Director may be entitled under clause 15.1.

15.3 Expenses of Directors

The Company must pay a Director (in addition to any other remuneration) all reasonable expenses including, without limitation, any travelling and accommodation expenses incurred by the Director:

- (a) in attending meetings of the Board or a committee of the Board;
- (b) on the business of the Company; or

- (c) in carrying out that Director's duties as a Director.

16. Directors' interests

16.1 Disclosure of material personal interests

Where required by the Act, a Director must give the Directors notice of any material personal interest in a matter that relates to the affairs of the Company.

16.2 Disclosure of other interests

A Director will be required to declare at a Board meeting or otherwise disclose to the Directors any:

- (a) interest in a matter relating to the affairs of the Company (including any direct or indirect interest in an existing or proposed agreement or arrangement with the Company); or
- (b) potential or actual conflict of interest arising (whether directly or indirectly) from any office held or property possessed by the Director,

only if the Director is required to do so by the Act or by rules made by the Directors under clause 16.8.

16.3 Director may hold office

Subject to the provisions of this clause 16, a Director or a body or entity in which a Director has a direct or indirect interest may:

- (a) enter into any agreement or arrangement with the Company;
- (b) hold any office or place of profit other than as auditor in the Company; and
- (c) act in a professional capacity other than as auditor for the Company,

and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.

16.4 Contracts not voided

The fact that a Director holds office as a director, and has fiduciary obligations arising out of that office:

- (a) will not void or render voidable a contract made by a Director with the Company;
- (b) will not void or render voidable a contract or arrangement entered into by or on behalf of the Company and in which the Director may have any interest; and
- (c) will not require the Director to account to the Company for any profit realised by or under any contract or arrangement entered into by or on behalf of the Company and in which the Director may have any interest.

16.5 Other directorships

A Director may be or become a director or other officer of, or otherwise be interested in:

- (a) any related body corporate; or
- (b) any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise,

and is not accountable to the Company for any remuneration or other benefits received by the director or officer of, or from having an interest in, that body corporate.

16.6 Voting restrictions

A Director who has a material personal interest in a matter that is being considered at a Board meeting must not:

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

if to do so would be prohibited by the Act.

16.7 Participation of interested director

If not prohibited by the Act, a Director may:

- (a) be counted in determining whether or not a quorum is present at, and attend, any Board meeting that considers any matter in which the Director has a direct or indirect interest in any capacity (including any proposed contract or arrangement in which the Director has such an interest);
- (b) participate in the execution of any document by or on behalf of the Company in relation to any matter (including any proposed contract or arrangement) in which the Director has any such interest; and
- (c) vote on any resolution, decision or other matter in which the Director has any such interest.

16.8 Rules

The Directors may make rules requiring the disclosure of interests that a Director, and any person considered by the Directors to be related to (or associated with) the Director, may have in any matter concerning or connected with the Company or any of its related bodies corporate. Any rules made under this clause bind all Directors. No act, transaction, agreement, instrument, resolution or other thing is void or voidable only because a Director fails to comply with any rule made under this clause 16.8.

16.9 Disclosures in relation to securities

A Director must give to the Company such information about the Shares or other securities in the Company in which the Director has a relevant interest as is required, and at the times that the Secretary requires, to enable the Company to comply with any disclosure obligations it has under the Act relating to such interests.

17. Alternate Directors

17.1 Power to appoint Alternate Director

A Director (but not an Alternate Director) may from time to time in accordance with the procedures set out in clause 17.2 appoint any person eligible to be a Director to be the Alternate Director of the Appointor whether for a specified period or until the appointment is revoked.

17.2 Method of appointment

An Alternate Director is appointed as such where:

- (a) the Appointor gives notice in writing to the Company in any form that the Board may from time to time prescribe or accept; and
- (b) the Board (excluding the Appointor from voting) approves the person specified to be the Alternate Director of the Appointor.

17.3 Termination of appointment

The Appointor, at any time and regardless of whether the appointment is for a specified period, may revoke the appointment of a person as the Appointor's Alternate Director by notice in writing to the Company to that effect and the appointment is automatically revoked if the Appointor ceases to be a Director.

