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[Note: This document is a template constitution for use where a company intends to adopt a new constitution as a replacement to its current constitution. It is suitable for use in conjunction with a shareholders' deed/agreement and is stated as being subject to the terms and conditions of any shareholders' deed/agreement (i.e. where any inconsistency arises, the shareholders' deed/agreement prevails).

In order to adopt a new constitution, under the Corporations Act (section 136(2)), a special resolution of shareholders is required, being a resolution passed by at least 75% of votes. Refer to ASIC guidance on changing a constitution at <https://asic.gov.au/for-business/registering-a-company/steps-to-register-a-company/constitution-and-replaceable-rules>.

CONSTITUTION

of

[insert company name] Pty Ltd (ACN [insert ACN])

A proprietary company limited by shares.

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1 DEFINITIONS

Terms used in the Corporations Act

1.1 In this constitution, subject to clauses 1.2 and unless the context requires otherwise, terms used in any provision of this constitution that deals with a matter that is dealt with by a particular section of the Corporations Act have the same meanings as in that section of the Corporations Act.

Specific definitions

1.2 The following definitions apply in this constitution:

“**Alternate Director**” has the meaning given in clause 12.1.

“**Board**” means some or all of the Directors acting as a board in accordance with the Corporations Act and this constitution.

“**Business Day**” means a day (other than a Saturday, Sunday or public holiday) when banks in the state or territory in which the Company’s principal place of business is located are open for business.

“**Call Notice**” has the meaning given in clause 4.2.

“**Claim**” means any claim, complaint, demand, proceeding, suit, litigation, action, cause of action or other legal recourse (whether in contract, tort, under statute or otherwise).

“**Committee**” has the meaning given in clause 14.6.

“**Company**” means the company registered with Australian Company Number [insert ACN].

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

“**Debenture**” has the meaning given to the term “debenture” in section 9 of the Corporations Act, but does not have the extended meaning given to that term in respect of Chapter 8 of the Corporations Act.

“**Debt Security**” means a Debenture, bond, convertible note or other debt or hybrid-debt security issued by the Company and, unless the context requires otherwise, includes a Unit of such a security.

“**Director**” means a director of the Company from time to time and, unless the context requires otherwise, includes an Alternate Director.

“**Executive Director**” means a Director who is appointed to a position as an employee of the Company in accordance with clause 13.1.

“**Forfeiture Notice**” has the meaning given in clause 6.1.

“**Governmental Agency**” means any government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity whether foreign, federal, state, territorial or local.

“**Issued Securities**” means any Securities in the Company that are on issue from time to time.

“**Liability**” includes a present, prospective, future or contingent liability.

“Lien Sale Notice” has the meaning given in clause 5.4.

“Managing Director” means a Director who is appointed as a managing director of the Company in accordance with clause 13.1.

“Prescribed Rate” means:

(a) the rate of interest determined by the Board to be the “Prescribed Rate” for the purposes of this constitution; or

(b) in the absence of such a determination, a rate of interest of 10% per annum,

calculated daily and accruing from day to day on the basis of a 365-day year and compounded monthly.

“Register” means the register of members of the Company kept by the Company in accordance with the Corporations Act.

“Registered Office” means the registered office of the Company.

“Related Body Corporate” has the meaning given to the term “related body corporate” in the Corporations Act.

“Replaceable Rules” means the provisions of the Corporations Act that are designated under section 141 of the Corporations Act as “replaceable rules” and so are capable of being displaced or modified by a company’s constitution.

“Representative” means an individual who has been appointed as a representative of a corporate Shareholder in accordance with section 250D of the Corporations Act.

“Secretary” means a person appointed as a company secretary of the Company in accordance with clause 16.1 and, unless the context requires otherwise, includes any acting company secretary of the Company.

“Securities” means:

(a) Shares;

(b) Debt Securities; and

(c) rights to acquire (whether by way of issue or transfer) any Shares or Debt Securities.

“Securityholder” means:

(a) in respect of any Shares, the Shareholder of those Shares; and

(b) in respect of any other Issued Securities, the registered holder of those Securities.

“Share” means a share of any class in the issued capital of the Company and, unless the context requires otherwise, includes a Unit of such a share.

“Shareholder” means a person entered in the Register as a holder of any Shares from time to time.

Note: The definition of 'Shareholders' Deed' should be reviewed and amended as required.

"Shareholders' Deed" means the 'Subscription and Shareholders' Deed' dated [insert date]/[on or around the date that this Constitution takes effect] between the Company and each Shareholder.

"Special Board Resolution" means a resolution of the Board that has been approved:

- (a) in accordance with clause 15.18; or
- (b) at a meeting of the Board held in accordance with this Constitution and the Corporations Act with the approval of at least 75% of the votes cast at that meeting.

"Special Shareholder Resolution" means a resolution of the Shareholders that has been approved:

- (a) in accordance with clause 9.9; or
- (b) at a meeting of the Shareholders held in accordance with this Constitution and the Corporations Act with the approval of at least 75% of the votes cast at that meeting.

"Unit" has the meaning given to the term "unit" in section 9 of the Corporations Act.

2 INTERPRETATION

Rules of interpretation

2.1 The following rules of interpretation apply in this constitution:

- (a) headings in this constitution are for convenience only and do not affect its interpretation or construction;
- (b) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (c) references to recitals, clauses, subclauses, paragraphs, annexures or schedules are references to recitals, clauses, subclauses, paragraphs, annexures and schedules of or to this constitution;
- (d) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
- (e) a reference to a law includes any regulations and instruments made under that law;
- (f) an expression importing a natural person includes any individual, corporation or other body corporate, partnership, trust or association and any Governmental Agency and that person's personal representatives, successors, permitted assigns, substitutes, executors and administrators;
- (g) a reference to writing includes any communication sent by post, facsimile or email;
- (h) a reference to time refers to time in the state or territory in which the Company's principal place of business is situated, and time is of the essence;

- (i) the meaning of general words is not limited by specific examples introduced by “include”, “includes”, “including”, “for example”, “in particular”, “such as” or similar expressions;
- (j) a reference to any thing is a reference to the whole and each part of it;
- (k) a reference to a group of persons is a reference to all of them collectively and to each of them individually; and
- (l) unless the context requires otherwise:
 - (i) words in the singular include the plural and vice versa; and
 - (ii) a reference to one gender includes a reference to the other genders.

Amounts credited as paid

- 2.2 In this constitution, a reference to an amount paid on a Security includes an amount that is credited as having been paid on that Security.

Replaceable Rules

- 2.3 Those provisions of the Corporations Act designated as Replaceable Rules do not apply to the Company except so far as they are repeated in this constitution.

Single Shareholder Company

- 2.4 If at any time the Company has only one Shareholder then, unless the contrary intention appears:
- (a) a reference in a rule to ‘the Shareholders’ is a reference to that Shareholder; and
 - (b) without limiting clause 2.4(a), a clause which confers a power or imposes an obligation on the Shareholders to do a particular thing confers that power or imposes that obligation on that Shareholder.

Single Director Company

- 2.5 If at any time the minimum number of Directors fixed under this constitution is one and the Company in fact has only one Director then, unless the contrary intention appears:
- (a) a reference in a rule to ‘the Directors’ is a reference to that Director; and
 - (b) without limiting clause 2.5(a), a rule which confers a power or imposes an obligation on the Directors to do a particular thing confers that power or imposes that obligation on that Director.

