

Constitution

Elsewhere Pod Co. Pty Ltd
ACN 658 561 650

Adopted 09/04/2024

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1. Replaceable Clauses Excluded

- (a) The replaceable clauses contained in the Act do not apply to the Company.

2. Definitions and interpretation

- (a) Definitions in this constitution:

Act means the Corporations Act 2001 (Cth) as amended.

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

- (a) a person that Controls or is Controlled by the first-mentioned person;
- (b) a Related Body Corporate of the first-mentioned person; and
- (c) in the case of the **Seed Investor**, includes any fund or other vehicle managed or advised by the Investor.

Auditor means any person appointed for the time being to perform the duties of an auditor of the Company.

Bad Leaver means a person who ceases to be employed or engaged by a Group Company, as a result of his or her:

- (a) resignation within 1 years of the date of this agreement;
- (b) termination by the Company with cause, including because he or she has committed:
 - (i) fraud;
 - (ii) an indictable criminal offence;
 - (iii) a breach of a restrictive covenant; or
 - (iv) a material breach of his or her employment or consulting agreement.

Business means the business of the Group as at this date and as modified from time to time.

Business Day means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in the place where the Company has its registered office.

Confidential Information means information disclosed by or on behalf of one party to another party in connection with the Company which has been designated as confidential by the party disclosing the information, or information which by its nature should reasonably be considered to be confidential, but does not include:

- (a) any information which is in the public domain at the time of its disclosure or subsequently becomes part of the public domain other than as a result of a breach by the person receiving the Confidential Information of clause 12.1 of Schedule 1;
- (b) any information that was known to the party receiving the Confidential Information at the time of disclosure of the confidential information except as a result of a prior confidential disclosure by the party disclosing the Confidential Information; or
- (c) any information that is disclosed to the party receiving the Confidential Information by any third party who is not known to the party receiving the Confidential Information to be acting in breach of a confidentiality obligation owed to the party disclosing the Confidential Information.

Constitution means the constitution of the Company and its Schedules.

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

Directors means the directors of the Company.

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.

Employee Shareholder is:

- (a) a Shareholder who is an employee of the Company or of a subsidiary of the Company; or
- (b) a Shareholder who was an employee of the Company, or of a subsidiary of the Company, when they became a Shareholder.

Excluded Issue means:

- (a) an issue of Securities under a Share Plan;
- (b) Securities issued in connection with share splits or the issue of dividends which is approved by a Required Resolution of the Board;
- (c) Securities issued as part of an IPO which is approved by a Required Resolution of the Board; or
- (d) Securities constituting all or part of the consideration for a bona-fide acquisition of assets or shares by the Group which is approved by a Required Resolution of the Board.

Founder means each party listed as a "Founder" in Schedule 2 and, if there is more than one party listed as a "Founder" in Schedule 2 then together they are the Founders.

Founder Entity means a Founder (if Shares are held directly by the Founder) and/or an Affiliate of the Founder (if Shares of a Founder are held by a nominee).

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

Group means the Company and the Subsidiaries, and Group Company means any one of them.

Independent Expert means a reputable and qualified independent expert who is independent of the relevant parties.

Intellectual Property Rights means all present and future rights to:

- (a) trademarks, trade names, domain names, logos, get-up, patents, inventions, registered and unregistered design rights, copyrights, circuit layout rights, and all similar rights in any part of the world (including know-how); and
- (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.

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

Law includes:

- (a) any statute, regulation, clause, by-law, ordinance, proclamation, judgement, treaty, decree, convention, clause or principle of common law or equity, clause of any applicable stock exchange, or requirement or approval (including any Government Agency);
- (b) any regulation, clause, 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 appointed to perform the duties of Managing Director of the Company.

Nominated notification has the meaning given to that term in clause 28 (b) (i).

Related Body Corporate has the same meaning as in section 9 of the Act.

Register means the register of Shareholders to be kept under the Act.

Required Resolution means a resolution:

- (a) approved by 75% or more of the Directors entitled to vote, provided that such majority must include any Director appointed in Schedule 1; or
- (b) identified in a document where all those persons entitled to vote on the resolution sign a statement that they are in favour of the resolution set out in the document.

Respective Proportion means in respect of each Shareholder, the proportion that the aggregate number of Shares held by that Shareholder bears to the aggregate number of Shares on issue at the relevant time, except that for the purposes of clause 7.3 of Schedule 1, the Seller's Shares are excluded from the number of issued Shares.

Representative means a person authorised to act as a representative of a body corporate under section 250D of the Act.

Seal means the common seal of the Company and includes any official seal of the Company.

Secretary means the Company Secretary as appointed by the Directors in accordance with the Corporations Act.

Security means a security of the Company and includes the Shares, options, any 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 pendre), 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.

Seed Investor means each party listed as a “Seed Investor” in Schedule 2 and being a Shareholder holding Seed Preference Shares.

Seed Preference Shares means seed preference shares in the capital of the Company having the rights set out in the Constitution.

Share means:

- (a) an Ordinary Share;
- (b) a Seed Preference Share; and
- (c) a share in any other class of shares issued by the Company from time to time, as applicable.

Share Plan has the meaning given in Schedule 1.

Share Qualification means the required percentage of shareholding in the issued share capital of the Company to appoint a Director as set out in Schedule 1.

Shareholder means a party who holds Shares in the Company (other than in respect of the unallocated Share Plan).

Special Resolution means a resolution approved by the holders of 75% or more of the issued Shares held by those Shareholders present (by any means) or voting by proxy or representative and entitled to vote.

Subsidiary means a subsidiary of the Company as defined by section 9 of the Act.

Successor has the meaning given to that term in clause 20 (b).

Unvested Shares means any Shares that have not vested pursuant to Schedule 1.

(b) Interpretation

(a) Reference to:

- (i) one gender includes the others;
- (ii) the singular includes the plural and the plural includes the singular; and
- (iii) a party to a document includes that party’s personal representatives, executors, administrators, successors, substitutes(including persons taking by novation) and permitted assigns.

(b) Except so far as the contrary intention appears in this Constitution:

- (i) an expression has in this Constitution the same meaning as in the Act; and
- (ii) if an expression is given different meanings for the purposes of different provisions of the Act, the expression has, in a provision of

this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.

- (c) “Including” and similar expressions are not words of limitation;
- (d) Headings and any table of contents or index are for convenience only and do not form part of this constitution or affect its interpretation;
- (e) Neither this agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting;
- (f) A reference to a notice, consent, request, approval or other communication under this agreement or an agreement between the parties means a written notice, request, consent, approval or agreement; and
- (g) A reference to dollars or \$ is to Australian currency.

3. Control of issue of shares

- (a) Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares and subject to the Act, the issue of shares in the Company is under the control of the directors.
- (b) Subject to the Act, the directors may issue shares to persons at times and on terms and conditions and having attached to them preferred, deferred or other special rights or restrictions as the directors see fit.
- (c) Subject to the Act, any preference shares may, with the sanction of a resolution of the Company in general meeting, be issued on the terms that they are, or at the option of the Company are, liable to be redeemed.
- (d) The directors may grant to any person (including any directors, officer or employee of the Company or a related body corporate of the Company) options or other securities with rights of conversion to shares or pre-emptive rights to any shares for any consideration and for any period.

4. Ordinary Shares

- (a) All shares of the Company which are not issued upon special terms and conditions are ordinary shares and confer on the holders:
 - (i) the right to attend and vote at meetings of the Company and on a show of hands to one vote and on a poll to one vote for each share held;
 - (ii) the right to participate in dividends (if any) determined on the class of shares held; and
 - (iii) on the winding up of the Company, the right to participate in the division of any surplus assets or profits of the Company in proportion to the number of shares held, irrespective of the amount paid or credited as paid on the shares (except that, in the case of any shares that were partly paid up at the commencement of the winding up, that the amount required to be paid to make them fully paid must first be contributed to the Company).

