

Constitution

Cooee Holdings Pty Ltd
ACN 679 125 716

Table of Contents

1.	Definitions and interpretation	1
1.1	Definitions	1
1.2	Interpretation	5
1.3	Replaceable rules	6
1.4	Shareholders Deed	6
2.	Proprietary company	7
3.	Share capital	7
3.1	Directors may issue shares	7
3.2	Rights attaching to ordinary shares	7
3.3	Variation of class rights	7
3.4	Company may redeem	8
3.5	Exercise of vote and rights	8
3.6	Nominated Ordinary Members	8
4.	Brokerage and commission	9
4.1	How to pay brokerage and commission	9
4.2	Issue of shares	9
5.	Shares held on trust or jointly	10
5.1	No recognition of trusts or other interests	10
5.2	Joint owners	10
6.	Certificates	10
6.1	Entitlement to certificates	10
6.2	Delivery to joint holders	10
7.	Lien	10
7.1	Lien on unpaid capital and money owing	10
7.2	Exemption from lien	11
7.3	Lien to apply to dividends	11
7.4	Company's right of sale	11
7.5	Restrictions on sale	11
7.6	Effecting sale	11
7.7	Application of sale proceeds	11
7.8	Taxation	12
8.	Calls on shares	12
8.1	Call by Directors	12
8.2	Payment of call	12
8.3	Terms of call	12
8.4	Deemed time of call	12
8.5	Liability of joint holders	12
8.6	Interest on unpaid calls	13
8.7	Fixed dates for calls	13

8.8	Disabilities if calls unpaid	13
8.9	Differentiation between Members	13
8.10	Payment of calls in advance	13
8.11	Evidence of call	14
9.	Transfer of shares	14
9.1	General	14
9.2	Registration of transfers	14
10.	General restrictions on Disposal and issue	15
10.1	General restriction on Security Interests	15
10.2	Indigenous Enterprise status	15
10.3	No more than 50 members	15
11.	Pre-emptive rights on issue of Securities	15
11.1	Excluded Issues	15
11.2	Pro-rata offer	15
11.3	Acceptance	16
11.4	Allocation	16
11.5	Completion Notice	16
11.6	Completion	16
11.7	Issue of Remaining Securities	17
12.	Permitted Disposals	17
12.1	Disposal to Affiliates	17
12.2	Ceasing to be an Affiliate	17
13.	Pre-emptive rights on disposal	17
13.1	Pre-emptive Offer	17
13.2	Acceptance	18
13.3	Allocation	18
13.4	Allocation Notice	19
13.5	Unallocated Sale Shares	19
13.6	Completion	19
14.	Drag Along	20
14.1	Drag Along Notice	20
14.2	Terms of Offer	20
15.	Tag Along	20
15.1	Tag Along Notice	20
15.2	Exercise of Tag Option	21
16.	Power of Attorney	21
16.1	Appointment	21
16.2	Further acts	22
16.3	Irrevocable	22
17.	Transmission of shares	22
17.1	Transmission of shares on death	22

17.2	Transmission of shares on bankruptcy or insolvency	23
17.3	Transmission of shares on mental incapacity	23
18.	Forfeiture of shares	24
18.1	Default	24
18.2	Notice of forfeiture	24
18.3	Forfeiture	24
18.4	Liability continues after forfeiture	24
18.5	Statutory declaration is conclusive	24
18.6	Disposal of forfeited shares	25
18.7	Transfer of forfeited share	25
18.8	Application to outstanding money	25
19.	Alteration of capital	25
19.1	Power to consolidate, divide and cancel	25
19.2	Reduction of capital	26
20.	General meetings	26
20.1	Annual general meeting	26
20.2	Power to convene general meeting	26
20.3	Holding meetings of Members	26
20.4	Notice period	27
20.5	Notice of general meetings	27
20.6	Content of notice of general meetings	27
20.7	Content of notice of annual general meeting	28
20.8	Decisions at general meetings	28
20.9	Notice of adjourned meeting	28
20.10	Failure to give notice	28
21.	Proceedings at general meetings	29
21.1	Circular resolutions	29
21.2	Sole Member resolutions	29
21.3	Use of technology	29
21.4	Quorum	29
21.5	Effect of no quorum	30
21.6	Chairperson of general meeting	30
21.7	Vacancy in chair	30
21.8	Adjournment	30
21.9	Adjourned meetings	30
22.	Voting at general meetings	31
22.1	Voting	31
22.2	Voting rights	31
22.3	Voting by joint holders	31
22.4	No entitlement to vote if calls are unpaid	31
22.5	Voting by persons entitled to shares	31
22.6	Voting by poll	32

22.7	No casting vote of chair	32
22.8	Objection to qualification of a voter	32
22.9	Votes counted in error	33
23.	Proxies	33
23.1	Who can appoint a proxy	33
23.2	Execution and form of proxies	33
23.3	Member's attorney	34
23.4	Life of proxy	34
23.5	Lodgement of proxies and powers of attorney	34
23.6	Corporate representative	34
23.7	Validity of proxy vote	34
24.	Class Meetings	35
25.	Appointment and removal of Directors	35
25.1	Number	35
25.2	Appointment of Directors	35
25.3	Appointment by Directors	35
25.4	Appointment by Company	35
25.5	Removal by Company	35
25.6	Term of office	36
25.7	Share qualification	36
25.8	Vacation of office	36
26.	Remuneration of Directors	36
26.1	Remuneration of Directors	36
26.2	Remuneration of Managing Director	36
26.3	Remuneration of Alternate Director	37
27.	Powers and duties of Directors	37
27.1	General management power	37
27.2	Act in the best interests of a Holding Company	37
27.3	Attorneys	37
27.4	Power to borrow and give security	38
27.5	Indemnity	38
27.6	Other offices of Directors	38
27.7	Director may act in professional capacity	38
28.	Proceedings of Directors	38
28.1	Calling and holding Directors' meetings	38
28.2	Circulating resolutions	39
28.3	Use of Meeting Technology	39
28.4	Directors' resolutions	39
28.5	Minutes	39
28.6	Director's personal interests	40
28.7	Quorum	40

28.8	Chairperson	40
28.9	Delegation to Committees	41
28.10	Acts of Directors valid despite defective appointment	41
28.11	Disabilities if calls unpaid	41
28.12	Resolution by Sole Director	42
29.	Managing Director	42
29.1	Appointment and tenure	42
29.2	Ceasing to hold office	42
29.3	Powers	42
30.	Alternate Directors	42
30.1	Power to appoint an Alternate Director	42
30.2	Appointment	43
30.3	Rights and powers	43
30.4	Alternate Director is not agent of appointor	43
30.5	Termination of appointment	43
31.	Secretary	43
32.	Seal	43
32.1	Safe custody	43
32.2	Authority to use	44
32.3	Additional Seal	44
33.	Execution of documents	44
33.1	Use of Seal optional	44
33.2	Execution without the Seal	44
33.3	Execution using the Seal	44
33.4	Execution by authorised persons	44
33.5	Seal register	45
34.	Records and inspection	45
35.	Dividends and reserves	45
35.1	Declaration	45
35.2	Interim dividends	45
35.3	Interest on dividends	45
35.4	Reserves	46
35.5	Entitlement to dividends	46
35.6	Deduction from dividends of money owing	46
35.7	Retention of dividends and transmission	46
35.8	Payment of dividends by distribution of property	46
35.9	Payment of dividends by cash	47
35.10	Unclaimed dividends	47
36.	Capitalisation of profits	47
36.1	Authority to capitalise	47
36.2	Appropriation and application	47

36.3	Adjustment of Members' rights	48
36.4	Distribution	48
37.	Notices	48
37.1	How notice to be given	48
37.2	When notice is given	49
37.3	Notice to joint holders	49
38.	Winding up	49
39.	Indemnity	50
39.1	Interpretation	50
39.2	Scope of indemnity	50
39.3	Insurance	50

Constitution of Cooee Holdings Pty Ltd ACN 679 125 716

A company limited by shares

1. Definitions and interpretation

1.1 Definitions

In this Constitution, unless the context requires otherwise:

Accepting Key Member has the meaning given in clause 13.2;

Accepting Subscriber has the meaning given in clause 11.3;

Act means the *Corporations Act 2001 (Cth)* as amended, supplemented or replaced from time to time;

Affiliate means, in relation to a person (first-mentioned person):

- (a) a person that Controls, is Controlled by, or is under common Control with the first-mentioned person;
- (b) a Related Body Corporate of the first-mentioned person; and
- (c) in the case of a Founder Member, includes the Founder (and vice versa).

Allocation has the meaning given in clause 11.4 or 13.3 (as applicable);

Allocation Notice has the meaning given in clause 13.4;

Alternate Director means any person who, for the time being, holds office as an alternate Director duly appointed in accordance with this Constitution;

Appointing Director has the meaning given in clause 30.1(a);

Appointor has the meaning given in clause 16.1;

As-Converted Basis means determined on the assumption that all shares capable of conversion (directly or indirectly) into ordinary shares have been converted into ordinary shares in accordance with their terms;

Attorney has the meaning given in clause 16.1;

Board means the board of directors of the Company;

Business means the business of the Group from time to time being, as at the date on which this Constitution is adopted, the manufacture and sale of cookies and other food products;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney, Australia;

Company means Cooee Holdings Pty Ltd ACN 679 125 716 or as that name is changed from time to time;

Completion Notice has the meaning given in clause 11.5;

Constitution means this constitution of the Company as amended, supplemented or replaced from time to time;

Control has the same meaning given to it in section 50AA of the Corporations Act, and **Controls** and **Controlled** shall be construed accordingly;

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

Directors means all or any number of the directors for the time being of the Company appointed in accordance with this Constitution but does not include associate directors;

Dispose means to sell, assign, transfer, convey, exchange, create a Security Interest over or otherwise dispose of a legal or beneficial interest and **Disposal** shall be construed accordingly;

Drag Notice has the meaning given in clause 14.1(a);

Drag Offer has the meaning given in clause 14.1(a);

Dragged Members has the meaning given in clause 14.1(a);

Dragging Members has the meaning given in clause 14.1(a);

Excluded Issue means an issue of shares:

- (a) in connection with a subdivision or consolidation of shares, or a dividend, which is approved by Unanimous Board Resolution;
- (b) pursuant to the terms of an option, warrant or other security convertible into or exercisable in exchange for shares (provided that the option, warrant or other convertible security was issued in accordance with this Constitution);
- (c) as part of an IPO which is approved by Unanimous Board Resolution; or
- (d) which constitute all or part of the consideration for a bona fide acquisition of assets or shares by the Group which is approved by Unanimous Board Resolution;

Exercise Notice has the meaning given in clause 15.2(a);

Exercise Period has the meaning given in clause 15.1(c)(iv);

Former Affiliate has the meaning given in clause 12.2;

Founder means Terri-Anne Daniel of 143 Grande Parade, Bonnells Bay NSW 2264;

Founder Member means the Founder or an Affiliate of the Founder that holds shares and, as at the date of this Constitution means the Founder;

Government Agency means any government or any public, statutory, governmental (including a local government), semi-governmental or judicial body, entity, department or authority and includes any self-regulatory organisation established under statute;

Group means the Company and its Subsidiaries and **Group Company** means any one of them;

Holding Company has the meaning given to that term in the Act;

Indigenous Enterprise means meeting the requirements for the purposes of:

- (a) registration as an Indigenous business with Supply Nation; or
- (b) recognition as a NSW Indigenous Chamber of Commerce Assured Business;

Intellectual Property Rights means all present and future intellectual and industrial property rights conferred by statute, at common law or in equity and wherever existing, including:

- (a) trade marks, trade names, domain names, logos, get-up, patents, inventions, design rights, copyrights, circuit layout rights, plant breeder's rights, know how, trade secrets and any other rights subsisting in the results of intellectual effort in any field, whether or not capable of registration;
- (b) where the rights referred to in paragraph (a) are obtained or enhanced by registration, any registration of such rights and applications and rights to apply for such applications; and
- (c) all renewals, divisions and extensions of these rights;

IPO means an initial public offering of shares or shares in a holding company of the Company in conjunction with a listing or quotation of shares or shares in a holding company of the Company on a recognised stock exchange;

Issue Acceptance has the meaning given in clause 11.3;

Issue Notice has the meaning given in clause 11.2;

Issue Securities has the meaning given in clause 11.2;

Key Member means any Member who holds at least 5% of the Share Capital;

Law includes:

- (a) any statute, regulation, rule, by-law, ordinance, proclamation, judgement, treaty, decree, convention, rule or principle of common law or equity, rule of any applicable stock exchange, or any requirement or approval (including conditions) of any Government Agency that has the force of law;
- (b) any regulation, rule, by-law, ordinance, proclamation or judgement made under that law; and
- (c) that law as amended, consolidated, supplemented, re-enacted or replaced;

Managing Director means any person who, for the time being, holds office as a managing director duly appointed in accordance with this Constitution;

Meeting Technology means any technology approved by the Directors that is reasonable to use for the purpose of holding a meeting at more than one physical venue or virtually or by a combination of those methods and otherwise satisfies the requirements of this Constitution and the Act;

Member means a registered holder of any share of the Company or any person deemed by this Constitution to be such a person;

Nominated Ordinary Member means each Ordinary Member other than an Ordinary Member excluded pursuant to a Unanimous Board Resolution.