17.4 Entitlements of Alternate Director

An Alternate Director by reason of being appointed as such:

- (a) is not entitled to receive notice of meetings of the Board unless the Appointor has by notice in writing to the Company required it to do so;
- (b) if the Appointor is not present at a meeting of the Board, may attend and vote at that meeting in place of the Appointor;
- (c) if also a Director, may vote both as a Director and as an Alternate Director;
- (d) and when acting as such, is an officer of the Company and not an agent of the Appointor and, in those circumstances, is subject to all the duties and has all the powers and rights of the Appointor as a Director; and
- (e) may not be remunerated except out of the remuneration which would otherwise be available to be paid to the Appointor and, in respect of that remuneration, the Alternate Director's only rights (if any) are against the Appointor and not the Company.

18. Managing Director and other Executive Directors

18.1 Appointment of Managing Director

The Board may from time to time appoint one of the Directors to be the Managing Director either for a fixed term (but not for life) or without fixing a term and on any terms and conditions that it determines.

18.2 Termination of appointment of Managing Director

The appointment of the Managing Director terminates if:

- (a) the Managing Director ceases for any reason to be a Director; or
- (b) the Board revokes the appointment (which this paragraph empowers it to do).

18.3 Remuneration of Executive Directors

The Board may fix the remuneration of each Executive Director and that remuneration may comprise any or all of:

- (a) salary;
- (b) commission on profits or dividends; or
- (c) participation in profits.

18.4 Powers of Executive Directors

The Board may, from time to time and upon any terms and conditions and subject to any restrictions that it considers appropriate:

- (a) confer on an Executive Director any or all of the powers of the Board (which powers may be conferred so as to be concurrent with, or to the exclusion of, the powers of the Board); and
- (b) withdraw or alter any of those powers.

19. Powers of the Board

19.1 Powers generally

Except where the Act or any other provision of this Constitution requires a power to be exercised by the Company in general meeting of the Members:

- (a) the Board is to manage the business of the Company; and
- (b) the Board may exercise each right, power or capacity of the Company (including, without limitation, to authorise the presentation of a petition for the winding up of the Company by the Court).

19.2 Best interests of holding company

If the Company is a wholly-owned subsidiary of a body corporate then, subject to the Act, the Board may act in the best interests of the holding company of the Company.

19.3 Appointment of attorney

The Board by power of attorney may appoint any person to be an attorney of the Company for the purposes, with the powers (being powers of the Board), for the period and subject to the conditions determined by it.

19.4 Contents of power of attorney

A power of attorney under clause 19.3 may, without limitation:

- (a) contain any provisions for the protection and convenience of persons dealing with the attorney as the Board determines; and
- (b) authorise the attorney to delegate any or all of the powers vested in the attorney.

20. Proceedings of the Board

20.1 Mode of meeting

The Board may meet in person or by telephone or other instantaneous means of conferring for the dispatch of business (or by any combination of those means) which allows each person present to hear and be heard by each other person present, and adjourn and otherwise regulate its meetings as it determines.

20.2 Quorum

The Board may determine the quorum of Directors present at a meeting of the Board necessary for the transaction of business at the meeting which, until otherwise determined, is two, and for the purposes of this clause and clauses 20.4 and 20.10, a Director is treated:

- (a) as present at the meeting by telephone or other instantaneous means of conferring if the Director is able to hear the entire meeting and be heard by all others attending the meeting; and
- (b) as not being present at the meeting if that Director is not permitted to be present at it by the Act or clause 16.

20.3 Notice of meeting

Notice of each meeting of the Board:

- (a) must be given to each Director (and each Alternate Director in respect of who the Appointor has given notice to the Company requiring notice to be given to that Alternate Director); and
- (b) may be given by telephone or fax or by any technology consented to by the Directors,

but the non-receipt of any notice of a Board meeting by a Director does not affect the validity of the convening of the meeting.

20.4 Place of meeting

Where the Board holds a meeting solely or partly by telephone or other instantaneous means of conferring, the meeting is to be treated as held at the place at which at least one of the Directors present at the meeting is physically located as is agreed by those Directors present at the meeting.

20.5 Period of notice

The Board may determine the period of notice (unless waived by a majority of the Directors to whom notice of a particular meeting is sent) for each meeting of the Board which, until otherwise determined, is two Business Days.

20.6 Calling of Board meeting

A Director may at any time, and the Secretary must on request from a Director, call a meeting of the Board.

20.7 Appointment of Chair

The Board may elect one of the Directors to be Chair and may elect another to be Deputy Chair and may determine the period for which each of those Directors is to hold that office.