5. Conversion of shares

- (a) The Company may convert all or any of its shares into a larger or smaller number of shares by resolution passed at a general meeting.
- (b) Any amount unpaid on shares being converted is to be divided equally among the replacement shares.

- (c) The resolution by which any share is subdivided may determine that as between the holders of the shares resulting from the subdivision one or more of the shares have some preference or special advantage as regards dividend, capital, voting or otherwise as compared with the others.

6. Calls on partly paid shares

- (a) If shares in the Company are partly paid, the Shareholder is liable to pay calls on the shares in accordance with the terms on which the shares are on issue.
- (b) A call may be made payable by instalments.
- (c) A call may be revoked, postponed or extended as the directors determine.
- (d) A call must be treated as made at the time when the resolution of the directors authorising the call is passed.
- (e) Each Shareholder must pay the amount called on the Shareholder's shares according to the terms of the notice of call.
- (f) At least 30 Business Days before the due date for payment, the Company must send notices to all Shareholders on whom the call is made who are on the Register when the call is announced. The notice must include each of the following:
 - (i) the name of the Shareholder;
 - (ii) the number of shares held by the Shareholder;
 - (iii) the amount of the call;
 - (iv) the due date for payment of the call; and
 - (v) the consequences of nonpayment of the call.
- (g) The non receipt of a notice of a call by, or the accidental omission to give notice of a call to, any of the Shareholders does not invalidate the call.
- (h) On the trial or hearing of any action for the recovery of any money due for any call and in any circumstances where it is necessary to prove the right to forfeit or sell shares for nonpayment of a call it is sufficient to prove:
 - (i) that the name of the Shareholder sued is entered in the Register as the holder or one of the holders of the shares in respect of which the call was made;
 - (ii) that the resolution making the call is recorded in the minute book;
 - (iii) that:
 - (a) notice of the call was given to the registered holder of the shares in accordance with this constitution; or
 - (b) in the case of calls or instalments payable at fixed times by the terms of issue of any share or otherwise, those terms apply; and
 - (c) that the sum or call has not been paid.
 - (d) Proof of the above matters is conclusive evidence of the debt and of the right to forfeit or sell shares for nonpayment of a call and it is not necessary to prove the appointment of the directors who made the call or the passing of the resolution or anything else.
- (i) The joint holders of a share are jointly and severally liable to pay all calls in respect of the share.

- (j) If a sum called is not paid on or before the date for payment, the person from whom the sum is due must pay interest on the sum (or on so much as remains unpaid) at the rate the directors determine calculated from the day payment is due till the time of actual payment. The directors may waive payment of that interest wholly or in part.
- (k) Any sum that, by the terms of issue of a share, becomes payable on issue or at a fixed date, must be treated for the purposes of this constitution as a call duly made and payable on the date on which by the terms of issue the sum becomes payable. In case of nonpayment, the 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.
- (l) The directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.
- (m) The directors may accept from a Shareholder the whole or a part of the amount unpaid on a share although no part of that amount has been called up. The directors may authorise payment by the Company of interest upon the whole or any part of an amount so accepted, until the amount becomes payable, at the rate agreed upon between the directors and the Shareholder paying the sum.
- (n) Any amount paid in advance of calls is not included or taken into account in ascertaining the amount of dividend payable upon the shares in respect of which the advance has been made.
- (o) The directors may at any time repay the amount so advanced upon giving to such Shareholder one month's notice in writing.
- (p) If a sum called in respect of a share is not paid before or on the due date for payment, the Company may recover the sum as a debt due with interest and expenses (if any), by action or otherwise but the exercise of this right is without prejudice to the right to forfeit the share of the Shareholder in arrears, and the directors may exercise either or both of these rights in their discretion.

7. Right to lien

- (a) Subject to (d), the Company has a first and paramount lien on all shares registered in the name of a Shareholder (whether solely or jointly with others) for all money presently payable by the Shareholder or the Shareholder's estate to the Company.
- (b) The directors may at any time exempt a share wholly or in part from these Right to Lien provisions.
- (c) The Company's lien (if any) on a share extends to all dividends payable in respect of the share. The directors may retain those dividends and apply them in or towards satisfaction of all amounts due to the Company in respect of which the lien exists.
- (d) The amount of the Company's lien is restricted to:
 - (i) unpaid calls and instalments upon the specific shares in respect of which calls or instalments are due and unpaid;
 - (ii) if the shares were acquired under an employee incentive scheme an amount owed to the Company for acquiring them; and
 - (iii) an amount that the Company is required by law to pay (and has paid) in respect of the shares of a Shareholder or deceased former Shareholder.

- (e) The Company's lien on a share extends to reasonable interest and expenses incurred because an amount referred to in (d) is not paid.
- (f) Unless otherwise agreed the registration of a transfer document operates as a waiver of the Company's lien (if any) on the shares transferred.

8. Imposition of a liability

- (a) This clause applies where any law for the time being of any country, state or place:
 - (i) imposes or purports to impose any immediate or future or possible liability upon the Company to make any payment in respect of a Shareholder; or
 - (ii) empowers any government or taxing authority or government official to require the Company to make any payment in respect of a share registered in the Register as held either jointly or solely by a Shareholder or in respect of any dividend or other money which is or may become due or payable or is accruing due to the Shareholder by the Company on or in respect of the share;whether in consequence of:
 - (iii) the death of the Shareholder;
 - (iv) the liability of the Shareholder for income tax or other tax;
 - (v) the liability of the executor or administrator of the Shareholder or of the Shareholder's estate for any estate, probate, succession, death, stamp or other duty; or
 - (vi) anything else.
- (b) If any liability contemplated is imposed on the Company, the Company:
 - (i) must be fully indemnified by the Shareholder or the Shareholder's executor or administrator from all liability;
 - (ii) has a first and paramount lien upon all shares registered in the Register as held either jointly or solely by the Shareholder and upon all dividends and other money payable in respect of the shares for any liability arising under that law and for any amount paid in complete or partial satisfaction of the liability and for interest on any amount so paid at the rate per annum set by the directors from the date of payment to the date of repayment. The Company may deduct from or set off against the dividends or other money payable any money so paid or payable by the Company together with interest;
 - (iii) may recover as a debt due from the Shareholder or the Shareholder's executor or administrator wherever situated any money paid by the Company under or in consequence of that law and interest on the money at the rate and for the period referred to in (b).(ii) in excess of any dividend or other money then due or payable by the Company to the Shareholder; and
 - (iv) may, if the money is paid or payable by the Company under that law refuse to register a transfer of the shares by the Shareholder or the Shareholder's executor or administrator until the money with interest is set off or deducted or where that amount exceeds the amount of the dividend or other money then due or payable by the Company to the Shareholder, until the excess is paid to the Company.

- (c) This clause does not prejudice or affect any right or remedy which that law may confer or purport to confer on the Company and the right or remedy is enforceable by the Company against the Shareholder and the Shareholder's executors, administrators and estate wherever situated whether or not the right or remedy is validly conferred.