Nominee Trustee means any Australian professional trustee company nominated by the Company pursuant to Board approval who will hold all the shares of each Nominated Ordinary Member as bare trustee of that Nominated Ordinary Member.

Office means the registered office for the time being of the Company;

Ordinary Member means any Member which is not a Key Member, including the Nominee Trustee and a person on whose behalf the Nominee Trustee holds shares.

Original Member has the meaning given in clause 12.2;

Register means the register of Members of the Company as required to be kept under section 168 of the Act;

Relevant Person has the meaning given in clause 7.8;

Remaining Securities has the meaning given in clause 11.7(a);

Respective Proportion means in respect of each Member, the proportion that the aggregate number of shares held by that Member bears to the aggregate number of shares on issue at the relevant time, except that for the purposes of clause 13.3, the Seller's shares are excluded from the aggregate number of shares on issue;

Sale Shares has the meaning given in clause 13.1(a);

Seal means the common seal of the Company (if any) and includes any additional seal of the Company referred to in clause 32.3;

Secretary means any person appointed to perform the duties of a secretary of the Company;

Security means a security of the Company and includes shares, options, convertible notes, warrants or other securities capable of conversion into shares issued by the Company.

Security Interest means:

- (a) a 'security interest' as defined in the *Personal Property Securities Act 2009* (Cth);
- (b) any third party rights or interests including a mortgage, lien, charge, pledge, assignment by way of security, security interest, encumbrance, title retention, preferential right or trust arrangement, claim, covenant, easement or any other security arrangement or any other arrangement having the same effect;
- (c) a right, interest or arrangement which has the effect of giving another person priority over creditors including any right of set-off;
- (d) a right that a person (other than the owner) has to remove something from land (known as a *profit à prendre*), easement, public right of way, restrictive or positive covenant, lease, or licence to use or occupy; or

(e) an agreement to create any of them or allow them to exist;

Seller has the meaning given in clause 13.1(a);

share means any share in the Company, and shares means more than one share;

Share Capital means all of the shares on issue;

Shareholders Deed means any agreement or deed between the Company and any or all Members relating to the affairs and management of the Company as amended or replaced from time to time;

Sole Director means any person who, for the time being, is authorised in accordance with this Constitution to be the sole person to hold office as a Director; and

Subsidiary has the same meaning as in section 9 of the Act;

Tag Option has the meaning given in clause 15.1(b);

Tag Notice has the meaning given in clause 15.1(a);

Tagging Member has the meaning given in clause 15.1(b);

Transfer Acceptance has the meaning given in clause 13.2;

Transfer Notice has the meaning given in clause 13.1(a);

Trust Documentation means all documentation determined by the Company pursuant to a Unanimous Board Resolution to be required or reasonably necessary to facilitate the Nominee Trustee holding the shares of a Nominated Ordinary Member as bare trustee for that Nominated Ordinary Member.

Unallocated Sale Shares has the meaning given in clause 13.5; and

Unanimous Board Resolution means a resolution of the Board:

- (a) approved by all the Directors who are present and entitled to vote at a duly convened Board meeting; or
- (b) approved by a circulating resolution of all the Directors entitled to vote on the resolution.

1.2 Interpretation

In this Constitution, unless the contrary intention appears:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes the other genders;
- (c) the headings are used for convenience only and do not affect the interpretation of this Constitution;
- (d) other grammatical forms of defined words or expressions have corresponding meanings;

- (e) a reference to a document includes the document as modified from time to time and any document replacing it;
- (f) if something is to be or may be done on a day that is not a Business Day then it must be done on the next Business Day;
- (g) the word "person" includes a natural person, partnership, body corporate, association, governmental or local authority, agency and any other body or entity whether incorporated or not;
- (h) the word "month" means calendar month and the word "year" means 12 months;
- (i) the words "in writing" include any communication sent by letter, facsimile transmission or email or any other form of communication capable of being read by the recipient;
- (j) a reference to a thing includes a part of that thing;
- (k) a reference to all or any part of a statute, rule, regulation or ordinance (**statute**) includes that statute as amended, consolidated, re-enacted or replaced from time to time;
- (l) wherever "include", "for example" or any form of those words or similar expressions is used, it must be construed as if it were followed by "(without being limited to)";
- (m) money amounts are stated in Australian currency unless otherwise specified;
- (n) a reference to any agency or body, if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or functions removed (**defunct body**), means the agency or body that performs most closely the functions of the defunct body; and
- (o) any expression in a provision of this Constitution that relates to a particular provision of the Act has the same meaning as in that provision of the Act.

1.3 Replaceable rules

The replaceable rules contained in the Act are displaced under section 135(2) and do not apply to the Company except to the extent that they are repeated in this Constitution.

1.4 Shareholders Deed

- (a) If there is any conflict or inconsistency between this Constitution and the provisions of the Shareholders Deed (if any) in place from time to time:
 - (i) the provisions of the Shareholders Deed will prevail to the extent of such inconsistency; and
 - (ii) each Member and the Company must exercise all voting and other rights and powers which are available to that Member or to the Company (as the case may be) to give effect to the provisions of the Shareholders Deed.
- (b) The Members must not amend this Constitution so that it is inconsistent with the Shareholders Deed (if any).

- (c) An inconsistency will be considered to exist if, regardless of the purpose of the provision, the relevant subject matter or action to be taken (including the issue or disposal of Securities) is dealt with differently in both this Constitution and the Shareholders Deed (if any).

2. Proprietary company

The Company is a proprietary company and:

- (a) the liability of Members is limited by shares;
- (b) the number of Members is limited to 50 (counting joint holders of shares as one person); and
- (c) it must not engage in any activity that would require disclosure to investors under Chapter 6D, except in the circumstances permitted by section 113(3).

3. Share capital

3.1 Directors may issue shares

Subject to the Act, the terms of the Shareholders Deed (if any) and this Constitution the Directors may:

- (a) issue or dispose of shares on such terms and with such rights and restrictions as they think fit;
- (b) issue shares with such preferred, deferred or other special rights or restrictions whether with regard to dividend, voting, return of capital or otherwise; and
- (c) issue any preference shares on terms that they are, or at the option of the Company are liable, to be redeemed.

3.2 Rights attaching to ordinary shares

The ordinary shares confer on their holders:

- (a) on a winding up of the Company, the right to participate pari passu with the holders of other ordinary shares in the repayment of paid up capital and distribution of any surplus assets or profits of the Company;
- (b) the right to receive notice of and attend any general meeting of the Company;
- (c) the right to cast one vote on a show of hands at a general meeting of the Company and to cast one vote for each ordinary share held on a poll; and
- (d) the right to such dividends and bonus shares pari passu with the holders of other ordinary shares as the Directors in their absolute discretion from time to time determine.

3.3 Variation of class rights

Except to the extent otherwise provided in their terms of issue, the procedure for varying rights attaching to a class of shares where the variation occurs as a result of issuing new shares, is that those rights are varied if the issue of such new shares has been approved

in accordance with the Shareholders Deed (if any) (whether such approval is by a resolution of directors or shareholders or otherwise). For the avoidance of doubt, if the issue of such new shares has been approved in accordance with the Shareholders Deed (if any) then no further approval or consent of holders of the relevant class of shares is required to vary the rights attached to such shares.

3.4 Company may redeem

- (a) Subject to the Act, the Company may, by 30 days written notice to a holder for the time being of redeemable preference shares or such other notice period as the Company and the holder of redeemable preference shares may mutually agree, redeem the whole or any part of such shares.
- (b) On a redemption under clause 3.4(a), the Company will repay the value at which the redeemable preference shares were issued.

3.5 Exercise of vote and rights

Subject to this Constitution, no person is entitled to vote or to exercise any right or privilege as a Member until the person is registered in the Register.

3.6 Nominated Ordinary Members

- (a) The Company and each Member agree that the Company and each Nominated Ordinary Member must act in accordance with this clause 3.6 if directed to do so by a Unanimous Board Resolution.
- (b) If directed by a Unanimous Board Resolution:
 - (i) the Company will nominate the Nominee Trustee and cause the Trust Documentation to be prepared;
 - (ii) each Nominated Ordinary Member must execute the Trust Documentation pursuant to which the Nominee Trustee will hold all shares of that Nominated Ordinary Member as bare trustee for that Nominated Ordinary Member and, if the Nominated Ordinary Member holds legal title to any shares, transfer the legal title to its shares to the Nominee Trustee who will hold such shares as bare trustee for the Nominated Ordinary Member pursuant to the Trust Documentation (Nominated Ordinary Member Transfer), deliver to the Company for cancellation all share certificates with respect to such shares and do any other thing reasonably required by the Company to effect the Nominated Ordinary Member Transfer; and
 - (iii) the Company will update its register of members and lodge a notice with the Australian Securities and Investments Commission in respect of each Nominated Ordinary Member Transfer.
- (c) Following the issue or transfer of a Nominated Ordinary Member's shares in accordance with clause 3.6(a):
 - (i) any restrictions on transfer of shares held by a Nominated Ordinary Member contemplated by this Constitution and the Shareholders Deed (if any) include any dealings in its beneficial interest in such shares and any dealings in the legal title to such shares held by the Nominee Trustee (at the Nominated Ordinary Member's direction);

- (ii) where this Constitution or the Shareholders Deed (if any) contemplates the transfer of some or all of a Member's shares, the relevant provisions apply in relation to a Member that is a Nominated Ordinary Member so that references to the transfer of the Member's shares are to be construed as references to:
 - (A) the transfer of the beneficial interest in the Nominated Ordinary Member's shares; and
 - (B) the Nominated Ordinary Member procuring the concurrent transfer of legal title in its shares by the Nominee Trustee,

and obligations on a Member who is a Nominated Ordinary Member to offer shares for transfer are to be construed in a corresponding manner. The Nominated Ordinary Members must procure that the Nominee Trustee takes such actions as may be required to give effect to any such transfer;
- (iii) a Nominated Ordinary Member must not without the prior written consent of the Board subject to a Unanimous Board Resolution, direct the Nominee Trustee to transfer (or otherwise procure the transfer of) legal title to any of its shares to the Nominated Ordinary Member;
- (iv) obligations on Members who are Nominated Ordinary Members to exercise voting rights or take other steps as registered holders of shares are to be interpreted as obligations to ensure the Nominee Trustee takes the relevant steps (at the Nominated Ordinary Member's direction, by the Nominated Ordinary Member);
- (v) the restrictions on transfer in this Constitution do not apply to prevent the transfer of the bare legal title in shares held by the Nominee Trustee to a replacement trustee as contemplated by the terms of the Nominee Trustee's appointment; and
- (vi) the Company may treat the failure of a Nominated Ordinary Member to direct the Nominee Trustee as required by the Constitution, or the Nominated Ordinary Member's or Trustee's failure to comply with the provisions of this Constitution including this clause 3.6 as a breach by the Nominee Trustee of this Constitution in respect of the shares it holds for that Nominated Ordinary Member.