Shareholders’ Deed

Note: The following clause has been included to clarify that the terms of the Shareholders’ Deed will prevail over the terms of this constitution in the event of any inconsistency.

- 2.6 This constitution has effect subject to the terms of the Shareholders’ Deed. To the extent of any inconsistency or difference between the terms of this constitution and the Shareholders’ Deed, the Shareholders’ Deed prevails.

- 2.7 Despite any other provision of this constitution, for so long as the Shareholders' Deed is in force, the Company may not (and no Shareholder or Director may take any action to procure that the Company will):
- (a) issue or grant options in respect of Securities, or agree not to do so;
 - (b) otherwise deal, in its own Securities, or rights to acquire or be issued them (however structured), nor agree to do so;
 - (c) vary all or any rights or privileges attached to a class of Shares or Securities (including, without limitation, in any conversion or reclassification of Shares of one class to Shares of another class); or
 - (d) alter its Share capital,
- if such issue, grant, disposal, variation, conversion, reclassification or alteration would contravene or be inconsistent with the Shareholders' Deed.

- 2.8 A holder of any Securities who, for any reason, is not at any time a party to the Shareholders' Deed must comply with the Shareholders' Deed as if it were a party to it.

3 SECURITIES

Board has power to issue Securities

- 3.1 Subject to the Corporations Act and any special rights that are attached to any Issued Securities, the Board has the power to issue, allot, buy back and cancel any Securities.

Different classes of Securities

- 3.2 Subject to clause 3.3, the power conferred on the Board by clause 3.1 includes the power to issue, allot, buy back and cancel any Securities that carry preferred, deferred, qualified, guaranteed or other special rights, privileges, conditions, restrictions or limitations, whether in regard to dividend, return of capital, distribution of assets, voting or otherwise, as the Board thinks fit.

Preference shares

- 3.3 The Company may not issue any preference shares (including redeemable preference shares), whether or not upon the conversion of any other Securities, unless the rights attached to those preference shares have first been approved by way of a Special Shareholder Resolution.

Variation of class rights

- 3.4 If the Shareholders' Deed is in force, notwithstanding clause 3.5 or any other clause of this constitution:
- (a) all or any of the rights or privileges attached to a class of Shares may be varied as approved by a Shareholder resolution; and
 - (b) any act that is allowed under the Shareholders' Deed with the approval of a Shareholder resolution will not constitute a variation of class rights.
- 3.5 Unless otherwise provided by the terms of issue of a class of Shares:
- (a) all or any of the rights or privileges attached to the class may be varied, whether or not the Company is being wound up, only with the consent in writing of the holders

of three quarters of the issued Shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the issued Shares of that class;

- (b) the provisions of this constitution relating to general meetings apply, so far as they can and with such changes as are necessary, to each separate meeting of the holders of the issued Shares of that class; and
- (c) the rights conferred on the holders of the Shares of that class are to be taken as not having been varied by the creation or issue of further Shares ranking equally with them.

Conversion to ordinary shares

3.6 The conversion of any Security that is not an ordinary share into one or more ordinary shares is deemed not to constitute a cancellation, redemption or termination of that Security or the issue, allotment or creation of new ordinary shares but rather to constitute a variation of the status of, and rights attaching to, the Security so that it becomes an ordinary share.

No requirement to recognise other interests

3.7 Except as required by law, the Company is not required to recognise:

- (a) a person as holding a Security on any trust; or
- (b) any right or interest in any Security other than an absolute right of ownership in the registered holder, including any equitable, contingent, future or partial interest in any Security,

whether or not the Company has notice of the trust, right or interest.

Joint holders

3.8 Where two or more persons are registered as the joint holders of any Issued Security then they are taken to hold that Issued Security as joint tenants with rights of survivorship, provided however that the Company is not required to:

- (a) register more than three persons as joint holders of any Issued Security, except where the persons concerned are the personal representatives or trustees of a deceased Securityholder; or
- (b) issue more than one certificate or holding statement in respect of any Security that is jointly held.

Fractions of a Security

3.9 The Board has the power to settle the manner in which any fractions of a Security, however arising, are to be dealt with.

4 CALLS

Board has power to make calls

4.1 The Board may:

- (a) make calls on a Securityholder in respect of any money unpaid on the Issued Securities of that Securityholder, if that money is not by the terms of issue of those Issued Securities made payable at fixed times;

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

Call Notice

4.2 At least 10 Business Days before the due date for payment of a call, the Company must send to the Securityholders on which the call is made a notice (“**Call Notice**”) specifying the amount of the call and the due date for payment.

Payment of amount called

4.3 A Securityholder to which a Call Notice is given must pay to the Company the amount called in accordance with that Call Notice.

Liability of joint holders for calls

4.4 The joint holders of an Issued Security are jointly and severally liable to pay all calls in respect of that Issued Security.

Differentiation between Securityholders as to calls

4.5 The Board may differentiate between the holders of any partly paid Issued Securities as to the amount of calls to be paid and the timing of payments.

Interest and expenses on default

4.6 If a sum called in respect of an Issued Security is not paid on or before the due date for payment as specified in the relevant Call Notice, the Securityholder from which the sum is due must pay:

- (a) interest on the sum at the Prescribed Rate from and including the due date for payment to and including the date of actual payment; and
- (b) all reasonable costs and expenses incurred by the Company as a consequence of the non-payment,

unless the Board waives payment of any or all of those amounts.

Sums due upon allotment or on a fixed date

4.7 Any sum that, by the terms of issue of an Issued Security, is or becomes payable upon the allotment the Issued Security or on a fixed date is:

- (a) deemed to be the subject of a call duly made and notified in accordance with this constitution; and
- (b) payable on the date on which the Issued Security is allotted or on that fixed date (as applicable),

and, in the case of any non-payment, the provisions of this constitution relating to non-payment of calls (including clauses 4.6, 5.6 and 6.3) will apply.

Company’s rights to recover payments

4.8 A Securityholder must reimburse the Company upon written demand for any and all payments that the Company makes to any Governmental Agency in respect of:

- (a) the Securityholder;
- (b) the death of the Securityholder; or
- (c) the Issued Securities of the Securityholder, including any dividends or other distributions thereon,

where the Company is either:

- (d) required by law to make the relevant payment; or
- (e) advised by a lawyer qualified to practice in the jurisdiction of the relevant Governmental Agency that the Company is obliged by law to make the relevant payment,

and the Company is not obliged to advise the Securityholder in advance of its intention to make those payments. The obligation of the Securityholder to so reimburse the Company is deemed to be the subject of a call duly made and notified in accordance with this constitution on the date of receipt by the Securityholder of such written demand and, in the case of any non-payment, the provisions of this constitution relating to non-payment of calls (including clauses 5.5, 6.6 and 7.3) will apply.

5 LIEN

Lien on Issued Security

- 5.1 To the extent permitted by law, the Company has a first and paramount lien on every Issued Security for:
- (a) all due and unpaid calls and instalments in respect of that Issued Security; and
 - (b) any amounts that are due and payable by the relevant Securityholder under clause 5.5,

and such lien extends to all distributions in respect of that Issued Security, including dividends.

Exemption from lien

- 5.2 The Board may, at any time, exempt an Issued Security wholly or in part from the provisions of clause 5.1.