9. Sale of shares the subject of lien

- (a) Subject to (b) the Company may sell, in the manner the directors see fit, any shares on which the Company has a lien.
- (b) The Company must not sell a share on which it has a lien unless:
 - (i) a sum in respect of which the lien exists is presently payable; and
 - (ii) 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 or bankruptcy of the registered holder a notice in writing setting out, and demanding payment of, the sum presently payable in respect of which the lien exists.
- (c) To give effect to a sale of shares under this clause, the directors may authorise a person to transfer the shares sold to the purchaser of the shares.
- (d) The Company must register the purchaser as the holder of the shares comprised in the transfer and the purchaser is not bound to see to the application of the purchase money.
- (e) The title of the purchaser to the shares is not affected by any irregularity or invalidity in connection with the sale.
- (f) The proceeds of a sale under this clause must be applied by the Company as follows:
 - (i) in payment of the sum presently payable in respect of which the lien existed;
 - (ii) if there was a lien on the shares for sums not presently payable, the Company may retain any residue of the proceeds of sale and apply the residue to pay those sums when they become presently payable;
 - (iii) subject to (f) (ii), the Company must pay the residue to the person entitled to the shares immediately before the sale.

10. Surrender of shares

- (a) The directors may accept the surrender of any paid-up share by way of compromise of any question as to the holder being properly registered in respect of the share. Any share so surrendered may be disposed of in the same manner as a forfeited share.

11. Power to capitalise and issue debentures to Shareholders

- (a) The Company may capitalise profits. The capitalisation need not be accompanied by the issue of shares.
- (b) The directors, or the Company in general meeting on the recommendation of the directors, may apply profits, including reserves and sums otherwise available for distribution to Shareholders, to:
 - (i) pay up any amount unpaid on shares;

- (ii) issue shares, debentures or unsecured notes to Shareholders credited as fully paid up; or
 - (iii) partly per (b) (i) and partly per (b) (ii).
- (c) The amount applied under (b) must be applied for the benefit of Shareholders in the proportions in which the Shareholders are entitled to dividends.
- (d) For the purpose of (c) the directors may to the extent necessary to adjust the rights of the Shareholders among themselves:
- (i) issue fractional certificates or make cash payments in cases where shares, debentures or unsecured notes become issuable in fractions;
 - (ii) determine the amount payable to a Shareholder under (b) if there is no proportional entitlement;
 - (iii) fix the value for distribution of any specific assets or any part of them;
 - (iv) round down any payment to the nearest dollar; and
 - (v) vest any cash or specific assets in trustees upon trust for the persons entitled to the dividend or capitalised fund.

12. Joint holders

- (a) Where two or more persons are registered as the holders of a share, they must be treated as holding the share as joint tenants with benefits of survivorship subject to (b) and to the following:
- (i) the Company is not bound to register more than three persons (not being the trustees, executors or administrators of a deceased holder) as the holder of the share;
 - (ii) the joint holders of the share are liable severally as well as jointly in respect of all payments which ought to be made in respect of the share;
 - (iii) on the death of any one of the joint holders, the survivor or survivors are the only person or persons recognised by the Company as having any title to the share, but the directors may require such evidence of death as they see fit;
 - (iv) any one of the joint holders may give effective receipts for any dividend, bonus or return of capital payable to the joint holders; and
 - (v) only the person whose name stands first in the Register as one of the joint holders of the share is entitled to delivery of the certificate relating to the share or to receive notices from the Company and a notice given to that person must be treated as notice to all the joint holders.
- (b) Where three or more persons are registered holders of a share in the Register (or a request is made to register more than three persons) only the first three named persons are regarded as holders of the share and all other named persons must be disregarded for all purposes except in the case of executors or trustees of a deceased Shareholder.

13. Terms of loans to Shareholders

- (a) Subject to the Act and Schedule 3 Part B, the Company may make a secured or unsecured loan to a Shareholder.

14. Brokerage or commission

- (a) The Company may pay brokerage or commission to a person in respect of that person or another person agreeing to take up shares in the Company.
- (b) Payments by way of brokerage or commission may be satisfied:
 - (i) by the payment of cash;
 - (ii) by the issue of fully or partly paid shares or other securities; or
 - (iii) partly by the payment of cash and partly by the issue of fully or partly paid shares or other securities.

15. Entitlement to share certificates

- (a) A person whose name is entered as a Shareholder in the Register is entitled without payment to one certificate for the shares registered in the Shareholder's name or to several certificates in reasonable denominations.
- (b) Where securities are held jointly by several persons the Company is not bound to issue more than one certificate.
- (c) Delivery of a certificate of securities may be effected by delivering it personally to the holder or by posting it in a prepaid envelope addressed to the holder at the address shown in the Register or by delivering or posting the certificate in accordance with the written instructions of the holder. Delivery of a certificate to one of several joint holders is sufficient delivery to all of them.
- (d) A certificate must state:
 - (i) the name of the Company and the fact that it is registered under the Act;
 - (ii) the number of the certificate;
 - (iii) the number and class of shares for which the certificate is issued; and
 - (iv) the extent to which the shares are paid up.

16. Replacement of certificates

- (a) If any certificate or other document of title to shares is worn out or defaced the directors must, upon production to them of the certificate or document, order it to be cancelled and issue within 10 Business Days after receipt of the worn out or defaced certificate or document a new certificate or document in its place upon the conditions prescribed by the Act.
- (b) If:
 - (i) satisfactory evidence is received by the directors that any certificate or other document of title to shares has been stolen, lost or destroyed and has not been pledged, sold or otherwise disposed of;
 - (ii) an indemnity and undertaking which the directors think adequate is given; and
 - (iii) any other steps (including advertising) which the directors think necessary are taken,

a new certificate or document must be issued to the party entitled to the stolen, lost or destroyed certificate or document within five Business Days after those conditions are satisfied. The Company is entitled to charge for each new certificate or document issued a fee not exceeding the maximum amount permitted by the Act.

17. Recognition of ownership

- (a) Except as required by law, the Company is not bound to recognise a person as holding a share upon any trust.
- (b) The Company is not bound to recognise any equitable, contingent, future or partial interest or any other right in respect of a share except an absolute right of ownership in the registered holder.
- (c) Clause.b:
 - (i) applies whether or not the Company has notice of the interest or right; but
 - (ii) does not apply where the Company is bound to recognise the interest or right by another provision of this constitution or by law.

18. Transfer of shares

- (a) A Shareholder may transfer all or any of the Shareholder's shares by instrument in writing in any form that the directors approve.

19. Registration of transfers - procedure

- (a) A person transferring shares remains the holder of the shares until the transfer is registered and the name of the person to whom they are being transferred is entered in the Register in respect of the shares.
- (b) Before a transfer of shares is registered:
 - (i) the transfer and any share certificate must be lodged at the Company's registered office or any other place the directors allow;
 - (ii) any fee payable on registration of the transfer must be paid; and
 - (iii) the directors must be given any further information they reasonably require to establish the right of the person transferring the shares to make the transfer.
- (c) The directors must not register any transfer of shares unless that transfer is permitted.
- (d) The directors may in their discretion dispense with any of the requirements of (b).
- (e) The instrument of transfer must be executed by or on behalf of both the transferor and the transferee.
- (f) All powers of attorney granted by Shareholders which may be used for the purpose of transferring shares and which are lodged, produced or exhibited to the Company must be treated as between the Company and the grantor of the powers as remaining in full force and may be acted upon until express notice in writing of their revocation or of the death of the grantor is lodged at the registered office of the Company.

20. Transmission of shares

- (a) If a Shareholder who does not own shares jointly dies, the Company will recognise only the personal representative of the deceased Shareholder as being entitled to the deceased Shareholder's interest in the shares.
- (b) If the person entitled to shares as the personal representative of a deceased Shareholder or because of the bankruptcy or mental incapacity of a Shareholder

(successor) gives the directors, the information they reasonably require to establish the successor's entitlement to be registered as holder of the shares:

- (i) the successor may:
 - (a) by giving a 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 successor, whether or not registered as the holder of the shares, is entitled to the same rights, and is subject to the same liabilities, as if the successor were registered as holder of the shares.
- (c) On receiving an election under (b) (i) (a), the Company must register the successor as the holder of the shares.
- (d) A transfer under (b) (i) (b) is subject to the same requirements (for example, about entitlement to transfer and registration of transfers) as apply to transfers generally.
- (e) If a Shareholder who owns shares jointly dies, the Company will recognise only the survivor as being entitled to the deceased Shareholder's interest in the shares. The estate of the deceased Shareholder is not released from any liability in respect of the shares.
- (f) This clause has effect subject to the Bankruptcy Act 1966.