4. Brokerage and commission

4.1 How to pay brokerage and commission

The Company may exercise the power to make payments by way of brokerage or commission conferred by the Act in the manner provided by the Act.

4.2 Issue of shares

Payments by way of brokerage or commission may be satisfied by the payment of cash, by the allotment of fully or partly paid shares or partly by the payment of cash and partly by the allotment of fully or partly paid shares.

5. Shares held on trust or jointly

5.1 No recognition of trusts or other interests

Except as required by the Act or by this Constitution, the Company will not:

- (a) be required to recognise any person as holding a share on trust; or
- (b) be bound by or compelled in any way to recognise (whether or not the Company has been given notice) any equitable, contingent, future or partial claim, right or interest or any other right in any share except an absolute right of ownership in the holder listed in the Register.

5.2 Joint owners

Subject to this Constitution, if 2 or more persons are listed in the Register as the holders of a share:

- (a) they are deemed to hold the share as joint tenants with rights of survivorship;
- (b) they and their respective legal personal representatives are jointly and severally liable to pay all instalments and calls in respect of the share;
- (c) subject to clause 5.2(b), on the death of any one of them (evidence of which may be required by the Directors as they think fit), the survivor or survivors are the only person or persons whom the Company may recognise as having any title to the share; and
- (d) any one of them may give effectual receipts for any dividend or other distribution in respect of the share.

6. Certificates

6.1 Entitlement to certificates

A person whose name is entered as a Member in the Register is entitled without payment to receive a certificate in respect of the share, signed in any way authorised by clause 33, in accordance with the Act. In respect of a share or shares held jointly by several persons, the Company is not bound to issue more than one certificate.

6.2 Delivery to joint holders

Delivery of a certificate for a share to one of several joint holders is sufficient delivery to all such holders.

7. Lien

7.1 Lien on unpaid capital and money owing

The Company has a first and paramount lien:

- (a) on every partly paid share for all money (whether presently payable or not) called or payable at a fixed time in respect of that share; and

- (b) on all shares registered in the name of a person (either solely or jointly with another person) for all money presently payable to the Company by that person or the person entitled to the shares by reason of the death, mental incapacity, bankruptcy or insolvency of the first mentioned person.

7.2 Exemption from lien

The Directors may at any time exempt a share wholly or in part from the provisions of clause 7.1.

7.3 Lien to apply to dividends

The Company's lien (if any) on a share extends to all dividends payable in respect of the share.

7.4 Company's right of sale

Subject to clause 7.5, the Company may sell, in such manner as the Directors think fit, any shares on which the Company has a lien.

7.5 Restrictions on sale

A share on which the Company has a lien must not be sold unless:

- (a) a sum in respect of which the lien exists is presently payable; and
- (b) the Company has, not less than 14 days before the date of the sale, given to the registered holder for the time being of the share or the person entitled to the share by reason of the death, mental incapacity, bankruptcy or insolvency of the registered holder a notice in writing setting out, and demanding payment of, such part of the amount in respect of which the lien exists as is presently payable.

7.6 Effecting sale

- (a) The Directors may give effect to a sale referred to in clause 7.4 by authorising a person to transfer the share sold to the purchaser.
- (b) The purchaser of such a share:
 - (i) will be registered as the holder of the share;
 - (ii) is not responsible for the application of the purchase money; and
 - (iii) will possess a title which is not affected by any irregularity or invalidity in connection with the sale.
- (c) After the name of the purchaser is entered in the Register, no person may impeach the validity of the sale and the remedy of any person aggrieved is in damages only and against the Company exclusively.

7.7 Application of sale proceeds

The Company will pay:

- (a) the net proceeds of any sale or disposal referred to in clauses 7.4 and 7.6 towards satisfaction of the amount in respect of which the lien exists; and
- (b) the residue (if any) of the proceeds of sale to the person entitled to the shares at the date of sale.

7.8 Taxation

If a liability is imposed on the Company to pay any tax or other charge in relation to the shares held by a person or by another person entitled to the shares by reason of the death, mental incapacity, bankruptcy or insolvency of the first mentioned person (in each case, the **(Relevant Person)**) or any dividend or any entitlements due to the Relevant Person, the Company:

- (a) must be fully indemnified by the Relevant Person from all such liability;
- (b) has a lien on all dividends, bonuses and other moneys payable in respect of shares registered in the name of the Relevant Person, including shares where the Relevant Person is one of several joint holders;
- (c) may recover as a debt due from the Relevant Person any moneys paid by the Company in respect of such liability; and
- (d) may refuse to register a transfer of any shares by the Relevant Person until those moneys are recovered.

8. Calls on shares

8.1 Call by Directors

Subject to the Act and this Constitution, the Directors may make a call on some or all of the Members in respect of any money unpaid on their shares which is not by the terms of issue of those shares made payable at fixed times.

8.2 Payment of call

Upon receiving at least 14 days' notice specifying the time and place of payment, each Member so notified must pay to the Company at the time or times and place so specified the amount called on the shares.

8.3 Terms of call

The Directors may revoke, postpone or extend a call as they think fit, and may authorise or require a call to be paid by instalments.

8.4 Deemed time of call

A call will be deemed to have been made at the time when the Directors' resolution authorising the call was passed.

8.5 Liability of joint holders

The joint holders of a share are jointly and severally liable to pay all calls in respect of the share.

8.6 Interest on unpaid calls

If a sum called in respect of a share is not paid before or on the day appointed for payment of the sum, the Member from whom the sum is due must pay interest at a rate and on terms determined by the Directors. Interest may be calculated from the day appointed for payment of the sum to the time of actual payment. The Directors may waive payment of interest wholly or in part.

8.7 Fixed dates for calls

- (a) Any sum that, by the terms of issue of a share, becomes payable on allotment or at a fixed date is deemed to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable.
- (b) In the case of non-payment of a sum referred to in clause 8.7(a), all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise apply as if the sum had become payable by virtue of a call duly made and notified.

8.8 Disabilities if calls unpaid

A Member may not exercise any right as a Member (including the right to receive a dividend, to be present at any meeting, to be counted in a quorum or to vote at any meeting or on a poll) until that Member has paid:

- (a) all calls due and payable by the Member whether alone or jointly with another person, together with interest and expenses in respect of the calls; and
- (b) all other sums (if any) presently payable by the Member in respect of any shares held by the Member, whether alone or jointly with another person.

8.9 Differentiation between Members

The Directors may, on the issue of shares, differentiate between Members as to the amount of calls to be paid and the times of payment.

8.10 Payment of calls in advance

- (a) The Directors may:
 - (i) accept from any Member all or any part of the money unpaid on a share in excess of the sum actually called up; and
 - (ii) cause the Company to pay interest at the rate agreed between the Directors and the Member paying the sum, on the whole or any part of the amount so accepted (unless the Company in general meeting otherwise determines).
- (b) Any amount paid in advance of calls will not be taken into account in ascertaining the amount of any dividend payable on the shares in respect of which the advance is made.
- (c) The Directors may repay an amount advanced under clause 8.10(a) on giving the relevant Member one month's notice in writing.

8.11 Evidence of call

- (a) In an action or other proceedings for the recovery of a call, it is sufficient, and conclusive evidence of the debt, to prove that:
- (i) the name of the defendant is entered in the Register as the holder or one of the holders of the share in respect of which the call is claimed;
 - (ii) the resolution making the call is recorded in the minute book; and
 - (iii) notice of the call was given to the defendant in accordance with this Constitution,
- and it is not necessary to prove the appointment of the Directors who made the call or any other matter whatsoever.
- (b) In this clause 8.11, reference to the term "defendant" includes a person against whom a set-off or counter-claim is alleged by the Company and the term "action or other proceedings for the recovery of a call" is to be construed accordingly.

9. Transfer of shares

9.1 General

Subject to this Constitution and the terms of the Shareholders Deed (if any), a Member may transfer all or any of the Member's shares by instrument in writing in any usual or common form or in any other form executed by or on behalf of both of the transferor and transferee as the Directors accept.

9.2 Registration of transfers

- (a) A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the shares.
- (b) The Directors are not required to register a transfer of shares in the Company unless:
- (i) the instrument of transfer has been duly stamped (if required by Law);
 - (ii) the instrument of transfer and any share certificates have been lodged at the Company's Office;
 - (iii) any fee payable on registration of the transfer has been paid; and
 - (iv) the Directors have been given all the information they reasonably require to establish the right of the transferor to make the transfer.
- (c) Subject to clause 9.2(d) the Directors may, in their discretion and without assigning any reason, refuse to register a transfer of shares in the Company.
- (d) If the Company has a Shareholders Deed that regulates the transfer of shares in the Company, the Directors must not decline to register a transfer of shares and must not suspend the registration of such transfer that complies with the terms of

the Shareholders Deed, and must not register a transfer which does not comply with the terms of such Shareholders Deed.

- (e) The Directors may suspend the registration of transfers of shares in the Company at such times and for such periods as they determine. The period of suspension must not exceed in the aggregate 30 days in any calendar year.

10. General restrictions on Disposal and issue

10.1 General restriction on Security Interests

A Member may not grant any Security Interest over Securities without first obtaining Board approval by Unanimous Board Resolution.

10.2 Indigenous Enterprise status

A Member must not Dispose of its shares, and shares must not be issued to any person, if such Disposal or issue of shares would result in the Company ceasing to be an Indigenous Enterprise, unless the Disposal or issue is approved by a Unanimous Board Resolution and by each Key Member.

10.3 No more than 50 members

Despite any other provision of this Constitution, unless the Board determines pursuant to a Unanimous Board Resolution otherwise:

- (a) the Company must not issue shares to a person; and
- (b) the Board must not register a transfer of shares to a person,

if the issue or transfer of such shares would result in there being more than 50 Members (calculated assuming that prior to such issue of shares all Securities convertible into shares had been converted into shares by their holders) so as to cause the Company to be regulated by the provisions of Chapter 6 of the Corporations Act.

11. Pre-emptive rights on issue of Securities

11.1 Excluded Issues

This clause 11 does not apply to any Excluded Issue.

11.2 Pro-rata offer

Subject always to clause 10, if the Board resolves to issue new Securities, the Company must offer to each Key Member its Respective Proportion of the total number of Securities (**Issue Securities**) to be issued by written notice (**Issue Notice**) specifying:

- (a) the terms of issue of the Issue Securities;
- (b) the total number of Issue Securities available for subscription;
- (c) the issue price per Issue Security; and
- (d) the date on which subscription monies for the Issue Securities must be paid to the Company.

11.3 Acceptance

A Key Member wishing to subscribe for Issue Securities (**Accepting Subscriber**) in response to an Issue Notice must, within 10 Business Days after receipt of the Issue Notice, irrevocably notify the Board in writing of the number of Issue Securities it is willing to subscribe for, which may be in excess of its Respective Proportion (**Issue Acceptance**).