20.8 Chair of Board meetings

Where the Board holds a meeting and:

- (a) has not appointed a Chair under clause 20.7 or the Chair is not present within 15 minutes of the time appointed for the holding of the meeting or is unwilling or unable to act; and
- (b) has not appointed a Deputy Chair under clause 20.7 or the Deputy Chair is not present with 15 minutes of the time appointed for the holding of the meeting or is unwilling or unable to act,

the Directors present at the meeting may choose one of their number to be chair of that meeting.

20.9 Majority decisions

Every question and resolution dealt with at a meeting of the Board is to be decided by a majority of votes of the Directors who are entitled to be present and to vote and who vote on the question or resolution.

20.10 Votes of Directors

Subject to these clauses:

- (a) each Director (other than a person who is only a Director by reason of being an Alternate Director) present at a meeting of the Board has one vote on every question or resolution at that meeting;
- (b) each Alternate Director entitled to be present and to vote at the meeting has one vote for each Appointor in respect of which the Alternate Director is present which, in the case of an Alternate Director who is also a Director to whom paragraph (a) applies, is to be in addition to the vote conferred on that Director by paragraph (a); and
- (c) if there is an equality of votes on any question or resolution, the chair of the meeting, if entitled to vote on the question or resolution, may exercise a casting vote in addition to any other vote the chair may have.

20.11 Exercise of powers by Board

A power of the Board, unless it has been conferred exclusively under clause 18.4 or delegated exclusively to a committee of the Board under clause 20.12, is exercisable only:

- (a) by resolution at a meeting of the Board at which a quorum is present; or
- (b) by a resolution of the Directors under clause 20.14.

20.12 Delegation to committee

The Board may delegate any of its powers (which powers may be delegated so as to be concurrent with, or to the exclusion of, the powers of the Board) to a committee consisting of at least one Director, and which may also include any other persons, determined by the Board.

20.13 Committee powers and meetings

Where the Board has appointed a committee under clause 20.12:

- (a) that committee must exercise the powers delegated to it under clause 20.12 in accordance with any directions of the Board;
- (b) a power so delegated when exercised by the committee in accordance with clause 20.13(a) is treated as exercised by the Board;
- (c) the members of the committee may elect a chair from among the members;
- (d) where a committee holds a meeting and:
 - (i) has not elected a chair under clause 20.13(c); or
 - (ii) the chair so elected is not present at the meeting within 15 minutes of the time appointed for the holding of the meeting or is unwilling or unable to act,

the members of the committee present at the meeting may choose one of their number to be chair of the meeting;

- (e) the committee may meet in person or by telephone or other instantaneous means of conferring for the dispatch of business (or by any combination of those means) and adjourn and otherwise regulate its meetings as it may determine; and
- (f) the committee meetings are otherwise governed to the greatest extent practicable by the provisions of this Constitution which regulate the meetings and procedures of the Board.

20.14 Circulating resolutions of Directors

- (a) The Board may pass a resolution without a Board meeting being held if a majority of the Directors who are entitled to vote on the resolution assent to a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of a document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy. The

resolution is passed when the requisite majority has signed or assented to the document.

- (c) A Director may signify assent to a document under this clause 20.14 by signing the document or by notifying the Company of the assent of the Director by any technology including telephone and email.
- (d) Where a Director signifies assent to a document under paragraph (c) other than by signing the document, the Director must by way of confirmation sign the document before or at the next meeting of Directors attended by that Director.
- (e) The resolution the subject of a document under paragraph (a) is not invalid if a Director does not comply with paragraph (d).

20.15 Validity of acts of directors

Each resolution passed or act or thing performed or done by, or with the participation of, a person acting as a Director or member of a committee in respect of who it is later discovered there was some defect in appointment to, or continuation in, office of that person or that the person was disqualified or not entitled to perform, vote on or do, the resolution, act or thing, is as valid and effective as if that Director or member of committee had been validly appointed, had validly continued in office, had not been disqualified and was entitled so to perform, vote or do.

20.16 Replaceable quorum

If a quorum for a Directors meeting is not present, the meeting must be adjourned for five Business Days. Any two Directors will constitute a quorum at the adjourned meeting.

21. Secretary

The Board may:

- (a) appoint any person to be a Secretary of the Company;
- (b) determine the term of appointment, powers, duties and remuneration of that person as a Secretary;
- (c) vary any determination so made; and
- (d) terminate or suspend any appointment of a person as a Secretary.