21. Procedure for forfeiture

- (a) If a Shareholder fails to pay a call or instalment of a call on the day appointed for payment of the call or instalment or fails to pay any money payable under clause 8 the directors may while any part of the call or instalment or other money remains unpaid serve a notice on the Shareholder requiring payment of so much of the call or instalment or other money as is unpaid together with any interest that has accrued and the costs, expenses or damages that the Company has incurred due to the failure to pay.
- (b) The notice must:
 - (i) appoint a further date (not earlier than the expiration of 14 days after the date of service of the notice) on or before which the payment required by the notice is to be made; and
 - (ii) state that, in the event of nonpayment at or before the further day appointed, the shares in respect of which the call was made will be liable to be forfeited.
- (c) If the requirements of a notice served under the Procedure for Forfeiture are not complied with, any share in respect of which the notice has been given may, unless the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.
- (d) The forfeiture includes all dividends determined or payable in respect of the forfeited share and not actually paid before the forfeiture.
- (e) The Company may sell a forfeited share or otherwise dispose of it on terms and in a manner the directors see fit.
- (f) The directors may at any time before a forfeited share has been sold or otherwise disposed of, annul the forfeiture upon conditions they see fit.

- (g) A person whose shares have been forfeited ceases to be a Shareholder in respect of the forfeited shares, but (unless the ordinary Shareholders resolve otherwise) remains liable to pay and must immediately pay to the Company all calls, instalments, interest and expenses owing on or payable in respect of the shares at the time of forfeiture together with interest from the time of forfeiture until payment at the rate determined by the directors. The directors may enforce payment of the money as they see fit but are not under any obligation to do so.
- (h) A statement in writing declaring that the person making the statement is a director or a secretary of the Company, and that a share in the Company has been duly forfeited on a date stated is prima facie evidence of the facts as against all persons claiming to be entitled to the share.
- (i) The provisions of this constitution as to forfeiture apply in the case of nonpayment 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.

22. Transfer of forfeited share

- (a) The Company may receive the consideration (if any) given for a forfeited share on any sale or disposition of the share and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of.
- (b) Upon the execution of the transfer, the transferee is entitled to be registered as the holder of the share and is not bound to see to the application of any money paid as consideration.
- (c) The title of the transferee to the share is not affected by any irregularity or invalidity in connection with the forfeiture, sale or disposal of the share.

23. Variation of class rights

- (a) Rights attached to shares in a class of shares may be varied or cancelled only:
 - (i) by special resolution of the Company; and
 - (ii) either:
 - (a) by special resolution passed at a meeting of the Shareholders holding shares in the class; or
 - (b) with the written consent of Shareholders with at least 75% of the votes in the class.
- (b) This Clause applies whether or not the Company is being wound up.
- (c) The Company must give a notice in writing of the variation or cancellation of shares to Shareholders of the class affected within seven days after the variation or cancellation.

24. Calling of general meeting

- (a) Unless otherwise provided in the Act or this Constitution, a director may call a meeting of the Company's Shareholders.
- (b) Except as provided in the Act no Shareholder or Shareholders may call a general meeting.
- (c) So long as the Company remains a proprietary company, no annual general meeting need be held.

25. Amount of notice of meeting

- (a) All Shareholders entitled to receive notice of any meeting must be given notice in writing at least the number of days set out in the Act prior to such meeting.

26. Persons entitled to notice of general meeting

- (a) Written notice of a meeting of the Company's Shareholders must be given individually to:
 - (i) each Shareholder entitled to vote at the meeting;
 - (ii) each director;
 - (iii) the Company's auditor; and
 - (iv) subject to Notice upon Transmission, every person entitled to a share in consequence of the death or bankruptcy of a Shareholder who, but for his or her death or bankruptcy, would be entitled to receive notice of the meeting.
- (b) No other person is entitled to receive notice of general meetings.
- (c) If a share is held jointly, then unless the share is the only share in the Company, notice need only be given to one of the Shareholders, being the joint Shareholder named first in the Register.

27. Notice upon transmission

- (a) A person entitled to a share in consequence of the death or bankruptcy of a Shareholder is not entitled to notice of meetings until the person has produced all information as to the person's entitlement that the directors properly require.

28. How notice is given

- (a) The Company may give the notice of meeting to a Shareholder:
 - (i) personally;
 - (ii) by sending it by post to the address for the Shareholder in the Register or the alternative address (if any) nominated by the Shareholder;
 - (iii) by sending it to the electronic address (if any) nominated by the Shareholder;
 - (iv) by sending it by other electronic means (if any) nominated by the Shareholder; or
 - (v) by notifying the Shareholder in accordance with clause (b).
- (b) If the Shareholder nominates:
 - (i) an electronic means (**nominated notification means**) by which the Shareholder may be notified that notices of meeting are available; and
 - (ii) an electronic means (**nominated access means**) the Shareholder may use to access notices of meeting,

the Company may give the Shareholder notice of the meeting by notifying the Shareholder (using the nominated notification means):

- (iii) that the notice of meeting is available; and
- (iv) how the Shareholder may use the nominated access means to access the notice of meeting.

29. When notice is given

- (a) A notice of meeting sent by post is taken to be given on the second Business Day after it is posted.
- (b) A notice of meeting given to a Shareholder is taken to be given on the Business Day after it is sent.
- (c) A notice of meeting given to a Shareholder under clause 28 (a) (v) is taken to be given on the Business Day after the day on which the Shareholder is notified that the notice of meeting is available.
- (d) A certificate signed by a manager, secretary or other officer of the Company that the notice was posted or given in accordance with this clause is conclusive evidence of the matter.

30. Period of notice

- (a) Subject to the Act where a specified number of days' notice or notice extending over any period is required to be given, the day of service is excluded, and the day upon which the notice expires is included.

31. Contents of notice

- (a) A notice of a general meeting must:
 - (i) set out the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used);
 - (ii) state the general nature of the meeting's business;
 - (iii) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution;
 - (iv) be worded and presented in a clear, concise and effective manner; and
 - (v) contain a statement setting out the following information:
 - (a) that the Shareholder has a right to appoint a proxy;
 - (b) that the proxy need not be a Shareholder of the Company; and
 - (c) that a Shareholder who is entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise.

32. Constructive notice

- (a) Every person who by operation of law, transfer or any other means becomes entitled to any share is bound by every notice in respect of the share which, before his or her name and address is entered on the Register, has been duly given to the person from whom he or she derives title or to any previous holder of the share.

33. Notice of adjourned meeting

- (a) When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for one month or more.

34. Accidental omission to give notice

- (a) Subject to the Act, the accidental omission to give notice of any general meeting to or the nonreceipt of the notice by any person entitled to receive notice of a general meeting under this constitution or the accidental omission to advertise (if necessary) the meeting does not invalidate the proceedings at or any resolution passed at the meeting.

35. Postponement of general meeting

- (a) The directors may postpone the holding of any general meeting whenever they see fit (other than a meeting requisitioned by Shareholders as provided by the Act) for not more than 42 days after the date for which it was originally called.
- (b) Whenever any meeting is postponed (as distinct from being adjourned under clause 37(c) the same period of notice of the meeting must be given to persons entitled to receive notice of a meeting as if a new meeting were being called for the date to which the original meeting is postponed.