11.4 Allocation

- (a) If the aggregate Issue Acceptances received by the Board in accordance with clause 11.3 is equal to or less than the total number of Issue Securities, each Accepting Subscriber's allocation of Issue Securities is the amount specified in their Issue Acceptance (**Allocation**).
- (b) If the aggregate Issue Acceptances received by the Board in accordance with clause 11.3 is greater than the total number of Issue Securities:
 - (i) each Accepting Subscriber will be allocated the lesser of:
 - (A) the number of Issue Securities set out in their Issue Acceptance; or
 - (B) the relevant Accepting Subscriber's Respective Proportion of the Issue Securities; and
 - (ii) if any Issue Securities remain unallocated, each Accepting Subscriber who in their Issue Acceptance specified a number of Issue Securities greater than the number allocated to them pursuant to clause 11.4(b)(i), will be allocated additional Issue Securities in proportion to their Respective Proportion (provided that no Accepting Subscriber will be allocated more Issue Securities than the number set out in their Issue Acceptance) and this process will be repeated until either all Issue Securities are allocated, or every Accepting Subscriber has been allocated the number of Issue Securities set out in its Issue Acceptance.

11.5 Completion Notice

As soon as reasonably practicable and no later than 10 Business Days after the determination of each Accepting Subscriber's Allocation, the Company must give each Accepting Subscriber a notice setting out the time and place for completion of the issue of the Issue Securities (**Completion Notice**).

11.6 Completion

- (a) On the date that is specified in the Completion Notice, or at such other date as is agreed by the Company and the Accepting Subscribers;
 - (i) the Company must issue, and each Accepting Subscriber must subscribe for, its respective Allocation on the terms set out in the Issue Notice;
 - (ii) each Accepting Subscriber must pay to the Company the subscription price for its Allocation; and
 - (iii) the Company must:

- (A) register the issue of each Allocation and enter each Accepting Subscriber in the Company's register of members for the Accepting Subscriber's Allocation; and
 - (B) issue a new share certificate in the name of each Accepting Subscriber for its Allocation.
- (b) If an Accepting Subscriber fails to pay the subscription monies for its Allocation when due, such Issue Securities will be treated as Remaining Securities in accordance with clause 11.7 and may be issued by the Company in accordance with clause 11.7.

11.7 Issue of Remaining Securities

- (a) After the procedures set out in this clause 11 have been complied with and exhausted, if any Issue Securities have not been allocated (**Remaining Securities**), the Company may issue those Remaining Securities to one or more other third parties selected by the Board, provided that the Remaining Securities are issued at the same price and otherwise on terms no more favourable to that third party than those offered to the Key Members in the Issue Notice.
- (b) If the Company does not issue all Remaining Securities within 90 days after the date of service of the Issue Notice, it may not issue those shares without complying again with this clause 11.

12. Permitted Disposals

12.1 Disposal to Affiliates

Subject to clauses 10.2 and 12.2, but despite any other provision of this Constitution a Key Member may Dispose any or all of its Securities from time to time to any of its Affiliates without restriction.

12.2 Ceasing to be an Affiliate

If a person (**Former Affiliate**) to whom a Key Member (**Original Member**) has Disposed any Securities under clause 12.1 ceases to be an Affiliate of that Original Member:

- (a) that Former Affiliate must (and the Original Member must procure that the Former Affiliate does) immediately Dispose the relevant Securities back to the Original Member (who must purchase the Securities); and
- (b) all rights attaching to the Securities held by the Former Affiliate will be suspended until the Disposal back to the Original Member is completed,

in each case unless the Board determines otherwise by Unanimous Board Resolution.

13. Pre-emptive rights on disposal

13.1 Pre-emptive Offer

- (a) Subject always to clause 10, a Member (the **Seller**) wishing to Dispose of shares (**Sale Shares**) must first give notice of such intention to the Board, following which the Board must give to each Key Member a written notice (**Transfer Notice**) which

constitutes an offer by the Seller to Dispose of the Sale Shares at the price stated in the Transfer Notice and in the manner outlined in this clause 12.

- (b) The Transfer Notice must set out:
- (i) the number and class of the Sale Shares it proposes to dispose of;
 - (ii) the name of any proposed purchaser;
 - (iii) the price payable per Sale Share, which must be a cash price payable on completion of the relevant Disposal;
 - (iv) the period which the invitation to Key Members to make an offer to purchase the Sale Shares is open, which must not be less than 10 Business Days;
 - (v) the key terms of any offer from a purchaser or agreement between the Seller and purchaser concerning the Sale Shares; and
 - (vi) any other information reasonably required to assess the offer.

13.2 Acceptance

A Key Member wishing to purchase Sale Shares (**Accepting Key Member**) in response to a Transfer Notice must, within 10 Business Days after receipt of the Transfer Notice, irrevocably notify the Board of the number of Sale Shares it is willing to purchase (**Transfer Acceptance**).

13.3 Allocation

- (a) If the aggregate Transfer Acceptances received by the Board in accordance with clause 13.2 is equal to or less than the total number of Sale Shares, each Accepting Key Member's allocation of Sale Shares is the amount specified in their Transfer Acceptance (**Allocation**).
- (b) If the aggregate Transfer Acceptances received by the Board in accordance with clause 13.2 is greater than the total number of Sale Shares:
- (i) each Accepting Key Member will be allocated the lesser of:
 - (A) the number of Sale Shares set out in their Transfer Acceptance; or
 - (B) the relevant Accepting Key Member's Respective Proportion of the Sale Shares; and
 - (ii) if any Sale Shares remain unallocated, each Accepting Key Member who in their Transfer Acceptance specified a number of Sale Shares greater than the number allocated to them pursuant to clause 13.3(b)(i), will be allocated additional Sale Shares in proportion to their Respective Proportion (provided that no Accepting Key Member will be allocated more Sale Shares than the number set out in their Transfer Acceptance) and this process will be repeated until either all Sale Shares are allocated, or every Accepting Key Member has been allocated the number of Issue Securities set out in its Transfer Acceptance.

13.4 Allocation Notice

As soon as reasonably practicable and no later than 5 Business Days after the determination of each Accepting Key Member's Allocation, the Company must give each Accepting Key Member a notice setting out its Allocation, and must provide the Seller with a copy of each such notice (**Allocation Notice**).

13.5 Unallocated Sale Shares

If there are unallocated Sale Shares after all Allocations have been exhausted (**Unallocated Sale Shares**):

- (a) the Company must immediately notify the Seller of the Unallocated Sale Shares; and
- (b) the Seller is free to Dispose of the Unallocated Sale Shares to any third party within 90 days of the date of the Transfer Notice on terms no more favourable to such third party than those set out in the Transfer Notice.

13.6 Completion

- (a) On the date that is 10 Business Days after the date of the Allocation Notices, or at such other date as is agreed between the Seller and Accepting Key Members:
 - (i) the Seller must:
 - (A) deliver to the Company the share certificate for the Sale Shares; and
 - (B) transfer to each Accepting Key Member its respective Allocation on the terms set out in the Transfer Notice;
 - (ii) each Accepting Key Member must:
 - (A) accept its respective Allocation on the terms set out in the Transfer Notice; and
 - (B) pay to the Seller the aggregate consideration for its Allocation; and
 - (iii) the Company must:
 - (A) register the transfer of each Accepting Key Member's Allocation in the Company's register of members; and
 - (B) issue a new share certificate in the name of each Accepting Key Member for its Allocation and, if applicable, a new share certificate in the name of the Seller in respect of any balance of shares held.
- (b) If an Accepting Key Member fails to complete the acquisition of its Allocation in accordance with clause 13.6(a), those Sale Shares will be treated as Unallocated Sale Shares and may be disposed of in accordance with clause 13.5.

14. Drag Along

14.1 Drag Along Notice

- (a) If the Company or any Member receives a bona fide offer on arm's length terms from any person to purchase all of the Securities in the Company not already held by that person (**Drag Offer**) and the holders of at least 50% of the Share Capital (on an As-Converted Basis) accept the Drag Offer (**Dragging Members**), any Dragging Member is entitled to issue all of the remaining Members (**Dragged Members**) a notice (**Drag Notice**) requiring each Dragged Member to sell their shares to the proposed purchaser on the same terms as the Dragging Members.
- (b) Despite anything in this Constitution, the pre-emption procedure set out in clause 13 does not apply to the relevant shares once a Drag Notice has been issued.

14.2 Terms of Offer

- (a) The terms on which the Dragging Members require the Dragged Members to sell their Securities must:
 - (i) allocate the aggregate consideration receivable by the Members among the Members on the basis of the relative liquidation preferences to which the holders of Securities are entitled under the Constitution; and
 - (ii) subject to clause 14.2(a)(i), be no less favourable to the Dragged Members than the terms on which the Dragging Members are selling their Securities.
- (b) The Drag Notice must specify:
 - (i) the details of the proposed purchaser;
 - (ii) the consideration payable for each Security; and
 - (iii) any other key terms and conditions upon which the Dragged Members' Securities will be purchased pursuant to the Drag Notice.
- (c) Subject to clause 14.2(d), each Dragged Member must, within 10 Business Days of service of the Drag Notice, sell all of their Securities to the proposed purchaser in accordance with the key terms and conditions of the Drag Notice.
- (d) The Dragged Members are not obliged to sell their Securities in accordance with clause 14.2(c) if the Dragging Shareholders do not complete the sale of all their Securities to the proposed purchaser on the same key terms and conditions set out in the Drag Notice.

15. Tag Along

15.1 Tag Along Notice

- (a) If one or more Key Members receive a bona fide offer from a proposed purchaser to purchase some or all of their Securities, and those Key Members wish to accept the offer (**Tag Sellers**), the Tag Sellers must, after complying with the pre-emption procedure set out in clause 13, give the other Key Members (**Tagging Member**) a notice (**Tag Notice**) of their intention.

- (b) A Tag Notice gives every Tagging Member the right (**Tag Option**) to require the Tag Sellers to procure the purchase by the proposed purchaser of up to the same proportion of Securities held by each Tagging Member as the proportion of Securities proposed to be sold by the Tag Sellers (**Tag Proportion**).
- (c) The Tag Notice must specify:
 - (i) the name of the purchaser;
 - (ii) the number of Securities in the proposed disposal to the proposed purchaser and the Tag Proportion;
 - (iii) the sale price and any other terms of the proposed disposal to the purchaser; and
 - (iv) the period during which a Tag Option may be exercised, which must be a period of not less than 10 Business Days from the date of service of the Tag Notice (**Exercise Period**).

15.2 Exercise of Tag Option

- (a) A Tag Option may be exercised by the Tagging Member providing written notice specifying the number of Securities to be sold by the Tagging Member (which may not exceed the Tag Proportion)_ given to the Tag Sellers within the Exercise Period (**Exercise Notice**).
- (b) If a Tagging Member exercises its Tag Option, the Tag Sellers must not Dispose of any Securities to the proposed purchaser unless the proposed purchaser, at the same time, buys the Tagging Member's Securities specified in its Exercise Notice at the same price and on the same terms as the Securities from the Tag Sellers.
- (c) If the Tag Option is not exercised within the Exercise Period, it will be deemed to have lapsed at midnight on the last day of the Exercise Period.
- (d) Despite anything else in this Constitution, the pre-emption procedure set out in clause 13 does not apply to the Disposal of shares by a Tagging Member exercising their Tag Option.

16. Power of Attorney

16.1 Appointment

- (a) Each Member (**Appointor**) irrevocably appoints each of the Directors (**Attorneys**), severally, as its agent and attorney, with the power to give effect to any of the transactions contemplated in this Constitution (including in clauses 3.6, 12.2, 14 and 15) to the extent that the Appointor has failed to act in the manner required by this Constitution, including to:
 - (i) settle, execute and deliver in the name of the Appointor and on its behalf all documents necessary to give effect to the transactions contemplated by this Constitution and all documents that are contemplated by or reasonably ancillary or incidental to any such document, including conveyances, assignments, novations and transfers;

- (ii) do everything necessary or expedient in the name of the Appointor and on its behalf to complete the transactions contemplated by this Constitution; and
 - (iii) exercise any rights attaching to the Appointor's Securities, including voting rights, rights to appoint a proxy or representative, rights to attend and speak at a meeting of members of the Company and agree to such meetings being called on short notice.
- (b) Each Attorney may:
- (i) appoint or remove any substitute, delegate or sub-attorney at any time; and
 - (ii) exercise its rights and powers under this clause 16:
 - (A) in its own name or in the name of the Appointor; and
 - (B) even if it benefits from the exercise of the rights of powers.