Extinguishment of lien

- 5.3 The Company's lien on an Issued Security is extinguished if a transfer of the Issued Security is registered by the Company without the transferee having notice of the lien.

Lien Sale Notice

- 5.4 If a Securityholder fails to pay a call, or instalment of a call, on the date on which it is due and payable in accordance with this constitution, the Board may, at any time thereafter while any part of the call or instalment remains unpaid, give a notice ("**Lien Sale Notice**") to the Securityholder (or the person entitled to the Issued Security by reason of the death or bankruptcy of the registered holder, as applicable) requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued thereon and any and all reasonable costs and expenses that have been incurred by the Company by reason of that non-payment.

Contents of Lien Sale Notice

5.5 The Lien Sale Notice must:

- (a) name a further date, being not earlier than the date that is 10 Business Days after the date of service of the Lien Sale Notice, on or before which the payment required by the Lien Sale Notice is to be made; and
- (b) state that, if the amount set out in the Lien Sale Notice is not paid in full on or before the date specified in Lien Sale Notice, the Issued Securities in respect of which the call was made will be liable to be sold under lien in accordance with clause 5.6.

Sale under lien

5.6 If a Lien Sale Notice has not been complied with, the Board may, at any time before the payment required by the Lien Sale Notice has been made in full, sell, in any manner the Board thinks fit, any or all of the relevant Issued Securities on which the Company has a lien (including all dividends and other distributions declared or to be made in respect thereof that are not actually paid or distributed before the date of such sale).

Transfer of Issued Security under lien

5.7 The Company may receive the consideration (if any) given for an Issued Security that is sold under lien pursuant to clause 5.6 and may execute or effect a transfer thereof in favour of any person to whom it is transferred. Upon the execution of the transfer, the transferee must be registered as the holder of the Issued Security and is not bound to see to the application of any money paid as consideration.

Irregularity or invalidity

5.8 The title of the purchaser to the Issued Security is not affected by any irregularity or invalidity in connection with the sale of the Issued Security pursuant to clause 5.6.

Effect of sale under lien on former holder's liability

5.9 A Securityholder whose Issued Securities have been sold under lien pursuant to clause 5.6:

- (a) ceases to be a Securityholder in respect of the those Issued Securities; and
- (b) subject to clause 5.10, remains liable to pay to the Company all money that, at the date of such sale, was due and payable by that Securityholder to the Company in respect of those Issued Securities.

Proceeds of sale

5.10 The proceeds of a sale under clause 5.6 (if any) must be applied by the Company in payment of such amount in respect of which the lien exists as is presently due and payable and the residue, if any, must be paid to the person who was entitled to the Issued Security immediately before the sale. The purchaser is not bound to see to the application of the purchase money.

Statement regarding sale under lien

5.11 A statement signed by a Director stating that that a Security has been properly sold or otherwise disposed of under clause 6.4 to enforce a lien is prima facie evidence of the facts in the statement as against all persons claiming to be entitled to that Security.

6 FORFEITURE

Forfeiture Notice

- 6.1 If a Securityholder fails to pay a call, or instalment of a call, on the date on which it is due and payable in accordance with this constitution, the Board may, at any time thereafter while any part of the call or instalment remains unpaid, give a notice to the Securityholder ("**Forfeiture Notice**") requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued thereon and any and all reasonable costs and expenses that have been incurred by the Company by reason of that non-payment.

Contents of Forfeiture Notice

- 6.2 The Forfeiture Notice must:
- (a) name a further date, being not earlier than the date that is 10 Business Days after the date of service of the Forfeiture Notice, on or before which the payment required by the Forfeiture Notice is to be made; and
 - (b) state that, if the amount set out in the Forfeiture Notice is not paid in full on or before the date specified in Forfeiture Notice, the Issued Securities in respect of which the call was made will be liable to be forfeited in accordance with clause 6.3.

Failure to comply with Forfeiture Notice

- 6.3 If a Forfeiture Notice has not been complied with, the Board may, at any time before the payment required by the Forfeiture Notice has been made in full, deem any or all of the relevant Issued Securities to be have been forfeited, in which case the forfeited Issued Securities (including all dividends and other distributions declared or to be made in respect thereof that are not actually paid or distributed before the forfeiture) may be re-allotted, sold or otherwise disposed of by the Company as the Board thinks fit.

Transfer of forfeited Security

- 6.4 The Company may receive the consideration (if any) given for an Issued Security that is re-allotted, sold or otherwise disposed of pursuant to clause 6.3 and may execute or effect a transfer thereof in favour of any person to whom it is transferred. Upon the execution of the transfer, the transferee must be registered as the holder of the Issued Security and is not bound to see to the application of any money paid as consideration.

Irregularity or invalidity

- 6.5 The title of the transferee to the forfeited Security is not affected by any irregularity or invalidity in connection with the forfeiture, re-allotment, sale or disposal of the Security.

Effect of forfeiture on former holder's liability

- 6.6 A Securityholder whose Issued Securities have been forfeited:
- (a) ceases to be a Securityholder in respect of the forfeited Issued Securities; and
 - (b) subject to clause 6.7, remains liable to pay to the Company all money that, at the date of forfeiture, was due and payable by that Securityholder to the Company in respect of the forfeited Issued Securities.

Proceeds of sale

- 6.7 The proceeds of any sale under clause 6.3 (if any) must be applied by the Company in payment of such amount in respect of which the lien exists as is presently due and payable and the residue, if any, must be paid to the person who was entitled to the Issued Security immediately before the sale. The purchaser is not bound to see to the application of the purchase money.

Statement regarding forfeiture

- 6.8 A statement signed by a Director stating that that a Security has been has been properly forfeited and re-allotted, sold or otherwise disposed of in accordance with clause 7.3 is prima facie evidence of the facts in the statement as against all persons claiming to be entitled to that Security.

7 TRANSFER OF SECURITIES

Instrument of transfer

- 7.1 Subject to this constitution, an Issued Security is transferable by an instrument in writing in any usual or common form or in any other form that the Board approves.

Formalities for transfer

- 7.2 The instrument of transfer must be:
- (a) stamped (if required by law);
 - (b) executed by, or on behalf of, both the transferor and the transferee;
 - (c) delivered to the Registered Office (or such other place as the Board may from time to time prescribe or accept) for registration by the Company; and
 - (d) accompanied by the certificate for the Issued Security to be transferred and such other evidence as the Board may require to prove the title of the transferor to that Issued Security or the transferor's right to transfer it. The Board may, however, waive the production of any such certificate if satisfactory evidence of its loss or destruction is given or in any other circumstances in which the Board considers it appropriate to do so.

Effect of registration

- 7.3 A transferor of an Issued Security remains the holder of that Issued Security until the transfer is registered by the Company.

Registration of transfers

- 7.4 The Board:
- (a) may refuse to register any transfer of an Issued Security without being bound to give any reason whatsoever for so doing; and
 - (b) must refuse to register a transfer of an Issued Security if:
 - (i) the registration of the transfer would result in a contravention of any law of the Commonwealth of Australia or any Australian state or territory;

- (ii) the transfer is of an Issued Security in respect of which a call has been made but not complied with in full, unless the transfer is initiated by the Company under clause 5.6 or 6.3.