36. Technology

- (a) The Company may hold a meeting of its Shareholders at two or more venues using any technology that gives the Shareholders as a whole a reasonable opportunity to participate.

37. Quorum

- (a) The quorum for a meeting of the Company's Shareholders is 2 Shareholders and the quorum must be present at all times during the meeting.
- (b) In determining whether a quorum is present, individuals attending as proxies, attorneys or body corporate representatives are counted. However, if a Shareholder has appointed more than one proxy, attorney or representative, only one of them is counted. If an individual is attending both as a Shareholder and as a proxy, attorney or body corporate representative, the individual is counted only once.
- (c) If a quorum is not present at a meeting of the Shareholders:
 - (i) the meeting is automatically deemed to have been adjourned and the adjourned meeting will be held at the same time and the same place on the day after such meeting; and
 - (ii) the quorum for the adjourned meeting is 2 of the Company's Shareholders.

38. Chairperson at general meetings

- (a) The directors may from time to time, by simple majority resolution, appoint a director as the chairperson and may remove from office any person so appointed and appoint another director as the chairperson in their place.
- (b) If the directors have appointed one of their number as chair of their meetings, the person appointed presides as chairperson at every general meeting.
- (c) Where a general meeting is held and:
 - (i) a chairperson has not been appointed as referred to in clause 38 (a); or
 - (ii) the chairperson is not present within 30 minutes after the time appointed for the holding of the meeting or is unwilling to act,

the directors present may appoint one of their number to be chair of the meeting and in default of their doing so the Shareholders present must appoint another director or if no director is present or willing to act then the Shareholders present may appoint any one of their number to be chairperson of the meeting.

39. Business at adjourned meetings

- (a) Only unfinished business is to be transacted at a meeting resumed after an adjournment.

40. Who can appoint a proxy

- (a) A Shareholder who is entitled to attend and cast a vote at a meeting of the Company's Shareholders or at a meeting of the holders of a class of shares may appoint an individual or
- (b) A body corporate as the Shareholder's proxy to attend and vote for the Shareholder at the meeting. The proxy need not be a Shareholder.
- (c) The appointment may specify the proportion or number of votes that the proxy may exercise.
- (d) If the Shareholder is entitled to cast two or more votes at the meeting, the Shareholder may appoint two proxies. If the Shareholder appoints two proxies and the appointment does not specify the proportion or number of the Shareholder's votes each proxy may exercise, each proxy may exercise half of the votes.
- (e) Any fractions of votes resulting from the application of (b) or (c) are disregarded.

41. Rights of proxies

- (a) A proxy appointed to attend and vote for a Shareholder has the same rights as the Shareholder:
 - (i) to speak at the meeting;
 - (ii) to vote (but only to the extent allowed by the appointment); and
 - (iii) to join in a demand for a poll.
- (b) If a proxy is only for a single meeting it may be used at any postponement or adjournment of that meeting, unless the proxy states otherwise.
- (c) A proxy's authority to speak and vote for a Shareholder at a meeting is suspended while the Shareholder is present at the meeting.
- (d) A proxy may be revoked at any time by notice in writing to the Company.

42. When proxy form must be sent to all Shareholders

- (a) If the Company sends a Shareholder a proxy appointment form for a meeting or a list of persons willing to act as proxies at a meeting:
 - (i) if the Shareholder requested the form or list – the Company must send the form or list to all Shareholders who ask for it and who are entitled to appoint a proxy to attend and vote at the meeting; or
 - (ii) otherwise – the Company must send the form or list to all its Shareholders entitled to appoint a proxy to attend and vote at the meeting.

43. Appointing a proxy

- (a) An appointment of a proxy is valid if it is signed or otherwise electronically authenticated as referred to in regulation 2G.2.01 of the Corporations Regulations 2001, and in clauses (b) and (c) by the Shareholder making the appointment and contains the following information:
- (i) the Shareholder's name and address;
 - (ii) the Company's name;
 - (iii) the proxy's name or the name of the office held by the proxy; and
 - (iv) the meetings at which the appointment may be used.

An appointment may be a standing one.

- (b) An electronically authenticated appointment of a proxy must in addition to clause 47 (a):
- (i) include a method of identifying the Shareholder; and
 - (ii) include an indication of the Shareholder's approval of the information communicated.
- (c) If the electronically authenticated appointment of a proxy is done through either email or internet-based voting:
- (i) the Shareholder must be identified by personal details such as the Shareholder's name, personal address and date of birth; and
 - (ii) the Shareholder's approval must be communicated by a form of security protection (for example, the entering of a confidential identification number such as a Shareholder registration number or holder identification number).
- (d) An undated appointment is taken to have been dated on the day it is given to the Company.
- (e) An appointment may specify the way the proxy is to vote on a particular resolution. If it does:
- (i) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
 - (ii) if the proxy has two or more appointments that specify different ways to vote on the resolution – the proxy must not vote on a show of hands;
 - (iii) if the proxy is the chairperson – the proxy must vote on a poll, and must vote that way; and
 - (iv) if the proxy is not the chairperson – the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.

If a proxy is also a Shareholder, this clause does not affect the way that the person can cast any votes the person holds as a Shareholder.

- (f) An appointment does not have to be witnessed.
- (g) A later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting.
- (h) If a share is held jointly an appointment of proxy may be signed by any one of the joint holders, but if the Company receives more than one appointment for the same share:

- (i) an appointment signed by all the joint holders is accepted in preference to an appointment signed by the Shareholder whose name appears first in the Register or by any other Shareholder holding the share jointly; and
- (ii) subject to (i) an appointment signed by the Shareholder whose name appears first in the Register is accepted in preference to an appointment signed by any other Shareholder or Shareholders holding the share jointly.

44. Form of proxy sent out by Company

- (a) A form of proxy sent out by the Company may be in a form determined by the directors but must:
 - (i) enable the Shareholder to specify the manner in which the proxy must vote in respect of a particular resolution; and
 - (ii) leave a blank for the Shareholder to fill in the name of the person primarily appointed as proxy.
- (b) The form may provide that if the Shareholder leaves it blank as to the person primarily appointed as proxy or if the person or persons named as proxy fails or fail to attend, the chairperson of the meeting is appointed proxy.

45. Receipt of proxy documents

- (a) For an appointment of a proxy for a meeting of the Company's Shareholders to be effective, the following documents must be received by the Company at least 48 hours before the meeting:
 - (i) the proxy's appointment; and
 - (ii) if the appointment is signed or otherwise authenticated by the appointor's attorney – the authority under which the appointment was signed or authenticated or a certified copy of the authority.
- (b) If a meeting of the Company's Shareholders has been adjourned, an appointment and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.
- (c) The Company receives an appointment or authority:
 - (i) when it is received at any of the following:
 - (a) the Company's registered office; or
 - (b) a place, or electronic address specified for the purpose in the notice of meeting; or
 - (ii) if the notice of meeting specifies other electronic means by which a Shareholder may give the document – when the document given by those means is received by the Company and complies with clauses 43 (b) and 43 (c).

46. Validity of proxy vote

- (a) A proxy who is not entitled to vote on a resolution as a Shareholder may vote as a proxy for another Shareholder who can vote if the appointment specifies the way the proxy is to vote on the resolution and the proxy votes that way.
- (b) Unless the Company receives written notice of one of the following matters before the start or resumption of the meeting at which the proxy votes, a vote cast by the proxy will be valid even if:
 - (i) the appointing Shareholder dies;

- (ii) the Shareholder is mentally incapacitated;
 - (iii) the Shareholder revokes the proxy's appointment;
 - (iv) the Shareholder revokes the authority under which the proxy was appointed by a third party; or
 - (v) the Shareholder transfers the share in respect of which the proxy was given, before the proxy votes.
- (c) A proxy is not revoked by the Shareholder attending and taking part in the meeting unless the Shareholder actually votes at the meeting on a resolution for which the proxy is proposed to be used.