16.2 Further acts

The Appointor declares that all acts and things done by each Attorney and its substitutes, delegates and sub-attorneys in exercising rights and powers under this clause 16 will be as good and valid as if they had been done by the Appointor and agrees to:

- (a) ratify and confirm whatever the Attorney and its substitutes, delegates and sub-attorneys do, or cause to be done, in lawfully exercising their rights and powers under this clause 16;
- (b) indemnify each Attorney and its substitutes, delegates and sub-attorneys against all claims, demands, costs, charges, expenses, outgoing, losses and liabilities arising in any way in connection with the lawful exercise of their rights and powers under this clause 16; and
- (c) deliver to the Attorneys on demand any power of attorney, instrument of transfer or other instruments as an Attorney may require for the purposes of this clause 16.

16.3 Irrevocable

The Appointor declares that the rights and powers granted to the Attorneys under this clause 16 are given for valuable consideration and are irrevocable.

17. Transmission of shares

17.1 Transmission of shares on death

- (a) In the case of a death of a Member, the survivor where the deceased was a joint holder, and the legal personal representative of the deceased where the deceased was a sole holder, will be the only persons recognised by the Company as having any title to or interest in the deceased's shares.
- (b) If the personal representative gives the Directors all the information they reasonably require to establish the representative's entitlement to be registered as holder of the shares:

- (i) the personal representative may:
 - (A) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; or
 - (B) by giving a completed transfer form to the Company, transfer the shares to another person; and
- (ii) the personal representative is entitled, whether or not registered as the holder of the shares, to the same rights as the deceased Member.
- (c) On receiving an election under clause 17.1(b)(i)(A), the Company must register the personal representative as the holder of the shares.
- (d) A transfer under clause 17.1(b)(i)(B) is subject to the provisions of this Constitution relating to the transfer of shares.
- (e) The estate of the deceased Member is not released from any liability in respect of the shares transmitted under this clause 11.

17.2 Transmission of shares on bankruptcy or insolvency

- (a) If a person entitled to shares because of the bankruptcy or insolvency of a Member gives the Directors all the information they reasonably require to establish the person's entitlement to be registered as holder of the shares, the person may:
 - (i) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; or
 - (ii) by giving a completed transfer form to the Company, transfer the shares to another person.
- (b) On receiving an election under clause 17.2(a)(i), the Company must register the person as the holder of the shares.
- (c) A transfer under clause 17.2(a)(ii) is subject to the provisions of this Constitution relating to the transfer of shares.
- (d) This clause 17.2 has effect subject to the *Bankruptcy Act 1966 (Cth)* and the Act.

17.3 Transmission of shares on mental incapacity

- (a) If a person entitled to shares because of the mental incapacity of a Member gives the Directors all the information they reasonably require to establish the person's entitlement to be registered as the holder of the shares:
 - (i) the person may:
 - (A) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; or
 - (B) by giving a completed transfer form to the Company, transfer the shares to another person; and
 - (ii) the person is entitled, whether or not registered as the holder of the shares, to the same rights as the Member.

- (b) On receiving an election under clause 17.3(a)(i)(A), the Company must register the person as the holder of the shares.
- (c) A transfer under clause 17.3(a)(i)(B) is subject to the provisions of this Constitution relating to the transfer of shares.

18. Forfeiture of shares

18.1 Default

If a Member fails to pay a call or instalment of a call on or before the day appointed for payment of the call or instalment, the Directors may, at any time after that date, serve a notice on such Member requiring payment of the unpaid amount of the call or instalment, together with any interest and all expenses that the Company has incurred by reason of the non-payment.

18.2 Notice of forfeiture

The notice referred to in clause 18.1 must:

- (a) specify a day at least 14 days after the date of service of notice and a place at which the call or instalment and the interest and expenses referred to in clause 18.1 are to be paid; and
- (b) state that in the event of non-payment at the time and place appointed, the share in respect of which the call was made or instalment is payable is liable to be forfeited.

18.3 Forfeiture

- (a) If the requirements of a notice served under clauses 18.1 and 18.2 are not complied with, any share in respect of which the notice has been given may at any time after the date of non-compliance but before payment required by the notice has been made, be forfeited by a resolution of the Directors.
- (b) A forfeiture under clause 18.3(a) will include all dividends declared in respect of the forfeited shares and unpaid before the forfeiture.

18.4 Liability continues after forfeiture

Any Member whose share is forfeited:

- (a) ceases to be a Member in respect of the forfeited share; and
- (b) remains liable to pay and must immediately pay to the Company all money that, at the date of forfeiture, was payable to the Company in respect of the share, together with interest on those amounts from the date of forfeiture until payment, at such rate as the Directors determine.

18.5 Statutory declaration is conclusive

- (a) A statutory declaration that:
 - (i) the declarant is a Director or a Secretary of the Company; and

(ii) a share in the Company has been duly forfeited on a particular date,

is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share.

(b) The statutory declaration referred to in this clause 18.5 and the Company's receipt for the price of the share constitutes a good title to the share.

18.6 Disposal of forfeited shares

(a) Any forfeited shares become the Company's property and the Directors may sell or dispose of the shares as they think fit, except that in the event of sale, the Directors will pay to the Member in whose name the share was registered immediately before the forfeiture, the residue (if any) of the proceeds of sale after satisfaction of all moneys due and unpaid.

(b) Before any forfeited share is sold or disposed of, the forfeiture may be cancelled on such terms as the Directors think fit.

(c) In relation to any sale or disposal under this clause 18.6, the Directors may arrange for an accountant or the Company's auditor to value the forfeited share. If the sale or disposal is made within three months of the date of the valuation, the valuation is conclusive evidence against the Member of the value of that share at the time of sale or disposal.

18.7 Transfer of forfeited share

(a) The Company may receive the consideration (if any) given for a forfeited share on its sale or disposition and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of.

(b) On the execution of the transfer, the transferee:

(i) will be registered as the holder of the share;

(ii) is not responsible for the application of any purchase money; and

(iii) will possess a title which is not affected by any irregularity or invalidity in connection with the forfeiture, sale or disposal of the share.

(c) After the name of the transferee is entered in the Register, no person may impeach the validity of the transfer and the remedy of any person aggrieved by the transfer is in damages only and against the Company exclusively.

18.8 Application to outstanding money

The provisions of this Constitution as to forfeiture apply in the case of non-payment of any sum that, by the terms of issue of a share, becomes payable at a fixed time as if that sum had been payable by virtue of a call duly made and notified.

19. Alteration of capital

19.1 Power to consolidate, divide and cancel

Subject to the Act, the Company may by resolution:

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

19.2 Reduction of capital

Subject to the Act, the Company may, by resolution, reduce its Share Capital.

20. General meetings

20.1 Annual general meeting

If required to do so by the Act, the Company must hold an annual general meeting of the Company in accordance with the Act.

20.2 Power to convene general meeting

Any Director may, whenever the Director thinks fit, convene a general meeting of the Company's Members.

20.3 Holding meetings of Members

- (a) Subject to any applicable Law, the Company may hold a meeting of Members:
 - (i) at a physical venue;
 - (ii) at one or more physical venues and virtually using Meeting Technology;
 - (iii) virtually, using Meeting Technology only; or
 - (iv) in any other way permitted by the Act.
- (b) The Company must give the Members entitled to attend the meeting, as a whole, a reasonable opportunity to participate in the meeting, however it is held.
- (c) A Member, or a proxy, attorney or representative of a Member, who attends the meeting whether at a physical venue or virtually by using Meeting Technology, is taken for all purposes to be present at the meeting while so attending.
- (d) If, before or during a meeting of Members, any technical difficulty occurs, such that the Members as a whole do not have a reasonable opportunity to participate, the chairperson of the meeting may:
 - (i) adjourn the meeting until the technical difficulty is remedied; or
 - (ii) subject to the Act, where a quorum remains present in person or virtually and able to participate, continue the meeting.

20.4 Notice period

- (a) Subject to the Act and clause 20.4(b), the Company must give 21 days' notice of general meetings (including annual general meetings).
- (b) The Company may call, on shorter notice than that specified in clause 20.4(a):
 - (i) an annual general meeting, if all the Members entitled to attend and vote at the annual general meeting agree prior to the annual general meeting; and
 - (ii) any other general meeting, if Members holding at least 95% of the votes that may be cast at the general meeting agree prior to the general meeting.

20.5 Notice of general meetings

- (a) Notice of every general meeting must be given in the manner authorised by clause 37 to:
 - (i) every Member;
 - (ii) every Director;
 - (iii) the auditor (if any); and
 - (iv) every person who establishes to the Directors' satisfaction their entitlement to a share in consequence of the death, mental incapacity, bankruptcy or insolvency of a Member and, who but for the death, mental incapacity, bankruptcy or insolvency (as the case may be) would have been entitled to receive notice of the meeting.
- (b) Notice to joint Members may be given by sending it to the joint Member named first in the Register.
- (c) Where a general meeting is held only virtually using Meeting Technology:
 - (i) the place for the meeting is taken to be the address of the Office; and
 - (ii) the time for the meeting is taken to be the time at that place.

20.6 Content of notice of general meetings

A notice of a general meeting must:

- (a) specify:
 - (i) if there is only 1 venue at which the Members who are entitled to physically attend the meeting may do so, the date, time and place for the meeting;
 - (ii) if there are 2 or more venues at which the Members who are entitled to physically attend the meeting may do so, the date and time for the meeting at each venue, and the main location for the meeting as specified in the notice; and
 - (iii) if Meeting Technology is to be used in holding the meeting, sufficient information to allow the members to participate in the meeting by means of the Meeting Technology;

- (b) except as provided by clause 20.7, state the general nature of the business to be transacted at the meeting;
- (c) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution;
- (d) contain a statement of:
 - (i) each Member's right to appoint a proxy;
 - (ii) the fact that a proxy need not be a Member of the Company; and
 - (iii) that a Member who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise; and
- (e) any other information required by Law.

20.7 Content of notice of annual general meeting

It is not necessary for the notice of an annual general meeting to state that the business to be transacted at the meeting includes:

- (a) the consideration of the financial statements and the reports of the Directors and auditor (if any);
- (b) the election of Directors and other officers in place of those retiring;
- (c) the declaration of dividends;
- (d) the appointment and fixing of the remuneration of the auditors; and
- (e) any other business which, under this Constitution or the Act, is required to be transacted at an annual general meeting.

20.8 Decisions at general meetings

Save for a resolution which as a matter of law requires a special resolution:

- (a) a decision at a general meeting is made by a majority of votes cast by the members present; and
- (b) that decision is for all purposes a decision of the members.

20.9 Notice of adjourned meeting

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 30 days or more.

20.10 Failure to give notice

Any resolution passed at a meeting is not invalidated by:

- (a) the accidental omission to give notice of a meeting to any Member or non-receipt of that notice by a Member; or

- (b) the accidental omission to send out the instrument of proxy to a person entitled to receive notice or non-receipt of that instrument.

21. Proceedings at general meetings

21.1 Circular resolutions

- (a) A resolution may be passed without a general meeting being held if all the Members 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. A body corporate's representative may sign such a circular resolution. Each member of a joint membership must sign a circular resolution.
- (b) Identical copies of the document may be distributed for signing by different Members and taken together will constitute one and the same document.
- (c) The resolution is passed when the last Member signs the document, and satisfies any requirement in this Constitution or the Act that the resolution be passed at a general meeting.