8 TRANSMISSION OF ISSUED SECURITIES

Transmission of Issued Securities on death

- 8.1 If a Securityholder who does not hold Issued Securities jointly dies, the Company will recognise only the personal representative of that Securityholder as being entitled to the Securityholder's interest in those Issued Securities.

Information given by personal representative

- 8.2 If the personal representative gives the Board the information that it reasonably requires to establish the representative's entitlement to be registered as a holder of the Issued Securities:

- (a) the personal representative may:
 - (i) by giving a written and signed notice to the Company, elect to be registered as the holder of the Issued Securities; or
 - (ii) by giving a completed transfer form to the Company, transfer the Issued Securities to another person; and
- (b) the personal representative is entitled, whether or not registered as the holder of the Issued Securities, to the same rights as the deceased Securityholder.

- 8.3 On receiving an election under clause 8.2(a)(i), the Company must register the personal representative as the holder of the Issued Securities.

- 8.4 A transfer under clause 8.2(a)(ii) is subject to the provisions of this constitution that apply to transfers generally.

Death of joint owner

- 8.5 If a Securityholder who holds shares jointly dies, the Company will recognise only the surviving joint Securityholders as being entitled to the deceased Securityholder's interest in the relevant Issued Securities. The estate of the Securityholder is not released from any liability in respect of those Issued Securities.

Transmission of Issued Securities on bankruptcy

- 8.6 If a person entitled to Issued Securities because of the bankruptcy of a Securityholder gives the Board the information that it reasonably requires to establish the person's entitlement to be registered as the holder of those Issued Securities, the person may:

- (a) by giving a written and signed notice to the Company, elect to be registered as the holder of the Issued Securities; or
- (b) by giving a completed transfer form to the Company, transfer the Issued Securities to another person.

- 8.7 On receiving an election under clause 8.6(a), the Company must register the person as the holder of the Issued Securities.

8.8 A transfer under clause 8.6(b) is subject to the provisions of this constitution that apply to transfers generally.

8.9 Clauses 8.6 to 8.9 have effect subject to the *Bankruptcy Act 1966* (Cth).

Transmission of Issued Securities on mental incapacity

8.10 If a person entitled to Issued Securities because of the mental incapacity of a Securityholder gives the Board the information that it reasonably requires to establish the person's entitlement to be registered as the holder of the Issued Securities:

- (a) the person may:
 - (i) by giving a written and signed notice to the Company, elect to be registered as the holder of the Issued Securities; or
 - (ii) by giving a completed transfer form to the Company, transfer the Issued Securities to another person; and
- (b) the person is entitled, whether or not registered as the holder of the Issued Securities, to the same rights as that Securityholder.

8.11 On receiving an election under clause 8.10(a)(i), the Company must register the person as the holder of the Issued Securities.

8.12 A transfer under clause 8.10(a)(ii) is subject to the provisions of this constitution that apply to transfers generally.

9 SHAREHOLDER MEETINGS

Convening a meeting of the Shareholders

9.1 The Board may convene and arrange to hold a meeting of the Shareholders whenever it thinks fit and must do so if required under the Corporations Act.

Notice of meeting

9.2 Notice of a meeting of the Shareholders must be given in accordance with this constitution and the Corporations Act.

Calculation of period of notice

9.3 In computing the period of notice under clause 9.2, both the day on which the notice is given (or taken to be given) and the day of the relevant meeting are to be disregarded.

Notice of cancellation, postponement or change of place

9.4 Where a meeting of the Shareholders is convened by the Board (other than a meeting convened in accordance with the Corporations Act on the request of Shareholders or by a court), the Board may, by notice, cancel the meeting, postpone the holding of the meeting to a later date and time determined by it or change the place for the meeting. Such notice must:

- (a) state the reason for cancellation, postponement or change of place;
- (b) specify:
 - (i) the date and time for the holding of the postponed meeting; and

- (ii) a place for the holding of the postponed meeting and, if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner; and
- (c) be given to each Shareholder individually and to each other person entitled to be given notice of a meeting or the Shareholders.

Business at postponed meeting

9.5 The only business that may be transacted at a meeting of the Shareholders the holding of which is postponed is the business specified in the original notice convening that meeting.

Expiration of appointment of proxy, attorney or Representative

9.6 Where, by the terms of an instrument appointing a proxy or attorney or an appointment of a Representative, the appointed person is authorised to attend and vote at a meeting of the Shareholders and:

- (a) the appointment will expire on or before a specified date; and
- (b) the meeting is postponed to a date that is later than that specified date,

then that later date is deemed to be substituted for, and applies to the exclusion of, that specified date.

Non-receipt of notice

9.7 The non-receipt of a notice under clause 9.2 or 9.4 by, or the accidental omission to give such a notice to, a person entitled to receive such notice does not invalidate any resolution passed at the relevant meeting.

Directors entitled to notice of a meeting of the Shareholders

9.8 A Director is entitled to receive notice of, and attend, all meetings of the Shareholders and all separate meetings of the holders of any class of Shares and is entitled to speak at those meetings.

Circulating Shareholder resolutions

9.9 The Shareholders may pass a resolution without a meeting of the Shareholders being held if all of the Shareholders entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Shareholders if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Shareholder signs.

Class meetings

9.10 The provisions of this constitution relating to meetings of Shareholders apply, so far as they are capable of application and with any necessary changes, to any separate meeting of the holders of a particular class of Shares, except that any holder of Shares of that class who is present (in person or by proxy, attorney or Representative) at that separate meeting may demand a poll.

10 PROCEEDINGS AT SHAREHOLDER MEETINGS

Number for a quorum

- 10.1 Subject to clause 10.2, the quorum for a meeting of the Shareholders is:
- (a) where only one particular Shareholder is entitled to vote on all of the resolutions to be considered at that meeting, that Shareholder present in person or by proxy, attorney or Representative; or
 - (b) in all other cases, two Shareholders that are entitled to vote on the resolutions to be considered at that meeting, present in person or by proxy, attorney or Representative.
- 10.2 For the purposes of clause 10.1, in determining whether a quorum is present, each individual attending as a proxy, attorney or Representative is to be counted, except that, where:
- (a) a Shareholder has appointed more than one proxy, attorney or Representative, only one is to be counted; and
 - (b) an individual is attending both as a Shareholder and as a proxy, attorney or Representative, that individual is to be counted only once.

Requirement for a quorum

- 10.3 An item of business may not be transacted at a meeting of the Shareholders unless a quorum is present when the meeting proceeds to consider it.

If quorum not present

- 10.4 If a meeting of the Shareholders is not quorate within 15 minutes after its scheduled commencement time, the meeting:
- (a) if convened by a Director, or at the request of Shareholders, is dissolved; and
 - (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Board determines by notice to all Shareholders and others who are entitled to receive notice of the meeting. If the adjourned meeting is not quorate within 15 minutes after its scheduled commencement time, the meeting is dissolved.

Chairman in charge of conduct

- 10.5 The chairman of a meeting of the Shareholders:
- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at it;
 - (b) may require the adoption of any procedure which is, in the chairman's opinion, necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the meeting; and
 - (c) may terminate discussion or debate on any matter whenever the chairman considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chairman under this clause 10.5 is final.