47. Body corporate representative

- (a) A body corporate may appoint an individual as a representative to exercise all or any of the powers the body corporate may exercise:
- (i) at meetings of the Company's Shareholders;
 - (ii) at meetings of creditors or debenture holders;
 - (iii) relating to resolutions to be passed without meetings; or
 - (iv) in the capacity of a Shareholder's proxy appointed under clause 40.

The appointment may be a standing one.

- (b) The appointment may set out restrictions on the representative's powers. If the appointment is to be by reference to a position held, the appointment must identify the position.
- (c) A body corporate may appoint more than one representative but only one representative may exercise the body's powers at any one time.
- (d) Unless otherwise specified in the appointment, the representative may exercise, on the body corporate's behalf, all of the powers that the body could exercise at a meeting or in voting on a resolution.

48. How many votes a Shareholder has

- (a) Subject to any rights or restrictions attached to any class of shares, at a meeting of Shareholders:
- (i) on a show of hands, each Shareholder has one vote; and
 - (ii) on a poll, each Shareholder has one vote for each share the Shareholder holds.
- (b) The vote may be exercised in person, by proxy or body corporate representative.
- (c) When a Shareholder appoints two proxies the appointment must specify the proportion of the Shareholder's voting rights which each proxy is entitled to represent.
- (d) Where a person is entitled to vote in more than one capacity (representative or proxy) in respect of the same share, that person is only entitled to one vote.
- (e) A Shareholder is not entitled to vote at a general meeting in respect of shares on which any calls or other sums presently payable are unpaid.

49. Jointly held shares

- (a) Any one of the joint holders may vote at any meeting of the company either personally or by a properly authorised representative, or proxy in respect of the shares as if that joint holder was solely entitled to the shares.
- (b) If a share is held jointly and more than one Shareholder votes in respect of that share, only the vote of the Shareholder whose name appears first in the Register counts.
- (c) Clause (a) applies whether the vote is cast in person or by proxy.
- (d) Several executors or administrators of a deceased Shareholder are treated, for the purposes of clause (a), as joint holders.

50. Objections to right to vote

- (a) A challenge to a right to vote at a meeting of Shareholders:
 - (i) may only be made at the meeting; and
 - (ii) must be determined by the chairperson, whose decision is final.
- (b) A vote not disallowed following the challenge is valid for all purposes.

51. Votes need not all be cast in the same way

- (a) On a poll a person voting who is entitled to two or more votes:
 - (i) need not cast all the votes; and
 - (ii) may cast the votes in different ways.

52. How voting is carried out

- (a) A resolution put to the vote at a meeting of the Company's Shareholders must be decided on a show of hands unless a poll is demanded.
- (b) On a show of hands, a declaration by the chairperson is conclusive evidence of the result. Neither the chairperson nor the minutes need to state the number or proportion of the votes recorded in favour or against.
- (c) Unless otherwise required by this constitution or, the Act, all resolutions of the Company are ordinary resolutions which are resolutions passed by more than 50% of the votes cast by Shareholders entitled to vote on the resolutions.

53. Matters on which a poll may be demanded

- (a) A poll may be demanded on any resolution.
- (b) A demand for a poll may be withdrawn.

54. When a poll is effectively demanded

- (a) At a meeting of the Company's Shareholders, a poll may be demanded by:
 - (i) at least five Shareholders entitled to vote on the resolution;
 - (ii) a Shareholder or Shareholders with at least 5% of the votes that may be cast on the resolution on a poll; or
 - (iii) the chairperson.
- (b) The poll may be demanded:

- (i) before a vote is taken;
 - (ii) before the voting results on a show of hands are declared; or
 - (iii) immediately after the voting results on a show of hands are declared.
- (c) The percentage of votes that Shareholders have is to be worked out as at midnight before the poll is demanded.

55. When and how polls must be taken

- (a) A poll demanded on a matter other than the election of a chairperson or the question of an adjournment must be taken when and in the manner the chairperson directs.
- (b) A poll on the election of a chairperson or on the question of an adjournment must be taken immediately.
- (c) The demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.
- (d) The result of the poll is the resolution of the meeting at which the poll was demanded.

56. Chairperson's casting vote

- (a) In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting does not have a casting vote.

57. Voting rights of persons entitled under transmission clause

- (a) A person entitled under the transmission clause 20 to any shares may not vote at a meeting or adjourned meeting in respect of the shares unless:
 - (i) 48 hours at least before the time of holding the meeting or adjourned meeting there is lodged at the registered office of the Company documentation of entitlement which satisfies the chairperson of the meeting or adjourned meeting of the entitlement; or
 - (ii) the directors have previously admitted the person's right to vote at the meeting in respect of the shares.

58. Resolutions proposed by Shareholders

- (a) A Shareholder may not at any meeting move any resolution relating to special business unless:
 - (i) Shareholders with at least 5% of the votes that may be cast on the resolution have given the Company notice of the resolution or the requirements of section 249N of the Act have otherwise been satisfied, and two months has elapsed since the notice was given; or
 - (ii) the resolution has previously been approved by the directors.

59. Number of directors

- (a) The minimum number of directors is set out in Schedule 1.
- (b) The maximum number of directors is set out in Schedule 1.

60. Directors' qualifications

- (a) The share qualification for directors is set out in Schedule 1.

61. Appointment of directors

- (a) Directors may be appointed in accordance with Schedule 1 or;
- (b) The Company in general meeting may by resolution and the directors may at any time appoint a person qualified to be a director, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors does not at any time exceed the number fixed in accordance with this constitution.

62. Time appointment or retirement takes effect

- (a) Directors who are appointed at a meeting of Shareholders take office immediately after the end of the meeting.
- (b) Directors who retire at a meeting of Shareholders continue to hold office until the end of the meeting.

63. Insufficient directors

- (a) In the event of a vacancy in the office of a director, the remaining directors may act, but if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, they may act only for the purpose of increasing the number of directors to a number sufficient to constitute a quorum or convening a general meeting of the Company.

64. Appointment

- (a) Subject to the Schedule 1, a director may appoint any person approved by a majority of the other directors to act as an alternate director in place of the appointing director for a meeting or for a specified period.
- (b) A Managing Director may not appoint an alternate to act as Managing Director.
- (c) An alternate director is not required to have any share qualification.
- (d) An alternate director is not taken into account for the purpose of the Minimum and Maximum number of Directors.

65. Rights and powers of alternate director

- (a) An alternate director is entitled to notice of meetings of the directors and, if the appointing director is not present at a meeting, is entitled to attend and vote in his or her stead.
- (b) Subject to the Act, an alternate director is entitled to a separate vote for each director that the alternate director represents in addition to any vote the alternate director may have as a director in his or her own right.
- (c) An alternate director, when acting as a director, is responsible to the Company for his or her own acts and defaults and is not to be taken as the agent of the director by whom he or she was appointed.

66. Suspension or revocation of appointment

- (a) A director may suspend or revoke the appointment of an alternate director appointed by him or her.
- (b) The directors may suspend or remove an alternate director by resolution after giving the appointing director reasonable notice of their intention to do so.

67. Form of appointment, suspension or revocation

- (a) An appointment, suspension or revocation of Directorship takes effect only when the Company has received notice in writing of the appointment, suspension or revocation.