21.2 Sole Member resolutions

- (a) If at any time the Company has only one Member, it satisfies any requirement in this Constitution or the Act that a resolution be passed by that sole Member recording the resolution and signing the record.
- (b) A body corporate's representative may sign a resolution referred to in clause 21.2(a).

21.3 Use of technology

The Company may hold a meeting at 2 or more venues using any technology that gives Members a reasonable opportunity to participate.

21.4 Quorum

- (a) Except as otherwise provided in this Constitution or the Shareholders Deed (if any), the quorum for a general meeting of the Company is 2 Members, present in person or by proxy, attorney or body corporate representative and the quorum must be present at all times during the meeting.
- (b) No business will be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- (c) For the purpose of determining whether a quorum is present:
 - (i) each person attending as a proxy, as a body corporate's representative, or as a validly appointed attorney of a Member, is deemed to be a Member;
 - (ii) if a Member has appointed more than one proxy, attorney or representative, only one may be counted; and
 - (iii) if an individual person is attending both as a Member and as a proxy, attorney or representative, they may be counted only once.

- (d) If at any time the Company has only one Member, then that Member present in person or by proxy, attorney or body corporate representative is a quorum.

21.5 Effect of no quorum

If a quorum of the Company's Members is not present within half an hour after the time appointed for the meeting in the notice:

- (a) if the meeting was convened on the requisition of Members, the meeting must be dissolved; or
- (b) in any other case:
 - (i) the meeting will be adjourned to the date, time and place that the Directors specify (being no less than 48 hours after the original meeting) or if the Directors do not specify such details, the meeting is adjourned to the same day in the next week at the same time and place except that if the meeting is adjourned for 30 days or more, notice of the resumed meeting must be given; and
 - (ii) if at a meeting resumed under clause 21.5(b)(i) a quorum is not present within half an hour after the time appointed for the meeting, the meeting must be dissolved.

21.6 Chairperson of general meeting

The Directors may elect any person to chair general meetings of the Company.

21.7 Vacancy in chair

Where a general meeting is held and:

- (a) a chairperson has not been elected by the Directors as provided by clause 21.6; or
- (b) the chairperson declines to act or is not present within 15 minutes after the time appointed for the holding of the meeting,

the Members present must elect one of their number to be chairperson of the meeting or part of the meeting (as the case may be).

21.8 Adjournment

The chairperson must adjourn a general meeting if the Members present with a majority of votes at the general meeting agree or direct that the chairperson must do so.

21.9 Adjourned meetings

- (a) Only unfinished business is to be transacted at a meeting resumed after an adjournment.
- (b) A resolution passed at a meeting resumed after an adjournment is passed on the day it was in fact passed.

22. Voting at general meetings

22.1 Voting

- (a) A resolution put to the vote at a general meeting must be decided on a show of hands unless a poll is demanded.
- (b) Before a vote is taken, the chairperson must inform the general meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- (c) On a show of hands, a declaration by the chairperson is conclusive evidence of the result provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chairperson nor the minutes need to state the number or proportion of the votes recorded in favour or against the resolution.

22.2 Voting rights

Subject to any rights or restrictions attached to any class of shares, each Member, entitled to vote may vote in person or by proxy, attorney or body corporate representative authorised under the Act, at a meeting of the Members of the Company, and each Member has:

- (a) on a show of hands, one vote; and
- (b) on a poll, one vote for each share they hold.

22.3 Voting by joint holders

If a share is held jointly and more than one Member votes in respect of that share, only the vote of the Member whose name appears first in the Register is counted.

22.4 No entitlement to vote if calls are unpaid

If calls and other sums due and payable on a Member's share remain unpaid, that Member:

- (a) is not entitled to be present at any general meeting;
- (b) may not vote on any question or on a poll; and
- (c) may not be counted in a quorum.

22.5 Voting by persons entitled to shares

- (a) Subject to clause 22.5(b), any person entitled to a share in consequence of the death, mental incapacity, bankruptcy or insolvency of a Member, may vote at any general meeting in respect of that share as if they were the registered holder of the share.
- (b) A person entitled to vote under clause 22.5(a) must satisfy the Directors of their right to be transferred the share at least 48 hours before the scheduled time of the meeting or adjourned meeting at which that person proposes to vote, unless the Directors have previously admitted that person's right to vote at that meeting.

22.6 Voting by poll

- (a) A poll may be demanded by:
 - (i) the chairperson;
 - (ii) at least 3 Members present in person or by proxy, attorney or body corporate representative entitled to vote on the resolution; or
 - (iii) a Member or Members present in person or by proxy, attorney or body corporate representative representing at least 5% of the total votes that may be cast on the resolution on a poll.
- (b) A poll may be demanded:
 - (i) before a vote is taken; or
 - (ii) before or immediately after the voting results on a show of hands are declared.
- (c) The percentage of votes that each Member holds is to be determined as at the close of business on the day before the poll is demanded.
- (d) The demand for a poll may be withdrawn.
- (e) If a poll is duly demanded, it must be taken in such manner and, subject to clause 22.6(f), either immediately or after an interval or adjournment or otherwise as the chairperson directs. The result of the poll is the resolution of the meeting at which the poll was demanded.
- (f) A poll demanded on the election of a chairperson or on a question of adjournment must be taken immediately.
- (g) The demand for a poll does not prevent a meeting continuing for the transaction of any business other than the question on which a poll has been demanded.

22.7 No casting vote of chair

In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded does not have a casting vote, and the resolution the subject of the vote fails.

22.8 Objection to qualification of a voter

- (a) An objection to a person's right to vote at a general meeting:
 - (i) may only be raised at a general meeting or adjourned meeting at which the vote objected to is given or tendered; and
 - (ii) must be determined by the chairperson of the meeting, whose decision is final.
- (b) A vote not disallowed under an objection referred to in clause 22.8(a) is valid for all purposes.

22.9 Votes counted in error

If any vote is counted which ought not to have been counted or might have been rejected, the error will not invalidate the resolution unless the error is:

- (a) detected at the same meeting; and
- (b) of sufficient magnitude, in the opinion of the chairperson, as to invalidate the resolution.

23. Proxies

23.1 Who can appoint a proxy

- (a) A Member who is entitled to attend and vote at a general meeting may appoint a person as that Member's proxy to attend and vote for that Member at a meeting of the Company. A proxy need not be a Member of the Company.
- (b) The appointment may specify the proportion or number of votes that the proxy may exercise.
- (c) If the Member is entitled to cast more than one vote at a meeting, the Member may appoint 2 proxies. If the Member appoints 2 proxies and the appointment does not specify the proportion or number of the Member's votes each proxy may exercise, each proxy may exercise half of the Member's votes.
- (d) Any fractions of votes resulting from the application of clauses 23.1(b) or 23.1(c) must be disregarded.

23.2 Execution and form of proxies

- (a) An instrument appointing a proxy is valid if it is in the form specified by the Directors from time to time and is:
 - (i) signed by or on behalf of the Member of the Company making the appointment; and
 - (ii) contains the following information:
 - (A) the Member's name and address;
 - (B) the Company's name;
 - (C) the proxy's name or the name of the office held by the proxy; and
 - (D) the meetings at which the appointment may be used.
- (b) The proxy form must provide for the Member to vote for or against each resolution and may provide for abstention to be indicated.
- (c) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution. Where it does so, the proxy is not entitled to vote on the resolution except as specified in the instrument. A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.

- (d) An instrument appointing a proxy confers authority to demand or join in demanding a poll.
- (e) Despite clause 22.3, where an instrument of proxy is signed by all of the joint holders of any shares, the votes of the proxy so appointed must be accepted in respect of those shares to the exclusion of any votes tendered by a proxy for any one of those joint holders.

23.3 Member's attorney

A Member may appoint an attorney to act, or to appoint a proxy to act, at a general meeting. If the appointor is an individual, the power of attorney must be signed in the presence of at least 1 witness.

23.4 Life of proxy

An instrument appointing a proxy will not be valid after 12 months from the date of its execution, unless it is expressly stated to be a standing appointment or to extend for a longer period.

23.5 Lodgement of proxies and powers of attorney

- (a) If a Member appoints a proxy or an attorney, the following documents must be given to the Company at the Office or at the place specified for the purpose in the notice calling the general meeting:
 - (i) in the case of a proxy:
 - (A) the proxy's appointment; and
 - (B) if the appointment is signed by the appointor's attorney, the authority under which the form was signed or a certified copy of the authority; and
 - (ii) in the case of an attorney, the power of attorney or a certified copy of it.
- (b) The appointment of a proxy or an attorney is valid for a meeting if the appointment and any authority are given to the Company at least 24 hours before the general meeting at which the proxy is to be used.

23.6 Corporate representative

A Member that is a body corporate may appoint an individual to act as its representative at general meetings as permitted by the Act.

23.7 Validity of proxy vote

A vote cast in accordance with the terms of an instrument of proxy or of a power of attorney is valid if no notice in writing of:

- (a) the previous death of the appointing Member;
- (b) the mental incapacity of the appointing Member;
- (c) the revocation of the proxy's or attorney's appointment;

- (d) the revocation of the authority under which the proxy was appointed; or
- (e) the transfer of the share in respect of which the proxy or power of attorney was given,

has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the proxy is used or exercised.

24. Class Meetings

The provisions of this Constitution relating to general meetings (at clauses 20 to 23) also apply to separate meetings of Members holding shares in a class (so far as they are capable of application and with such changes as may be necessary).

25. Appointment and removal of Directors

25.1 Number

- (a) Subject to the Shareholders Deed (if any), the number of Directors will not be less than 1 or more than 5, unless otherwise determined by ordinary resolution of the Company.
- (b) Where the number of Directors of the Company is 1, a single Director acting as a Sole Director may exercise all the powers and discretions conferred on the Directors under this Constitution or under the Act.

25.2 Appointment of Directors

- (a) The Founder has the right to appoint 1 Director for so long as it holds 10% or more of the Share Capital.
- (b) The Founder has the right to appoint all Directors to the Board for so long as it holds 50% or more of the Share Capital.
- (c) A Member entitled to appoint a Director under this clause 25.2 may appoint, remove and replace that Director by notice in writing to the Company.

25.3 Appointment by Directors

Subject to the terms of the Shareholders Deed (if any) and clause 25.2, the Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided that the total number of Directors does not at any time exceed the maximum number of Directors permitted under this Constitution.

25.4 Appointment by Company

Subject to the terms of the Shareholders Deed (if any) and clause 25.2, the Company may by ordinary resolution passed in general meeting appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors.

25.5 Removal by Company

Subject to the terms of the Shareholders Deed (if any) and clause 25.2, the Company may by ordinary resolution:

- (a) remove any Director from office; and
- (b) appoint another person as a Director instead.

25.6 Term of office

Each of the Directors will hold office until the Director vacates office or is removed under this Constitution, or the Shareholders Deed (if any).

25.7 Share qualification

A Director need not be a Member of the Company.

25.8 Vacation of office

The office of a Director becomes vacant if the Director:

- (a) ceases to be a Director by virtue of the Act;
- (b) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
- (c) is prohibited from being a Director by reason of any order made under the Act;
- (d) becomes physically or mentally incapable of performing the Director's duties;
- (e) resigns by written notice to the Company;
- (f) is absent from Directors' meetings (without appointing an Alternate Director) without the consent of the other Directors for a period of more than 6 months; or
- (g) without the prior or subsequent consent of the other Directors, is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the Director's interest as required by the Act.

26. Remuneration of Directors

26.1 Remuneration of Directors

- (a) Subject to the Shareholders Deed (if any), the Directors are to be paid such Directors' fees as the Company determines by ordinary resolution.
- (b) The Company may also pay the Directors travelling and other expenses that they properly incur:
 - (i) in attending meetings of the Directors or any committee of the Directors;
 - (ii) in attending any general meetings of the Company; or
 - (iii) otherwise in connection with the business of the Company.