Adjournment of meetings of the Shareholders

- 10.6 The chairman of a meeting of the Shareholders may, at any time during the meeting, adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered, or remaining to be considered, by the meeting, either to a later time at the same meeting or to an adjourned meeting at any time and any place, but:
- (a) in exercising the discretion to do so, the chairman may, but need not, seek the approval of the Shareholders present in person or by proxy, attorney or Representative; and
 - (b) only unfinished business is to be transacted at a meeting resumed after such an adjournment.
- 10.7 Unless required by the chairman, a vote may not be taken or demanded by the Shareholders present in person or by proxy, attorney or Representative in respect of any adjournment.

Notice of adjourned meeting

- 10.8 It is not necessary to give any notice of an adjournment of a meeting of the Shareholders or of the business to be transacted at any adjourned meeting unless the meeting is adjourned for one calendar month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

Resolutions decided by majority of votes cast

- 10.9 Unless expressly required otherwise by this constitution or the Corporations Act, a resolution proposed at a meeting of the Shareholders is to be decided by a majority of the votes cast on that resolution at that meeting.

Chairman does not have casting vote

- 10.10 If there is an equality of votes at a meeting of the Shareholders, either on a show of hands or on a poll, the chairman of the meeting is not entitled to a casting vote, in addition to any votes to which the chairman is entitled as a Shareholder or proxy or attorney or Representative.

Voting on show of hands

- 10.11 At any meeting of the Shareholders, a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is effectively demanded and the demand is not withdrawn. A declaration by the chairman that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the Company's minute book, is conclusive evidence of the matter so declared. Neither the chairman nor the minutes need state, and it is not necessary to prove, the number or proportion of the votes recorded in favour of, or against, the resolution.

Poll

- 10.12 If a poll is effectively demanded:
- (a) it must be taken in the manner and at the date and time directed by the chairman and the result of the poll is a resolution of the meeting at which the poll was demanded;
 - (b) on the election of a chairman or on a question of adjournment, it must be taken immediately;

- (c) the demand may be withdrawn; and
- (d) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

Entitlement to vote

- 10.13 Subject to any rights or restrictions for the time being attached to any class or classes of Shares:
- (a) on a show of hands, each Shareholder present in person, and each other person present as a proxy, attorney or Representative of a Shareholder, has one vote; and
 - (b) on a poll, each:
 - (i) Shareholder present in person has one vote for each fully paid Share held by the Shareholder (for the avoidance of doubt, any partly paid Shares held by the Shareholder will carry no voting rights); and
 - (ii) person present as a proxy, attorney or Representative of a Shareholder has one vote for each fully paid Share held by the Shareholder that the person represents (for the avoidance of doubt, any partly paid Shares held by that Shareholder will carry no voting rights).

Effect of unpaid call

- 10.14 A Shareholder is not entitled at a general meeting to cast a vote attached to a share on which a call is due and payable and has not been paid.

Voting by joint Shareholders

- 10.15 If a Share is held jointly and more than one Shareholder votes in respect of that Share, only the vote of the Shareholder whose name appears first in the Register counts.

Validity of vote in certain circumstances

- 10.16 A vote cast at a meeting of the Shareholders by a person as a proxy, attorney or Representative is valid even if, before that person votes:
- (a) the appointing Shareholder dies;
 - (b) the Shareholder is mentally incapacitated;
 - (c) the Shareholder revokes the appointment or authority;
 - (d) the Shareholder revokes the authority under which the appointment was made by a third party; or
 - (e) the Shareholder transfers the Share in respect of which the appointment or authority was given,

unless the Company has received written notice of that fact before the start or resumption of the meeting.

Objection to voting qualification

- 10.17 An objection to the right of a person to attend or vote at a meeting or adjourned meeting of the Shareholders:

- (a) may not be raised except at that meeting or adjourned meeting; and
- (b) must be referred to the chairman of the meeting, whose decision on that matter is final,

and a vote not disallowed under the objection is valid for all purposes.

11 DIRECTORS

Number of Directors

11.1 Unless otherwise determined by a resolution of the Shareholders, the number of Directors is to be:

- (a) not less than 1; and
- (b) not more than 5.

Appointment of additional Directors by the Board

11.2 The Board may, at any time, appoint any person to be a Director, either to fill a casual vacancy or, subject to clause 11.1(b), as an addition to the existing Directors.

No Share qualification

11.3 A Director is not required to hold any Shares.

Retirement and re-election

11.4 The Shareholders may, by resolution, determine when any Director is required to retire from office and/or stand for re-election by the Shareholders.

Vacation of office of Director

11.5 In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (b) resigns from that office by notice in writing to the Company; or
- (c) is not present personally or by proxy or Alternate Director at meetings of the Board for a continuous period of six months without leave of absence from the Board.

Remuneration of Directors

11.6 Each Directors is entitled to be remunerated out of the funds of the Company for their services as Directors as determined in accordance with the Shareholders' Deed.

11.7 If a Director, at the request of the Board, performs any additional or special duties for the Company, the Company may remunerate that Director as determined by the Board and that remuneration may be either in addition to, or in substitution for, that Director's remuneration under clause 11.6.

Expenses

- 11.8 A Director is entitled to be reimbursed out of the funds of the Company for such reasonable travelling, accommodation and other expenses as the Director may incur when travelling to or from meetings of the Board or a Committee or when otherwise engaged on the business of the Company.

Director's interests

- 11.9 Subject to complying with the Corporations Act regarding disclosure of, and voting on, matters involving material personal interests, a Director may:
- (a) hold any office or place of profit in the Company, except that of auditor;
 - (b) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which the Company has an interest of any kind;
 - (c) enter into any contract or arrangement with the Company;
 - (d) participate in any association, institution, fund, trust or scheme for past or present employees or officers of the Company or persons dependent on, or connected with, them;
 - (e) act in a professional capacity (or be a member of a firm that acts in a professional capacity) for the Company, except as auditor;
 - (f) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Board and may be present at any meeting where any matter is being considered by the Board;
 - (g) sign, or participate in the execution of, a document by or on behalf of the Company; and
 - (h) do any of the above despite the fiduciary relationship of the Director's office:
 - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
 - (ii) without affecting the validity of any contract or arrangement.
- 11.10 For the purposes of clause 11.9, a reference to the Company in clause 11.9 includes a reference to any and all Related Bodies Corporate of the Company.

12 ALTERNATE DIRECTORS

Appointment of Alternate Director

- 12.1 A Director may appoint a person approved by a majority of the other Directors as an alternate of that Director (**Alternate Director**) to exercise some or all of the powers of that Director for a specified period.

Participation by Alternate Directors

- 12.2 An Alternate Director is entitled to participate in a meeting of the Board and vote in the place of the appointing Director if, and only if, the appointing Director does not participate in the meeting.

Powers of an Alternate Director

12.3 An Alternate Director may exercise all of the powers of the appointing Director (except the power to appoint an Alternate Director) and, subject to the Corporations Act, may perform all of the duties of the appointing Director except to the extent that the appointing Director has exercised or performed them.

Alternate Director responsible for own acts and defaults

12.4 Whilst acting as a Director, an Alternate Director:

- (a) is an officer of the Company and not the agent of the appointing Director; and
- (b) is responsible to the exclusion of the appointing Director for the Alternate Director's own acts and defaults.

Remuneration of Alternate Directors

12.5 An Alternate Director is not entitled to receive from the Company any remuneration or benefit under clause 11.6 or 11.7.