22. Company administration

22.1 Minutes to be made

The Board must cause minutes to be made of:

- (a) the names of the Directors present at each Board meeting;
- (b) the names of the committee members present at each meeting of a committee appointed under clause 20.12;

- (c) the proceedings and resolutions of each general meeting;
- (d) the proceedings and resolutions of each Board meeting; and
- (e) the proceedings and resolutions of each meeting of a committee appointed under clause 20.12.

22.2 Minutes to be entered

The Board must cause all minutes made under clause 22.1 to be entered in the relevant minute book of the Company.

22.3 Signature of minutes

The minutes of a meeting made under clause 22.1 must be signed by the chair of the meeting or the chair of the next succeeding meeting of the relevant body, and if so signed will be conclusive evidence of the matters stated in them.

22.4 Execution of documents

The Company may have a Common Seal if so determined by the Board. If the Company does not have a Common Seal, the Company will execute documents in accordance with section 127 of the Act or in accordance with procedures determined by the Board from time to time.

22.5 Common Seal

If the Company has a Common Seal:

- (a) the Board must provide for its safe custody;
- (b) the Common Seal must be used only by the authority of the Board or of a committee of the Board;
- (c) the authority to use the Common Seal may be given before or after the Common Seal is used; and
- (d) until the Board otherwise determines, every document to which the Common Seal is affixed must be signed by a Director and countersigned by another Director, a Secretary or another person appointed by the Board to countersign that document or a class of documents in which that document is included.

23. Inspection and secrecy

23.1 No right to inspect

No Member is entitled to require discovery of, inspection of, or any information concerning the affairs of the Company, except as provided by the Act or as permitted by the Board.

23.2 Board may permit inspection

Subject to the Act, the Board may determine whether any of the books, accounts and other information of the Company is to be available for inspection by Members and, if so, the extent, time, place and conditions of inspection so permitted.

23.3 Obligation of secrecy

Every officer of the Company must:

- (a) keep strictly secret all transactions and affairs of, the accounts of and all information concerning the Company; and
- (b) if so required by the Board, sign a declaration accepting the obligation of secrecy and undertaking not to disclose any information within the officer's knowledge the subject of that obligation to any person, except in the proper course and performance of the officer's duties, as required by law or as required by the Board.

24. Dividends and other distributions

24.1 Dividends

- (a) Subject to the requirements of the Act, the Board may determine that a Dividend is payable (whether by declaring a Dividend, deciding to pay a Dividend or otherwise) and pay such Dividend as, in its judgment, the financial position of the Company justifies and may fix the time for payment.
- (b) Subject to the requirements of the Act, the Board may pay any Dividend required to be paid under the terms of issue of a Share.
- (c) Subject to any rights or restrictions attached to any Shares or class of Shares:
 - (i) all Dividends in respect of Shares must be determined to be payable and paid in proportion to the amounts paid (not credited) of the total amounts paid and payable (excluding amounts credited) on the Shares; and
 - (ii) interest is not payable by the Company in respect of any Dividend.
- (d) The Board may fix a record date in respect of a Dividend, with or without suspending the registration of transfers from that date under clause 8.4.
- (e) A Dividend in respect of a Share must be paid to the person who is registered, or entitled to be registered, as the holder:
 - (i) on the record date fixed by the Board; or
 - (ii) where the Board has not fixed a record date, on the date on which the Board determines that the Dividend is payable.
- (f) Where the Board determines that a Dividend is payable under this clause 24.1 the obligation of the Company to make the distribution only arises where the Dividend is determined under clause 24.1(a), the Board fixes the time for distribution and that time has arrived and, if the Dividend is a distribution of money, no debt arises in respect of the Dividend until that time.
- (g) The Board when determining that a Dividend is payable may:
 - (i) direct payment of the Dividend wholly or partly by the distribution of specific assets, including paid-up shares or other securities of the

Company or of another body corporate, either generally or to specific Members; and

- (ii) direct that the Dividend be paid to particular Members wholly or partly out of any particular fund or reserve and to the remaining Members wholly or partly out of any other particular fund or reserve or generally.
- (h) Where the Company distributes shares or other securities in another body corporate, whether by way of a capital reduction, payment of a dividend, on a winding up or otherwise:
 - (i) the Members are deemed to have agreed to become members of that body corporate and are bound by the constitution of that body corporate; and
 - (ii) each of the Members appoints the Company or any of the Directors as its agent to execute any transfer of shares or other securities, or other documents required to give effect to the distribution of shares or other securities to that Member.
- (i) The Board may deduct from any Dividend payable to a Member all sums of money presently payable by the Member to the Company and apply the amount deducted in or towards satisfaction of the money owing.
- (j) Where a person is entitled to a Share as a result of a Transmission Event, the Board may, but is not obliged to, retain any Dividends payable in respect of that Share until that person becomes registered as the holder of the Share or transfers it.