26.2 Remuneration of Managing Director

A Managing Director appointed under clause 29 will (subject to the provisions of any contract between the Managing Director and the Company) receive such remuneration,

whether by way of salary, commission or participation in profits of the Company or of any other company in which the Company is interested or by any or all of these modes as determined by the Directors.

26.3 Remuneration of Alternate Director

- (a) Subject to clause 26.3(b), an Alternate Director appointed under clause 30 will look solely to the Director for whom they are alternate for their remuneration.
- (b) The Company may reimburse an Alternate Director for all travelling and other expenses properly incurred by them in attending meetings or otherwise in connection with the business of the Company.

27. Powers and duties of Directors

27.1 General management power

Subject to the Act, the terms of the Shareholders Deed (if any), this Constitution and any resolution of the Company, the Directors:

- (a) will manage the business of the Company;
- (b) may exercise all such powers of the Company that are not, by the Act or this Constitution, required to be exercised by the Company in general meeting, provided that:
 - (i) no resolution of the Company in general meeting will invalidate any prior act of the Directors which would have been valid if such a resolution had not been made; and
 - (ii) any sale or disposal by the Directors of the Company's main undertaking or a substantial proportion of its assets will be subject to ratification by the Company in general meeting; and
- (c) may pay all expenses incurred in promoting and forming the Company.

27.2 Act in the best interests of a Holding Company

As contemplated by section 187 of the Act, a Director may act in good faith in the best interests of any Holding Company of the Company.

27.3 Attorneys

- (a) The Directors may by power of attorney under deed, appoint any person or persons to be the attorney or attorneys of the Company with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- (b) Any such power of attorney may contain provisions for the protection and convenience of persons dealing with the attorney and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

27.4 Power to borrow and give security

- (a) Subject to the terms of the Shareholders Deed (if any), without limiting the generality of clause 27.1, the Directors may for the purposes of the Company:
 - (i) borrow money, with or without giving security for it; and
 - (ii) guarantee the performance of any obligation of the Company or of any other person.
- (b) The Directors may borrow or provide security as they think fit and in particular by the issue of bonds, debentures or debenture stock or any mortgage, charge or other security on the undertaking of the whole or part of the property of the Company (both present and future) including its uncalled capital.
- (c) Debentures, debenture stock, bonds or other securities may be:
 - (i) made assignable free from any equities between the Company and the person to whom the same has been issued; or
 - (ii) issued at a discount, premium or otherwise and with any special privileges as to redemption, surrender, drawings, allotment of shares, attending and voting at general meetings of the Company, appointment of Directors and otherwise, and any debentures may be re-issued notwithstanding that they may have been made paid off or satisfied.

27.5 Indemnity

Subject to clause 39 and to the extent permitted by the Act, if any of the Directors or any other person becomes personally liable for the payment of any sum primarily due from the Company, the Directors may execute a mortgage, charge or security over the whole or any part of the assets of the Company by way of indemnity to secure the Directors or persons so becoming liable from any loss in respect of the liability.

27.6 Other offices of Directors

Subject to the Act, a Director may hold any other office or offices under the Company (except that of auditor) in conjunction with the office of Director and on such terms as to remuneration and otherwise as the Directors may arrange.

27.7 Director may act in professional capacity

- (a) Subject to the Act and clause 27.7(b), any Director (or the Director's firm) may act in a professional capacity for the Company and the Director (or the Director's firm) is entitled to remuneration for professional services as if the Director were not a Director.
- (b) A Director (or the Director's firm) must not act as the Company's auditor.

28. Proceedings of Directors

28.1 Calling and holding Directors' meetings

A Director may call a Directors' meeting by giving reasonable notice to each Director.

28.2 Circulating resolutions

- (a) The Directors may pass a resolution without a Directors' meeting being held if all 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.
- (b) Identical copies of the document may be distributed for signing by different Directors and taken together will constitute one and the same document.
- (c) The resolution is passed when the last Director signs the document.

28.3 Use of Meeting Technology

Subject to the Act, the Directors may hold a valid meeting using Meeting Technology and in that case:

- (a) the participating Directors are taken for all purposes to be present at the meeting while so participating;
- (b) the meeting is taken to be held at the place where the chairperson of the meeting is and at the time at that place; and
- (c) all proceedings of the Directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were present in person.

28.4 Directors' resolutions

Subject to this Constitution and the terms of the Shareholders Deed (if any):

- (a) a resolution of the Directors must be passed by a majority of the votes of Directors present and entitled to vote on the resolution; and
- (b) in case of an equality of votes, the chairperson of the meeting, in addition to his or her deliberative vote (if any), does not have a casting vote.

28.5 Minutes

- (a) The Directors must cause minutes to be made of:
 - (i) all appointments of Directors, Alternate Directors and officers;
 - (ii) the names of the Directors present at each meeting of the Directors;
 - (iii) all orders made by the Directors;
 - (iv) all declarations made or notices given by any Director (either generally or specifically) of his or her interest in any contract or proposed contract or of his or her holding of any office or property whereby any conflict of duty or interest may arise; and
 - (v) all resolutions and proceedings of meetings of Members and classes of Members and of the Directors,

and retain the minutes in a minute book for a period of at least 10 years or such other period as may be required under the Act.

- (b) The minutes of a meeting must be signed by the chairperson of the meeting or the chairperson of the next meeting.
- (c) In the absence of evidence to the contrary, contents of the minute book that is recorded and signed in accordance with this clause 28.5 is evidence of the matters shown in the minute.

28.6 Director's personal interests

If a Director has a material personal interest in a matter that relates to the affairs of the Company other than an interest that does not have to be disclosed under section 191(2) of the Act and the Director discloses the nature and extent of the interest and its relation to the affairs of the Company to the other Directors, in accordance with section 191 of the Act, then:

- (a) the Director may vote on matters that relate to the interest;
- (b) any transactions that relate to the interest may proceed; and
- (c) if the disclosure is made before the transaction is entered into:
 - (i) the Director may retain benefits under the transaction even though the Director has the interest; and
 - (ii) the Company cannot avoid the transaction merely because of the existence of the interest.

28.7 Quorum

- (a) Subject to the Shareholders Deed (if any) and clause 28.7(c), at a meeting of Directors properly convened, the number of Directors whose presence is necessary to constitute a quorum is 2 Directors.
- (b) Subject to clause 28.7(c), if the office of a Director becomes vacant, the remaining Directors may act but, if the total number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, the Directors may act only for the purpose of increasing the number of Directors to a number sufficient to constitute a quorum or for the purpose of convening a general meeting of the Company.
- (c) Where the Company has a Sole Director, the Sole Director will constitute a quorum of Directors.
- (d) If the quorum required under clause 28.7(a) is not present within half an hour after the time appointed for the meeting in the notice, the meeting will be adjourned to the date, time and place that the Directors then present specify (being no less than 48 hours after the original meeting), and the quorum at the resumed meeting will be any 2 Directors.

28.8 Chairperson

- (a) The Directors must elect a Director to chair their meetings and may determine the period for which the Director is to be the chairperson.
- (b) Where a meeting of the Directors is held and:

- (i) a Director has not already been elected to chair that meeting under clause 28.8(a); or
- (ii) the previously elected chairperson declines to act or is not present within 15 minutes after the time appointed for the holding of the meeting,

the Directors present must elect one of their number to chair the meeting or part of the meeting (as the case may be).

28.9 Delegation to Committees

- (a) The Directors may delegate any of their powers to a committee or committees consisting of such of their number as they think fit.
- (b) A committee must exercise the powers delegated to it in accordance with any directions of the Directors. The effect of the committee exercising a power in this way is the same as if it had been exercised by the Directors.
- (c) The members of a committee may elect one of their number as chairperson of their meetings.
- (d) Where a meeting of a committee is held and:
 - (i) a chairperson has not already been elected to chair that meeting under clause 28.9(c); or
 - (ii) the previously elected chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act,
 the members present may elect one of their number to be chairperson of the meeting.
- (e) A committee may meet and adjourn as it thinks fit unless otherwise directed by the Directors.
- (f) Questions arising at a meeting of a committee must be determined by a majority of votes of the members present and voting.
- (g) In the case of an equality of votes, the chairperson does not have a casting vote, in addition to any vote the chairperson has in the chairperson's capacity as a member of the committee (if any).

28.10 Acts of Directors valid despite defective appointment

Any act done at any meeting of the Directors or of a committee of Directors by any person acting as a Director is, although it is later discovered that there was some defect in the appointment of any such Director or that the Director was disqualified, is valid as if the Director had been duly appointed and was qualified to be a Director or to be a member of the committee.

28.11 Disabilities if calls unpaid

A Director is not entitled to be present, to be counted in a quorum or to vote at any meeting of Directors until that Director has paid:

- (a) all calls on shares due and payable by that Director, whether alone or jointly with another person, together with interest and expenses in respect of the calls; and
- (b) all other sums (if any) presently payable by that Director in respect of any shares held by that Director, whether alone or jointly with another person.

28.12 Resolution by Sole Director

Where a Sole Director signs a minute recording the Director's decision to a particular effect, the recording of the decision counts as the passing by the Director of a resolution to that effect.

29. Managing Director

29.1 Appointment and tenure

- (a) Subject to the Shareholders Deed (if any), Directors may appoint one or more Directors to be Managing Director of the Company. The appointment of Managing Director will be for such period and on such terms as the Directors think appropriate.
- (b) The Directors may, subject to the terms of any agreement entered into in a particular case, and the Shareholders Deed (if any), revoke any appointment of Managing Director.

29.2 Ceasing to hold office

A Managing Director:

- (a) is subject to the same provisions as to resignation and removal as the other Directors of the Company; and
- (b) immediately ceases to be a Managing Director if he or she ceases to be a Director.

29.3 Powers

- (a) The Directors may on such terms and conditions and with such restrictions as they think appropriate, and subject to the Shareholders Deed (if any), confer on a Managing Director any of the powers exercisable by the Directors.
- (b) Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Directors.
- (c) The Directors may at any time withdraw or vary any of the powers so conferred on a Managing Director.

30. Alternate Directors

30.1 Power to appoint an Alternate Director

- (a) Subject to clause 30.1(b) and with the other Directors' prior written approval, a Director (**Appointing Director**) may appoint an Alternate Director to exercise some or all of the Appointing Director's powers either indefinitely or for a specified period. An Alternate Director need not be a Director or Member.

- (b) A Managing Director must not appoint an Alternate Director to act as Managing Director.

30.2 Appointment

The appointment of an Alternate Director must be in writing and a copy given to the Company.

30.3 Rights and powers

- (a) An Alternate Director:
 - (i) is entitled to notice of each Directors' meeting and if the Appointing Director is not present at any such meeting, the Alternate Director may attend and vote at that meeting in the Appointing Director's place; and
 - (ii) is otherwise entitled to exercise all the powers of the Appointing Director in the Appointing Director's place (unless the appointment was limited to some only of the Appointing Director's powers, in which case the Alternate Director may only exercise those powers).
- (b) When an Alternate Director exercises the Appointing Director's powers, the exercise of the powers is just as effective as if the powers were exercised by the Appointing Director.

30.4 Alternate Director is not agent of appointor

An Alternate Director is responsible to the Company for his or her own acts and defaults as if the Alternate Director were an ordinary Director and is not deemed to be an agent of the appointing Director.

30.5 Termination of appointment

- (a) The Appointing Director may terminate the Alternate Director's appointment at any time.
- (b) The termination of an Alternate Director's appointment must be in writing and is not effective until a copy is given to the Company.
- (c) In any case, the appointment of an Alternate Director terminates when the Appointing Director ceases to hold office as Director.