68. Termination of appointment

- (a) The appointment of an alternate director automatically terminates:
 - (i) if the appointing director ceases to hold office as director;
 - (ii) on the happening in respect of the alternate director of any event which causes a director to vacate the office of director; or
 - (iii) if the alternate director resigns from the appointment by written notice left at the registered office of the Company.

69. Power to act as an alternate for more than one director

- (a) A director or any other person may act as alternate director to represent more than one director.
- (b) Subject to the Act, notwithstanding clause (a), in determining whether a quorum is present at a meeting of directors, an alternate director who attends the meeting is only to be counted once as a director.

70. Validation of acts of directors and secretaries

- (a) An act done by a director or secretary of the Company is effective even if his or her appointment, or the continuance of his or her appointment is invalid because the Company, the director or secretary did not comply with this constitution or any provision of the Act.
- (b) Clause (a) does not deal with the question whether an effective act by a director or secretary:
 - (i) binds the Company in its dealings with other people; or
 - (ii) makes the Company liable to another person.

71. General business management

- (a) The business of the Company is to be managed by or under the direction of the directors.
- (b) The directors may exercise all the powers of the Company except any powers that the Act, this constitution requires the Company to exercise in general meeting or with the prior written consent of certain Shareholders.
- (c) A clause made or resolution passed by the Company in general meeting does not invalidate any prior act of the directors which would have been valid if that clause or resolution had not been made or passed.
- (d) The directors may pay all expenses incurred in promoting and forming the Company.

72. Borrowing powers

- (a) Without limiting the generality of clause 71, the directors may exercise all the powers of the Company to borrow money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability, or obligation of the Company or of any other person.
- (b) Debentures or other securities may be issued on the terms and at prices decided by the directors, including bearing interest or not, with rights to subscribe for, or exchange into, shares or other securities in the Company or a related body corporate or with special privileges as to redemption, participating in share issues, attending, and voting at general meetings and appointing directors.

73. Appointment of attorney

- (a) The directors may appoint any person or persons to be the attorney or attorneys of the Company for the purposes, with the powers and discretions (being powers and discretions vested in or exercisable by the directors), for the period and subject to the conditions they see fit.
- (b) A power of attorney may contain the provisions for the protection and convenience of persons dealing with the attorney that the directors see fit and may also authorise the attorney to delegate all or any of the powers and discretions vested in the attorney.

74. Negotiable instruments

- (a) Any 2 directors, may sign, draw, accept, endorse or otherwise execute a negotiable instrument.
- (b) The directors may determine that a negotiable instrument, including a class of negotiable instrument, may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

75. Delegation

- (a) The directors may delegate any of their powers to:
 - (i) a committee of directors;
 - (ii) a director;
 - (iii) an employee of the Company; or
 - (iv) any other person,and may revoke the delegation.
- (b) The delegate must exercise the powers delegated in accordance with any directions of the directors.
- (c) The exercise of the power by the delegate is as effective as if the directors had exercised it.
- (d) The delegate has no power to delegate further.

76. Committee of directors

- (a) The meetings and proceedings of any committee of directors consisting of two or more Shareholders are governed by the provisions in this constitution regulating the meetings and proceedings of the directors.
- (b) The directors may establish local boards or agencies for managing any of the affairs of the Company in any specified locality and may appoint any persons to

be Shareholders of the local board or any managers or agents and may fix their remuneration.

- (c) In the exercise of delegated powers, any committee formed, or person or persons appointed to the committee must conform to any regulations that may be imposed by the directors.
- (d) A delegate appointed by the directors may be authorised to sub delegate any of the powers vested in them.

77. Power to appoint Managing Director

- (a) The directors may appoint one or more of themselves to the office of Managing Director for the period, and on the terms (including as to remuneration), the directors see fit.
- (b) If there is more than one Managing Director in office, the Managing Directors hold office jointly.

78. Qualifications

- (a) A person ceases to be Managing Director if he or she ceases to be a director.

79. Powers

- (a) The directors may, upon terms and conditions and with any restrictions they see fit, confer on a Managing Director any of the powers that the directors can exercise.
- (b) Any powers so conferred may be concurrent with, or to the exclusion of, the powers of the directors.

80. Withdrawal of appointment or powers

- (a) The directors may revoke or vary:
 - (i) an appointment; or
 - (ii) any of the powers conferred on the Managing Director.

81. Temporary appointments

- (a) If a Managing Director becomes incapable of acting in that capacity, the directors may appoint another director to act temporarily as Managing Director.

82. Removal of directors

- (a) Subject to Schedule 1, the Company may by resolution remove a director from office.
- (b) Subject to Schedule 1, Shareholders holding shares which give them the right to a majority of votes at a general meeting may at any time by instrument in writing remove a director from office and appoint a person to be a director either in place of a director so removed or to fill a casual vacancy, or as an addition to the board of directors (but so that the total number of directors does not exceed the number fixed in accordance with this constitution).
- (c) A removal or appointment under clause (b) takes effect immediately on the delivery of the instrument of removal or appointment at the registered office of the Company. The instrument may be delivered by facsimile, but in that case, it is not treated as delivered unless the facsimile is received at the registered office in a reasonably legible form.

83. Resignation of director

- (a) A director may resign as a director of the Company by giving a written notice of resignation to the Company at its registered office.

84. Vacation of office of director

- (a) In addition to any other circumstances in which the office of a director becomes vacant under the Act, the office of a director becomes vacant if the director:
 - (i) becomes bankrupt or suspends payment or compounds with his or her creditors;
 - (ii) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (iii) is not present (either personally or by an alternate director) at three consecutive meetings of directors without special leave of absence from the directors and the directors declare his or her seat to be vacant;
 - (iv) ceases to be qualified as a director under clause 60;
 - (v) fails to pay any call due on any shares held by him or her for one month or any further time the directors allow after the call is made;
 - (vi) becomes disqualified from being a director under the Act or any order made under the Act;
 - (vii) is removed from office in accordance with clause 82; or
 - (viii) resigns from office in accordance with clause 83 (a).

85. Director to disclose interests

- (a) A director who has a material personal interest in a matter that relates to the affairs of the Company must give the other directors notice of the interest as soon as practicable after the director becomes aware of his or her interest in the matter and in the manner required by section 191(3) of the Act.
- (b) The requirements of clause (a) are subject to the limitations and qualifications set out in section 191 of the Act.

86. Effect of interest in contract

- (a) Subject to the Act, if a director has a material personal interest in a matter that relates to the affairs of the Company and:
 - (i) the director discloses the nature and extent of the interest and its relation to the affairs of the Company at a meeting of the directors; or
 - (ii) the interest is one that does not need to be disclosed under the Act, then:
 - (iii) the director may vote on matters that relate to the interest;
 - (iv) any transactions that relate to the interest may proceed;
 - (v) the director may retain benefits under the transaction even though the director has the interest; and
 - (vi) the Company cannot avoid the transaction merely because of the existence of the interest.

If disclosure is required under clauses 85; 86 (a) (v) and 86 (a) (vi) apply only if the disclosure is made before the transaction is entered into.

87. Standing notice of interest

- (a) A director who has an interest in a matter may give the other directors standing notice of the nature and extent of the interest in the matter. The notice may be given at any time and whether or not the matter relates to the affairs of the Company at the time the notice is given.
- (b) A notice under clause (a) may be given:
 - (i) at a directors' meeting (either orally or in writing); or
 - (ii) to the other directors individually in writing.
- (c) If the standing notice is given to the other directors individually in writing:
 - (i) the notice is effective when it has been given to every director; and
 - (ii) the notice must be tabled at the next directors' meeting after it is given.
- (d) The director must ensure that the nature and extent of the interest is recorded in the minutes of the meeting at which the standing notice is given or tabled.