24.2 Manner of payment of Dividends

- (a) Any Dividend, interest or other money payable in cash in respect of Shares may be paid:
 - (i) directly into an account, with a bank or some other financial institution, as directed in writing by the holder or joint holders; or
 - (ii) by cheque sent through the post directed to:
 - (A) the address of the holder as shown in the Register, or in the case of joint holders, the address shown in the Register as the address of the joint holder first named in the Register;
 - (B) any other address as directed in writing by the holder or joint holders; or
 - (iii) by any other means determined by the Board,

and is at the risk of the Member who is (or joint holder one of whom is) the intended recipient as soon as it is given, posted or transferred (as applicable).
- (b) If the Board decide that payments will be made by electronic transfer into an account (of a type approved by the Board) nominated by a Member but no such account is nominated by the Member or an electronic transfer into a nominated account is rejected or refunded, the Company may credit the amount payable to an account of the Company to be held until the Member

nominates a valid account, or the amount is otherwise dealt with under clause 24.5.

- (c) Where a Member does not have a registered address or the Company believes that a Member is not known at the Member's registered address, the Company may credit an amount payable in respect of the Member's Shares to an account of the Company to be held until the Member claims the amount payable or nominates an account into which the payment may be made.
- (d) An amount credited to an account under clause 24.2(b) or clause 24.2(c) is to be treated as having been paid to the Member at the time it is credited to that account. The Company will not be a trustee of the money and no interest will accrue on the money.

24.3 Capitalisation of amounts

- (a) Subject to the requirements of the Act and to any rights or restrictions attached to any Shares or class of Shares, the Board may capitalise and distribute among such of the Members as would be entitled to receive dividends and in the same proportions, any amount:
 - (i) forming part of the undivided profits of the Company;
 - (ii) representing profits arising from an ascertained accretion to capital or from a revaluation of the assets of the Company;
 - (iii) arising from the realisation of any assets of the Company; or
 - (iv) otherwise available for distribution as a Dividend.
- (b) The Board may resolve that all or any part of the capitalised amount is to be applied:
 - (i) in paying up in full at a price determined by the resolution any unissued Shares in or other securities of the Company; or
 - (ii) in paying up any amounts unpaid on Shares or other securities held by the Members.

24.4 Ancillary powers

For the purpose of giving effect to any resolution for the satisfaction of a Dividend in the manner set out in clause 24.1(g)(i) or by the capitalisation of any amount under clause 24.3, the Board may:

- (a) settle as it thinks expedient any difficulty that may arise in making the distribution or capitalisation;
- (b) fix the value for distribution of any specific assets; or
- (c) pay cash or issue shares or other securities to any Members in order to adjust the rights of all parties.

24.5 Unclaimed dividends

Unclaimed dividends may be invested by the Board as they think fit for the benefit of the Company until claimed or until required to be dealt with in accordance with any law relating to unclaimed moneys.

25. Winding up

25.1 Distribution of surplus

Subject to this Constitution and to the rights or restrictions attached to any Shares or class of Shares:

- (a) if the Company is wound up and the property of the Company available for distribution among the Members is more than sufficient:
 - (i) to pay all of the debts and liabilities of the Company; and
 - (ii) the costs, charges and expenses of the winding up,the excess must be divided among the Members in proportion to the Shares held by them, irrespective of the amounts paid or credited as paid on the Shares;
- (b) for the purpose of calculating the excess referred to in clause 25.1(a), any amount unpaid on a Share is to be treated as property of the Company;
- (c) the amount of the excess that would otherwise be distributed to the holder of a partly paid Share under clause 25.1(a) must be reduced by the amount unpaid on that Share at the date of the distribution; and
- (d) if the effect of the reduction under clause 25.1(c) would be to reduce the distribution to the holder of a partly paid Share to a negative amount, the holder must contribute that amount to the Company.