31. Secretary

A Secretary of the Company holds office on such terms and conditions, as to remuneration and otherwise, as the Directors determine.

32. Seal

32.1 Safe custody

Where the Company has a Seal, the Directors must provide for its safe custody.

32.2 Authority to use

Where the Company has a Seal, the Seal must only be used by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal.

32.3 Additional Seal

Where the Company has a Seal, the Company may have for use outside the state or territory in which the Office is located, one or more Seals each of which must only be used in accordance with the provisions of this clause 32.

33. Execution of documents

33.1 Use of Seal optional

Except where required by the Act, the Company need not have or use the Seal to execute documents or deeds. The Directors may resolve whether or not the Company is to have or use a Seal.

33.2 Execution without the Seal

The Company may validly execute a document (including a deed) without using the Seal if the document is signed:

- (a) if the Company has more than one Director, by a Director and countersigned by another Director, Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included; or
- (b) if the Company has only one Director who is also the only Secretary or where the Company has only one Director and no Secretary, by that Director where the Director states next to his or her signature that he or she is the Sole Director and, if applicable, sole Secretary of the Company.

33.3 Execution using the Seal

The Company may validly execute a document (including a deed) by fixing the Seal to the document and the fixing being witnessed by:

- (a) if the Company has more than one Director, by a Director and countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included; or
- (b) if the Company has only one Director who is also the only Secretary or where the Company has only one Director and no Secretary, by that Director where the Director states next to his or her signature that he or she is witnessing the fixing of the Seal in his or her capacity as Sole Director and, if applicable, sole Secretary of the Company.

33.4 Execution by authorised persons

Clauses 33.2 and 33.3 do not limit the ability of the Directors to authorise a person who is not an officer of the Company to execute a document for and on behalf of the Company.

33.5 Seal register

- (a) The Secretary must record details of every document to which the Seal, if any, is fixed in a Seal register.
- (b) Where the Company has a Seal, the Seal register must be produced at each Directors' meeting for the purpose of the Directors approving the fixing of the Seal to each document recorded in the Seal register since the last Directors' meeting.

34. Records and inspection

- (a) The Directors must ensure that proper accounting and other records of the Company are kept and where required, distributed, in accordance with the requirements of the Act.
- (b) Subject to the terms of the Shareholders Deed (if any), the Directors must determine whether and on what terms the accounting records and other documents of the Company or any of them will be open to the inspection of Members other than Directors.
- (c) A Member other than a Director does not have the right to inspect any document of the Company except as provided by the Act, the terms of the Shareholders Deed (if any) or authorised by the Directors or by the Company in general meeting.

35. Dividends and reserves

35.1 Declaration

- (a) Subject to the Act, and the terms of the Shareholders Deed (if any), the Directors (without the sanction of a general meeting) or the Company in general meeting on the recommendation of the Directors, may determine that a dividend be payable and specify:
 - (i) the amount;
 - (ii) the time for payment; and
 - (iii) the method of payment.
- (b) A dividend declared by the Company in general meeting must not exceed the amount recommended by the Directors.
- (c) Unless specific rights in respect of dividends attach to a class of shares, dividends must be declared in respect of all classes of shares equally.

35.2 Interim dividends

Subject to the Act, the Directors may authorise the payment to the Members of such interim dividends as in their judgment appear to be justified.

35.3 Interest on dividends

Interest is not payable by the Company in respect of any dividend.

35.4 Reserves

- (a) The Directors may, before recommending any dividend, set aside out of the Company's profits such sums as they think proper as reserves, to be applied, at their discretion, for any purpose for which the Company's profits may be properly applied.
- (b) Pending any such application, the reserves may, at the discretion of the Directors, be used in the business of the Company or be invested in such investments as the Directors think fit.
- (c) The Directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends without transferring those profits to a reserve.

35.5 Entitlement to dividends

- (a) Subject to this Constitution, all dividends must be apportioned and paid proportionately to the amounts paid or credited as paid on the shares.
- (b) Where any share is issued on terms providing that it will rank for dividend as from a particular date, that share ranks for dividend accordingly.
- (c) An amount paid or credited as paid on a share in advance of a call must not be taken for the purposes of this clause 35.5 to be paid or credited as paid on the share and will not confer a right to participate in profits.

35.6 Deduction from dividends of money owing

The Directors may deduct from any dividend payable to a Member all sums of money (if any) presently payable by the Member to the Company on account of calls or otherwise in relation to shares in the Company.

35.7 Retention of dividends and transmission

The Directors may retain dividends payable on a share in respect of which any person under clauses 17.1, 17.2 or 17.3 is entitled to become a Member or any person is otherwise entitled to take a transfer of that share, until the person becomes a Member in respect of that share.

35.8 Payment of dividends by distribution of property

- (a) When declaring a dividend, the Directors, or a general meeting on the recommendation of the Directors, may by resolution direct payment of the dividend wholly or in part by the distribution of specific assets, including paid up shares in, or debentures of, any other corporation, and the Directors must give effect to such a resolution.
- (b) Where a difficulty arises in regard to such a distribution under clause 35.8(a), the Directors may do any one or more of the following:
 - (i) settle the matter as they consider expedient;
 - (ii) fix the value for distribution of the specific assets or any part of those assets;

- (iii) determine that cash payments be made to any Members on the basis of the value fixed in order to adjust the rights of all parties; and
- (iv) vest any such specific assets in trustees as the Directors consider expedient.

35.9 Payment of dividends by cash

- (a) Any dividend, interest or other money payable in cash in respect of shares may be paid, at the Directors discretion and at the sole risk of the intended recipient:
 - (i) by cheque sent by post directed to:
 - (A) the address of the Member as shown in the Register or, in the case of joint holders, to the address shown in the Register as the address of the joint holder first named in the Register; or
 - (B) any other address as the Member or joint holders directs or direct in writing; or
 - (ii) by electronic funds transfer to an account with a bank or other financial institution nominated in writing by the Member and acceptable to the Company; or
 - (iii) by any other means determined by the Directors.
- (b) The Directors may decide to use different payment methods for different Members.
- (c) Every cheque sent under clause 35.9(a)(i) must be made payable to the person to whom it is sent and will be sent at that person's risk.

35.10 Unclaimed dividends

Subject to the Act and any legislation relating to unclaimed money, all dividends unclaimed for one year after having been declared may be used by the Directors for the benefit of the Company until claimed.

36. Capitalisation of profits

36.1 Authority to capitalise

The Company may, by ordinary resolution in general meeting and on the recommendation of the Directors and subject to the Shareholders Deed (if any), resolve that:

- (a) it is desirable to capitalise any sum, being the whole or part of the amount for the time being standing to the credit of any reserve account or profit and loss account or otherwise available for distribution to Members; and
- (b) that sum may be applied, in any of the ways mentioned in clause 36.2, for the benefit of Members in the proportions to which those Members would have been entitled in a distribution of that sum by way of dividend.

36.2 Appropriation and application

A sum distributed to Members in accordance with clause 36.1 may be applied:

- (a) in paying up any amounts unpaid on shares held by Members; or
- (b) in paying up in full unissued shares or debentures to be issued to Members as fully paid.

36.3 Adjustment of Members' rights

The Directors must do all things necessary to give effect to a resolution referred to in clause 36.1 and, in particular, to the extent necessary to adjust the rights of the Members among themselves, may:

- (a) issue fractional certificates or make cash payments in cases where shares or debentures become issuable in fractions; and
- (b) authorise any person to enter into, on behalf of all the Members entitled to any further shares or debentures on the capitalisation, an agreement with the Company providing for the issue to them, credited as fully paid up, of any further shares or debentures or for the payment by the Company on their behalf of the amounts or any 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 made under an authority referred to in clause 36.3(b) is effective and binding on all the Members concerned.

36.4 Distribution

- (a) If a distribution of capitalised profits is made on more than one class of shares, the distribution made on the shares of any particular class may be at a higher, lower or at the same rate as the distribution made on the shares of another class, provided that the shares in any one class participate equally among themselves in any distribution made of capitalised profits in respect of that class.
- (b) There can be no objection to any resolution which declares a higher rate of distribution on the shares of any class or classes than the distribution made on the shares of any other class or classes.

37. Notices

37.1 How notice to be given

- (a) A Member may, by written notice to the Secretary (or, if no Secretary has been appointed, to the Board) left at or sent to the Office, require that all notices to be given by the Company or the Directors be served on the Member's representative at an address specified in the notice.
- (b) The Company may give a notice to any Member by:
 - (i) serving it on the Member personally;
 - (ii) properly addressing, prepaying and posting the notice to the Member or leaving it at the Member's address as shown in the Register or the address supplied by the Member to the Company for the giving of notices;

- (iii) serving it in any manner contemplated in this clause 37.1 on a Member's representative as specified by the Member in a notice given under clause 37.1(a);
- (iv) facsimile transmission to the facsimile number supplied by the Member to the Company for the giving of notices;
- (v) sending it by email to an email address supplied by the Member to the Company for the giving of notices;
- (vi) sending it via any other electronic means permitted by the Act and nominated by the Member for the giving of notices, including providing an electronic link to the notice; or
- (vii) giving it by any other means permitted or contemplated by this clause 37 or the Act.

37.2 When notice is given

A notice is deemed to be given by the Company and received by the Member:

- (a) if delivered in person, when delivered to the Member;
- (b) if posted, on the day after the date of posting to the Member, whether delivered or not;
- (c) if sent by facsimile transmission, on the day after the date of its transmission; or
- (d) if sent by email or other electronic means, on the day after the date of its transmission,

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time), it is deemed to have been received at 9.00 am (addressee's time) on the next Business Day.

37.3 Notice to joint holders

A notice may be given by the Company to joint Members by sending the notice to the joint Member first named in the Register or to an alternative address (if any) nominated by that Member.

38. Winding up

Subject to clause 3 and any specific rights attaching to shares, if the Company is wound up, the liquidator may, with the sanction of a special resolution of the Company:

- (a) divide among the Members in specie or in kind the whole or any part of the property of the Company and may for that purpose set such value as they consider fair on any property to be divided and may determine how the division will be carried out as between the Members or different classes of Members; or
- (b) vest the whole or any part of the Company's property in trustees on such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no Member is compelled to accept any shares or other securities in respect of which there is any liability,

or do both.

39. Indemnity

39.1 Interpretation

In this clause 39:

- (a) **proceedings** means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act in their capacity as an officer of the Company (including proceedings alleging that they were guilty of negligence, default, breach of trust or breach of duty in relation to the Company); and
- (b) **officer** has the meaning given to that term in section 9 of the Act.

39.2 Scope of indemnity

In addition to any other indemnity provided to an officer of the Company in accordance with the Act, and to the extent permitted by the Act and any applicable Law:

- (a) every officer of the Company will be indemnified out of the assets of the Company against any liability incurred by them in relation to the execution of their office;
- (b) no officer of the Company is liable for any loss or damage incurred by the Company in relation to the execution of his or her office;
- (c) every officer of the Company will be indemnified out of the assets of the Company against any liability which he or she incurs:
 - (i) in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the officer or in which the officer is acquitted;
 - (ii) in connection with any application, in relation to any such proceedings, in which relief is granted under the Act to the officer by the Court; and
- (d) every officer of the Company will be indemnified out of the assets of the Company against any liability to another person (other than the Company or a related body corporate of the Company) where the liability is incurred by the officer in their capacity as an officer of the Company, provided that this indemnity will not apply where the liability arises out of conduct involving a lack of good faith.

39.3 Insurance

In addition to the payment of any other insurance premium by the Company in accordance with the Act, and to the extent permitted by the Act and any applicable Law, the Company may pay the premium in respect of a contract insuring an officer of the Company against a liability:

- (a) incurred by the officer of the Company in his or her capacity as officer, provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Act; or
- (b) for costs and expenses incurred by that officer of the Company in defending proceedings, whatever their outcome.