Termination of appointment of Alternate Director

12.6 The appointment of an Alternate Director:

- (a) may be terminated at any time by the appointing Director even if the period of the appointment of the Alternate Director has not expired; and
- (b) terminates in any event if the appointing Director ceases to be a Director for any reason.

Appointment or termination in writing

12.7 An appointment, or the termination of an appointment, of an Alternate Director must be effected by notice in writing to the Company signed by the Director who makes or made the appointment.

Alternate Director and number of Directors

12.8 An Alternate Director is not to be taken into account separately from the appointing Director in determining the number of Directors.

13 EXECUTIVE DIRECTORS AND MANAGING DIRECTOR

Appointment of Executive Directors and Managing Director

13.1 The Board may appoint one or more Directors to any position of employment with the Company, including to the office of Managing Director, for any period and on any terms that the Board thinks fit, provided that a Director must not be employed or engaged as an auditor of the Company.

Termination of appointment of Managing or Executive Director

13.2 Whether or not the appointment of a Managing Director or Executive Director was expressed to be for a specified term, the appointment of a Managing Director or Executive Director as such terminates if:

- (a) the Managing Director or Executive Director ceases for any reason to be a Director;

- (b) the Board removes the Managing Director or Executive Director from such office (which, subject to any contract between the Company and the Managing Director or Executive Director, the Board has the power to do); or
- (c) the Managing Director or the Executive Director ceases to be employed by the Company for any reason.

Remuneration of Managing Director and Executive Directors

13.3 The remuneration of a Managing Director or an Executive Director may be fixed by the Board and may be by way of salary or commission or participation in profits or by any or all thereof, but may not be by a commission on, or percentage of, operating revenue.

Powers of Managing Director and Executive Directors

13.4 The Board may:

- (a) confer on a Managing Director or an Executive Director such of the powers exercisable by the Board on such terms and conditions, and with such restrictions, as the Board thinks fit; and
- (b) withdraw or vary any of the powers conferred on a Managing Director or an Executive Director at any time.

14 POWERS AND DUTIES OF DIRECTORS

Directors to manage the business

14.1 The business of the Company is to be managed by the Board, which may exercise all such powers of the Company as are not, by the Corporations Act or this constitution, required to be exercised by the Shareholders.

Specific powers of Directors

14.2 Without limiting the generality of clause 14.1, the Board may exercise all the powers of the Company to borrow or raise money, to charge any property or business of the Company or any or all of its uncalled capital and to give any other guarantee or security for a debt, liability or obligation of the Company or of any other person.

Interests of holding company

14.3 The Directors are authorised to act in the best interests of any company of which the Company is a wholly-owned subsidiary in the circumstances contemplated by section 187 of the Corporations Act.

Appointment of attorney

14.4 The Board may, by power of attorney, appoint any person or persons to be an attorney or attorneys of the Company:

- (a) for such purposes;
- (b) with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board under the Corporations Act and this constitution);
- (c) for such period; and
- (d) subject to such conditions,

as the Directors may from time to time think fit.

Provisions in power of attorney

- 14.5 A power of attorney granted under clause 14.4 may contain such provisions for the protection and convenience of persons dealing with the attorney as the Board thinks fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) any or all of the powers, authorities and discretions vested in the attorney.

Committees

- 14.6 The Board may delegate any of its powers, other than those that are required by law to be dealt with by the Directors as a board, to a committee consisting of one or more Directors (**Committee**) as they think fit.

Powers delegated to Committees

- 14.7 A Committee to which any powers have been delegated under clause 14.6 must exercise those powers in accordance with any directions of the Board.

Signing of cheques, bills of exchange and receipts

- 14.8 The Board may determine the manner in which, and persons by whom, cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and receipts for money paid to the Company, may be signed, drawn, accepted, endorsed or otherwise executed on behalf of the Company.

Inspection of records

- 14.9 Except as provided by law or by a resolution of the Shareholders:
- (a) a Securityholder (other than a Securityholder who is also a Director or former Director) does not have the right to inspect any document of the Company; and
 - (b) the Board may determine whether and to what extent, and at what time and places and under what conditions, any or all of the accounting records and other documents of the Company will be open for inspection by Securityholder (other than a Securityholder who is also a Director or former Director).

15 PROCEEDINGS OF DIRECTORS

Directors' meetings

- 15.1 The Board may meet for the dispatch of business and adjourn and otherwise regulate its meetings as it thinks fit, including the use of technology to which each Director at the meeting consents (such consent may be a standing consent).

Director may convene a Board meeting

- 15.2 A Director may at any time, and the Secretary must upon the written request of a Director, convene a meeting of the Board.

Notice of Board meetings

- 15.3 Except in circumstances involving a bona fide emergency for the Company, each director must be given at least 48 hours' notice of a meeting of the Board, unless all of the Directors who are entitled to vote on the resolutions to be proposed at the meeting consent to shorter notice.

- 15.4 It is not necessary to give notice of a meeting of the Board to any Alternate Director unless:
- (a) notice of the meeting is not given to the appointing Director; or
 - (b) the appointing Director has requested in writing that the Alternate Director receive notices.

Quorum for Board meetings

- 15.5 The quorum for a meeting of the Board is:
- (a) where only one particular Director is entitled to vote on all of the resolutions to be considered at that meeting, that Director present in person or by proxy; or
 - (b) in all other cases, two Directors who are entitled to vote on the resolutions to be considered at that meeting, present in person or by proxy.

Each Director has one vote

- 15.6 If a Director is entitled to vote on a resolution at a meeting of the Board, the Director is entitled to cast one vote on that resolution in that capacity.

Resolution decided by majority of votes cast

- 15.7 A resolution proposed at a meeting of the Board is to be decided by a majority of the votes cast on that resolution at that meeting and that decision is, for all purposes, deemed to be a decision of the Board.

Alternate Director or proxy at Board meetings

- 15.8 A person who is present at a meeting of the Board as an Alternate Director or as a proxy for another Director has:
- (a) one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is an Alternate Director or proxy; and
 - (b) if that person is also a Director, one vote as a Director in that capacity.

Chairman at Board meetings

- 15.9 The Board may elect one of the Directors as chairman of their meetings and may also determine the period for which the person elected as chairman is to hold the office of chairman.

Chairman does not have casting vote

- 15.10 The chairman of a meeting of the Board does not have a casting vote.

Absence of chairman at Board meetings

- 15.11 If a Board meeting is held and:
- (a) a chairman has not been elected under clause 15.9; or
 - (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be the chairman of the meeting.

Director attending and voting by proxy

- 15.12 A Director may participate in, and vote by proxy at, a meeting of the Board if the proxy:
- (a) is another Director; and
 - (b) has been appointed in writing signed by the appointing Director. The appointment may be general or for one or more particular meetings.
- 15.13 If a Director is entitled to vote on a particular resolution at a meeting of the Board and is also present as a proxy for another Director who would be entitled to vote on that resolution if present at the meeting, the Director who is present will have one vote in his or her own capacity as a Director and one vote for the appointing Director.

Meetings of Committee

- 15.14 A Committee may meet and adjourn as it thinks proper.

Chairman at Committee meetings

- 15.15 The members of a Committee may elect one of their number as chairman of its meetings and may also determine the period for which the person elected as chairman is to hold the office of chairman.