25.2 Division of property

- (a) If the Company is wound up, the liquidator may:
 - (i) divide among the Members the whole or any part of the property of the Company; and
 - (ii) determine how the division is to be carried out as between the Members or different classes of Members.
- (b) If any of the property to be divided under clause 25.2(a) includes securities with a liability to calls, any person entitled under the division to any of the securities may within 10 days after the determination referred to in that clause, by notice in writing direct the liquidator to sell the person's proportion of the securities and to account for the net proceeds and the liquidator must, if practicable, act accordingly.
- (c) Nothing in this clause 25.2 derogates from or affects any right to exercise any statutory or other power which would have existed if this clause were omitted.
- (d) Clause 24.4 applies, so far as it can and with such changes as are necessary, to a division by a liquidator under clause 25.2(a) as if references in clause 24.4 to the Board and to a distribution or capitalisation were references to the liquidator and to the division under clause 25.2(a) respectively.

26. Indemnity and insurance

26.1 Persons to whom clauses 26.2 and 26.3 apply

- (a) Clauses 26.2 and 26.3 apply:
 - (i) to each person who is or has been an officer of the Company;
 - (ii) if the Board so determines, to any auditor or former auditor of the Company or of its Related Bodies Corporate.
- (b) For the purpose of this clause 26, **officer** means:
 - (i) a Director or Secretary of the Company; and
 - (ii) a person who makes or participates in making decisions that affect the whole, or a substantial part of the business of the Company.

26.2 Indemnity

The Company must indemnify, on a full indemnity basis and to the full extent permitted by law, each person to whom this clause 26.2 applies for all losses or liabilities incurred by the person as an officer or, if the Board so determine, an auditor of the Company or of a Related Body Corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred:

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

26.3 Extent of indemnity

The indemnity in clause 26.2:

- (a) is a continuing obligation and enforceable by a person to whom clause 26.2 applies even though that person may have ceased to be an officer or auditor of the Company or of a Related Body Corporate;
- (b) applies to losses and liabilities incurred both before and after the date of adoption of that clause; and
- (c) operates only to the extent that the loss or liability is not covered by insurance.

26.4 Insurance

The Company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom clause 26.2 applies against any liability incurred by the person as an officer or auditor of the Company or of a Related Body Corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

26.5 Savings

Nothing in clauses 26.2 or 26.4:

- (a) affects any other right or remedy that a person to whom this Constitution apply may have in respect of any loss or liability referred to in those clauses; or
- (b) limits the capacity of the Company to indemnify or provide insurance for any person to whom those clauses do not apply.

27. Notices

27.1 Notices by the Company to Members

- (a) Without limiting, and subject to, clause 10.9, the Company may give a notice to a Member:
 - (i) personally;
 - (ii) by sending it by prepaid post to the Member's address as shown in the Register or an alternative address nominated by the Member;
 - (iii) by sending it by fax or other electronic means (including by providing a URL link to any document or attachment) to the fax number or electronic address nominated by the Member; or
 - (iv) where applicable, in a manner permitted by the Act.
- (b) A notice may be given by the Company to the joint holders of a Share by giving the notice to the joint holder first named in the Register in respect of the Share.
- (c) A person who becomes entitled to a Share registered in the name of a Member is taken to have received every notice which, before that person's name and address are entered in the Register for those Shares, is given to the Member under this clause 27.1.
- (d) A certificate signed by a Director or Secretary of the Company to the effect that a notice has been given in accordance with this Constitution is conclusive evidence of that fact.

27.2 Notices by the Company to Directors

Subject to this Constitution, a notice may be given by the Company to any Director or Alternate Director either by serving it personally at, or by sending it by post in a prepaid envelope to, the Director's or Alternate Director's usual residential or business address, or such other address, or by fax or electronic transmission to such fax number or electronic address, as the Director or Alternate Director has supplied to the Company for the giving of notices.

27.3 Notices by Members or Directors to the Company

Subject to this Constitution, a notice may be given by a Member, Director or Alternate Director to the Company by serving it on the Company at, or by sending it by post in a prepaid envelope to, the registered office of the Company or fax to the principal fax number at the registered office of the Company.

27.4 Notices posted to addresses outside the Commonwealth

A notice sent by post to an address outside the Commonwealth of Australia and its external territories must be sent by airmail or fax.

27.5 Time of service

- (a) A notice sent by post is taken to be received on the day after the date of its posting.
- (b) A notice sent or given by fax or other electronic transmission:
 - (i) is taken to be effected by properly addressing and transmitting the fax or other electronic transmission; and
 - (ii) is taken to have been delivered on the day after the date of its transmission.

27.6 Other communications or documents

Clauses 27.1 to 27.5 (inclusive) apply, so far as they can and with any necessary changes, to serving any communication or document.