Determination of questions at Committee meetings

- 15.16 A question arising at a meeting of a Committee is to be determined by a majority of the votes cast at the meeting by members of the Committee who are present and entitled to vote on the question. In the event of an equality of votes, the chairman of the meeting has a casting vote, unless only two members of the Committee are present and entitled to vote on the question.

Absence of chairman at Committee meetings

- 15.17 If a meeting of a Committee is held and:
- (a) a chairman has not been elected in accordance with clause 15.15; or
 - (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,
- the members involved may elect one of their number to be chairman of the meeting.

Circulating Board resolutions

- 15.18 The Board may pass a resolution without a meeting of the Board being held if all of the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Director signs.

Circulating Committee resolutions

- 15.19 A Committee may pass a resolution without a meeting of the Committee being held if all of the members of the Committee who are entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by them if the wording of the

resolution and statement is identical in each copy. The resolution is passed when the last member of the Committee signs.

16 SECRETARY

Appointment of Secretary

16.1 The Company may have at least one company secretary who is to be appointed by the Board.

Suspension and removal of Secretary

16.2 The Board may suspend or remove a Secretary from that office.

Powers, duties and authorities of Secretary

16.3 A Secretary holds that office on the terms and conditions (including as to remuneration), and with the powers, duties and authorities, as determined by the Board. The exercise of those powers and authorities, and the performance of those duties, by a Secretary is subject at all times to the control of the Board.

17 SEALS

Safe custody of common seals

17.1 The Board must provide for the safe custody of any seal of the Company.

Use of common seal

17.2 If the Company has a common seal or duplicate common seal:

- (a) it may be used only with the authority of the Board, or of a Committee authorised by the Board to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be 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.

18 DIVIDENDS AND RESERVES

Payment of dividend

18.1 Subject to the Corporations Act, this constitution and the rights attached to any Shares that carry special rights as to dividends, the Board may determine:

- (a) that a dividend is payable;
- (b) the amount of the dividend;
- (c) the time for payment; and
- (d) the method of payment, which may include the payment of cash, the issue of Securities and/or the transfer of assets.

No interest on dividends

18.2 Interest is not payable by the Company on a dividend.

Reserves and profits carried forward

18.3 The Board may:

- (a) before paying any dividend, set aside out of the profits of the Company such sums as it thinks proper as a reserve, to be applied, at the discretion of the Board, for any purpose for which the profits of the Company may be properly applied. Pending such application, any sum so set aside as a reserve may, at the discretion of the Board, be used in the business of the Company or be invested as the Board thinks fit; and
- (b) carry forward so much of the profits remaining as it considers ought not to be distributed as dividends without transferring those profits to a reserve.

Calculation and apportionment of dividends

18.4 Subject to the Corporations Act, this constitution and the rights attached to any Shares that carry special rights as to dividends:

- (a) subject to clauses 18.4(b) and (c), dividends may be declared and paid on the Shares of any particular class or classes to the exclusion of the Shares of any other particular class or classes;
- (b) all dividends of the Company are divisible among the Shareholders so that, on each occasion on which a dividend is paid:
 - (i) the same sum is paid on each Share of a particular class on which all amounts payable have been paid; and
 - (ii) the sum paid on a Share of a particular class on which all amounts payable have not been paid is the proportion of the sum referred to in clause 18.4(b)(i) that the amount paid on the Share bears to the total of the amounts paid and payable on the Share. To determine the amount paid on a Share for these purposes, exclude any amount:
 - (A) paid or credited as paid in advance of a call; and
 - (B) credited as paid on a the Share to the extent that it exceeds the value (ascertained at the time of issue of the Share) of the consideration received for the issue of the Share; and
- (c) all dividends are to be apportioned and paid proportionately to the amounts paid on the Shares during any portion or portions of the period in respect of which the dividend is paid but, if any Share is issued on terms providing that it will rank for dividend as from a particular date, that Share will rank for dividend accordingly.

Distribution of specific assets

18.5 When resolving to pay a dividend, the Board may:

- (a) resolve that the dividend be satisfied either wholly or partly by the distribution of specific assets to some or all of the persons entitled to the dividend, including fully paid Securities or fully paid shares or other securities in any other body corporate; and
- (b) direct that the dividend payable in respect of any particular Shares be satisfied wholly or partly by such a distribution and that the dividend payable in respect of other Shares be paid in cash.

Resolution of distribution difficulties

- 18.6 If a difficulty arises in regard to a distribution under clause 18.5, the Board may:
- (a) settle the matter as they consider expedient;
 - (b) fix the value for distribution of the specific assets or any part of those assets;
 - (c) determine that cash payments will be made to, or at the direction of, any Shareholders on the basis of the value so fixed in order to adjust the rights of all parties; and
 - (d) vest any such specific assets in trustees as the Board considers expedient.
- 18.7 If a distribution of specific assets to, or at the direction of, a particular Shareholder or Shareholders is illegal or, in the opinion of the Board, impracticable, then the Board may make a cash payment to the Shareholder or Shareholders on the basis of the cash amount of the dividend instead of the distribution of specific assets.

19 PAYMENTS TO SECURITYHOLDERS

Deductions from amounts payable

- 19.1 The Board may deduct from any dividend or other amount payable to, or at the direction of, a Securityholder all sums of money (if any) presently payable by that Securityholder to the Company on account of calls or otherwise in relation to any Issued Securities.

Payments in respect of Issued Securities

- 19.2 A dividend, interest or other money payable in cash in respect of any Issued Securities may be paid using any payment method chosen by the Company, including:
- (a) by cheque sent through the post directed to the registered address of the relevant Securityholder or, in the case of joint Securityholder, to the registered address of the first named joint Securityholder;
 - (b) by cheque sent through the post directed to such other address as the Securityholder or joint Securityholder may direct in writing; or
 - (c) by some other method of direct credit determined by the Board to the registered Securityholder or Securityholder or to such person or place directed by them.

Effectual receipt from one joint Securityholder

- 19.3 Any one of two or more joint Securityholder may give an effectual receipt for any dividend, interest or other money payable in respect of the shares held by them as joint holders.

Election to reinvest amounts

- 19.4 Subject to the Corporations Act, this constitution and any special rights that are attached to any Issued Securities, the Board may grant to any particular Securityholders or Securityholders of any particular class or classes the right to elect to:
- (a) reinvest any cash amounts paid to them by the Company by subscribing for Securities; and/or
 - (b) forego the right to receive any or all of that cash payment and instead receive an issue of Securities credited as fully paid,

on such terms and conditions as the Board thinks fit

Unclaimed amounts

19.5 Unclaimed dividends or other amounts payable by the Company to any Securityholders may be invested by the Board as it thinks 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.

Currency

19.6 The Board may:

- (a) differentiate between Securityholders as to the currency in which any amount payable to a Securityholder is paid (whether by way of, or on account of, dividends, repayment of capital, participation in surplus property of the Company or otherwise);
- (b) determine to pay a distribution in a currency other than Australian dollars and the amount so payable will be converted from Australian dollars in any manner, at any time and at any exchange rate as the Board reasonably thinks fit,

and, in deciding the currency in which a payment is to be made to a Securityholder, have regard to the registered address of the Securityholder, the register on which its Issued Securities are registered and any other matters as the Board considers appropriate.

20 CAPITALISATION OF RESERVES AND PROFITS

Board may direct capitalisation

20.1 The Board may:

- (a) resolve to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account of the Company or otherwise available for distribution to Shareholders; and
- (b) may, but need not, resolve to apply the sum for the benefit of Shareholders in the proportions to which those Shareholders would have been entitled in a distribution of that sum by way of dividend. Such sums may be applied in the following ways:
 - (i) in paying up any amounts unpaid on any Shares;
 - (ii) in paying up in full any unissued Securities to be issued to Shareholders as fully paid; or
 - (iii) partly as mentioned in clause 20.1(b)(i) and partly as mentioned in clause 20.1(b)(ii).

Implementing the capitalisation

20.2 The Board may do all things necessary to give effect to any resolution under clause 20.1 and, in particular, to the extent necessary to adjust the rights of the Shareholders among themselves, may:

- (a) make cash payments in cases where Securities become issuable in fractions;
- (b) authorise any person to make, on behalf of all or any of the Shareholders entitled to any further Securities on the capitalisation, an agreement with the Company providing for:

- (i) the issue to them, credited as fully paid up, of any further Securities; or
- (ii) the payment by the Company on their behalf of all or part of the amounts remaining unpaid on their existing Shares by the application of their respective proportions of the sum resolved to be capitalised,

and any agreement so made is effective and binding on all of the Shareholders concerned;

- (c) fix the value of specified assets; or
- (d) vest property in trustees.

21 WINDING UP

Distribution of assets

21.1 If the Company is wound up, the liquidator may, with the sanction of a Special Shareholder Resolution, divide among the Shareholders in kind the whole or any part of the property of the Company and may for that purpose set such value as the liquidator considers fair on any property to be so divided and may determine how the division is to be carried out as between the Shareholders or different classes of Shareholders.

Powers of liquidator to vest property

21.2 The liquidator may, with the sanction of a Special Shareholder Resolution, vest the whole or any part of any such property in trustees on such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no Shareholder is compelled to accept any Securities in respect of which there is any liability.

Shares issued on special terms

21.3 Clauses 21.1 and 21.2 do not prejudice or affect the rights of a Securityholder holding Issued Securities that carry any special terms and conditions.

22 INDEMNITY AND INSURANCE

Indemnity

22.1 The Company may indemnify any current or former director, secretary or executive officer of the Company, or of a Related Body Corporate of the Company, out of the property of the Company against:

- (a) every liability incurred by the person in that capacity (other than a liability for legal costs); and
- (b) all legal costs incurred in connection with any proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

except to the extent that:

- (c) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
- (d) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

Insurance

- 22.2 The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a director, secretary or executive officer of the Company, or of a Related Body Corporate of the Company, against any liability incurred by the person in that capacity, including a liability for legal costs, unless:
- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
 - (b) the contract would, if the Company paid the premium, be made void by statute.

Contract

- 22.3 The Company may enter into an agreement with a person who is or has been a director, secretary or executive officer of the Company, or of a Related Body Corporate of the Company, with respect to the matters covered by clauses 22.1 and 22.2.

23 NOTICES

Service of notices to the Company

- 23.1 A notice given to the Company under this constitution must be delivered/sent to:
- (a) if not sent by fax or email, to the principal place of business of the Company or such other address as the Company may nominate from time to time; and
 - (b) if sent by fax or email, to the fax number or email address nominated by the Company from time to time.

Service of notices to Directors and Alternate Directors

- 23.2 A notice given to a Director or Alternate Director under this constitution must be sent to the address, fax number or email address nominated by that Director or, in respect of an Alternate Director, that Alternate Director or the relevant appointing Director, from time to time.

Service of notices to Securityholders

- 23.3 A notice given to a Securityholder under this constitution must be delivered/sent to:
- (a) if not sent by fax or email, to the address for the Securityholder as recorded in the relevant register of the Company or to such other address as the Securityholder may nominate from time to time; and
 - (b) if sent by fax or email, to the fax number or email address nominated by the Securityholder from time to time.
- 23.4 A notice may be given by the Company to the joint holders of an Issued Security by giving it to the joint holder first named in respect of that Issued Security in the relevant register of the Company.

Method of delivery

- 23.5 A notice given under this constitution must be:
- (a) in writing in English; and
 - (b) delivered/sent either:

- (i) personally;
- (ii) by commercial courier;
- (iii) by pre-paid post;
- (iv) if the notice is to be served by post outside the country from which it is sent, by airmail; or
- (v) by e-mail.

Timing of receipt

23.6 A notice is deemed to have been received:

- (a) if delivered personally, at the time of delivery;
- (b) if delivered by commercial courier, at the time of signature of the courier's receipt;
- (c) if sent by post, on the seventh Business Day following the date of posting;
- (d) if sent by airmail, five days after the date of posting; or
- (e) if sent by e-mail, one Business Day after the time of receipt as specified in section 13A of the *Electronic Transactions (Victoria) Act 2000*, unless the sender receives a notice from the recipient's email server or internet service provider that the message has not been delivered to the recipient,

except that, if such deemed receipt is not within business hours (meaning 9:00 am to 5:30 pm on a Business Day), the notice will be deemed to have been received at the next commencement of business hours in the place of deemed receipt.

Proof of service

23.7 To prove service, it is sufficient to prove that:

- (a) in the case of post – that the envelope containing the notice was properly addressed and posted; and
- (b) in the case of email – the email was transmitted to the recipient's email server or internet service provider.

23.8 A certificate in writing signed by a Director or a Secretary stating that a notice was sent to a Securityholder on a particular date is prima facie evidence that the notice was so sent to that Securityholder on that date.

Persons entitled to Securities

23.9 A person who, by operation of law, transfer or any other means whatsoever, becomes entitled to any Security is absolutely bound by every document given in accordance with this constitution to the person from whom it derives title prior to registration of its title in book of the Company.

24 GENERAL

Submission to jurisdiction

24.1 Each member submits to the non-exclusive jurisdiction of the Supreme Court of Victoria, the Federal Court of Australia and the courts which may hear appeals from those courts.

Prohibition and enforceability

24.2 Any provision of, or the application of any provision of, this constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.

24.3 Any provision of, or the application of any provision of, this constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

Transitional provisions

Note: As this constitution is replacing an existing constitution, it is recommended to include the following transitional provisions to eliminate any uncertainty with regards to certain continuing arrangements. You should review each transitional provision to ensure that it is applicable to your circumstances, in particular you may need to delete clause 24.4(e) if this constitution is being adopted at a time that class rights are being altered (e.g. Class A and Class B shares being converted into ordinary shares).

24.4 This constitution must be interpreted in such a way that:

- (a) every Director, Managing Director and Secretary in office in that capacity immediately before this constitution is adopted continues in office subject to, and is taken to have been appointed or elected under, this constitution;
- (b) any register maintained by the company immediately before this constitution is adopted is taken to be a register maintained under this constitution;
- (c) any seal adopted by the company immediately before this constitution is adopted is taken to be a seal which the company has under a relevant authority given by this constitution;
- (d) unless a contrary intention appears in this constitution, all persons, things, agreements and circumstances appointed, approved or created by or under the constitution of the company in force before this constitution is adopted, continue to have the same status, operation and effect after this constitution is adopted; and
- (e) except where expressly stated to the contrary, the adoption of this constitution does not alter the rights attaching to any class of shares which exist at the date this constitution is adopted.

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