88. Other interests

- (a) Without limiting clause 85 or, clause 86, a director may to the extent permitted by the Act:
 - (i) hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with the office of director;
 - (ii) enter into any contract with the Company giving the director an option to take up shares in the Company; and
 - (iii) be interested in any operation, undertaking or business undertaken or assisted by the Company or in which the Company is or may be interested.

89. Extension of meaning of "Company"

- (a) For the purposes of clauses 85, 86 and 87 **Company** includes any subsidiary of the Company and any other company in which the Company or any subsidiary of the Company is or becomes a Shareholder or is otherwise interested.

90. Other directorships and shareholdings

- (a) A director of the Company may be or become a director, officer, employee or Shareholder of any company promoted by the Company or in which the Company may be interested as a vendor, Shareholder or otherwise and is not accountable for any remuneration or benefits received as a director, officer, employee or Shareholder of the other company.
- (b) Subject to the Act:
 - (i) the directors of the Company may exercise the voting power conferred by the shares or other interest held by the Company in another company in favour of a resolution appointing themselves or any of them as directors or other officers of the other company;
 - (ii) any director of the Company may vote at a meeting of directors of the Company in favour of a resolution that the Company exercises its voting power conferred by the shares or other interest held by the Company in the other company to appoint that director as a director or other officer of the other company;

- (iii) any director of the Company may be appointed as representative of the Company and may vote at a general meeting of the other company in favour of a resolution appointing that director as a director or other officer of the other company; and
- (iv) a director of the Company who is also a director of the other company may vote as a director of the other company in whatever manner he or she sees fit, including voting in favour of a resolution appointing the director to any other office in the other company and a resolution appointing any other directors of the Company as directors or other officers of the other company.

91. Wholly owned subsidiary

- (a) Subject to the Act, if the Company is a wholly owned subsidiary of another body corporate, a director must act in the best interests of the other body corporate.

92. Circulating resolutions in directors' meetings

- (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) Separate copies of a document may be used for signing by directors if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last director signs.
- (d) In this clause a reference to all directors does not include a reference to an alternate director whose appointor has signed the document, but an alternate director may sign the document in the place of his or her appointor.

93. Meetings of directors

- (a) The directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they see fit.

94. Calling directors' meetings

- (a) A director may at any time, and a secretary must on the requisition of a director, call a meeting of the directors.

95. Notice of meeting

- (a) Reasonable notice of every directors' meeting must be given to each director and alternate director as determined by board policy from time to time.

96. Waiver of notice

- (a) All resolutions of the directors passed at a meeting where a quorum is present but where notice of meeting has not been given to each director, or any act carried out under any of the resolutions, is as valid as if notice of meeting had been given to all directors if each director to whom notice was not given subsequently agrees to waive the notice.

97. Technology meeting of directors

- (a) A directors' meeting may be held using telephone or, if consented to by all directors, other technology. The consent may be a standing one. A director may only withdraw the consent within a reasonable period before the meeting.
- (b) If a directors' meeting is held using any technology and all the directors take part in the meeting, they must be treated as having consented to the use of the technology for that meeting.
- (c) The following provisions apply to a technology meeting:
 - (i) each of the directors taking part in the meeting must be able to hear and be heard by each of the other directors taking part in the meeting; and
 - (ii) at the commencement of the meeting each director must announce his or her presence to all the other directors taking part in the meeting.
- (d) If the secretary is not present at a technology meeting or the Company does not have a secretary one of the directors present or another person nominated by them present at the meeting must take minutes of the meeting.
- (e) A director may not leave a technology meeting by disconnecting his or her link to the meeting unless that director has previously notified the chairperson of the meeting.
- (f) A director is conclusively presumed to have been present and to have formed part of a quorum at all times during a technology meeting unless that director has previously obtained the express consent of the chairperson to leave the meeting.

98. Chairperson at directors' meetings

- (a) The directors may from time to time, by simple majority resolution, appoint a director as the chairperson and may remove from office any person so appointed and appoint another director as the chairperson in their place.
- (b) If the directors have appointed one of their number as chair of their meetings, the person appointed presides as chairperson at every directors' meeting.
- (c) Where a meeting is held and:
 - (i) a chairperson has not been appointed as referred to in (a) or
 - (ii) the chairperson is not present within 30 minutes after the time appointed for the holding of the meeting or is unwilling to act,

the directors present may appoint one of their number to be chair of the meeting and in default of their doing so the Shareholders present must appoint another director or if no director is present or willing to act then the Shareholders present may appoint any one of their number to be chairperson of the meeting.

99. Quorum

- (a) A quorum for a meeting of the directors is two Directors. The quorum must be present at all times during the meeting.
- (b) An alternate director is counted in a quorum at a meeting at which the director who appointed the alternate is not present (so long as the alternate is, under the law relating to directors' interests and the Act generally, entitled to vote).

100. Passing of directors' resolutions

- (a) A resolution of the directors must be passed by a majority of the votes cast by directors entitled to vote on the resolution.
- (b) The chairperson does not have a casting vote in addition to any vote he or she has as a director.
- (c) A person who is an alternate director is entitled (in addition to his or her own vote if he or she is a director) to one vote on behalf of each director whom he or she represents as an alternate director at the meeting and who is not present at the meeting.

101. Restriction on voting

- (a) A director is not entitled to be present in person or by an alternate director or to vote at a meeting of directors or to be counted in a quorum if and so long as he or she has failed to pay any call to the Company on shares held by him or her after the date upon which the payment should have been made.

102. Payment of remuneration of directors

- (a) The directors are to be paid the remuneration that the Company determines by resolution.
- (b) The Company determines by resolution only the total remuneration to be paid to the directors, and the directors determine how the total remuneration is divided among them.
- (c) The remuneration of directors accrues daily.
- (d) The directors determine the remuneration to be paid to a Managing Director and any other executive director, and this is not included in the total remuneration to be paid to the non executive directors referred to in clause 102 (b).
- (e) The expression "remuneration" in clause 102 (a) does not include any amount which may be paid by the Company under clauses 103, 105, 107, 108 or 122.

103. Payment of expenses

- (a) The Company may also pay the directors' travelling and other expenses that they properly incur:
 - (i) in attending directors' meetings or any meetings of committees of directors;
 - (ii) in attending any general meetings of the Company; and
 - (iii) in connection with the Company's business.

104. Information about directors' remuneration

- (a) If required by the Act, the Company must comply with a direction by the Shareholders to disclose the remuneration paid to each director by the Company (whether paid to the director in his or her capacity as a director or another capacity).

105. Payment for extra services

- (a) Subject to the Act, any director called upon to:
 - (i) perform extra services; or
 - (ii) undertake any executive or other work for the Company beyond his or her general duties,may be remunerated either by a fixed sum or a salary as determined by the directors.
- (b) Remuneration under clause 105 (a) may be either in addition to or in substitution for the director's share in the remuneration provided by clause 102.

106. Cancellation, suspension, reduction or postponement

- (a) The Company may by resolution cancel, suspend, reduce or postpone payment of any remuneration of any director.

107. Effect of cessation of office

- (a) The directors may:
 - (i) upon a director ceasing to hold office; or
 - (ii) at any time after a director ceases to hold office, whether by retirement or otherwise, pay to:
 - (iii) the former director; or
 - (iv) any of the legal personal representatives or dependants of the former director in the case of death,a lump sum in respect of past services of the director of an amount not exceeding the amount permitted by the Act, without recourse to a general meeting.
- (b) The Company may contract with any director to secure payment of the lump sum to the director, his or her legal personal representatives or dependants or any of them, unless prohibited by the Act.
- (c) A determination made by the directors in good faith that a person is or was at the time of the death of a director a dependent of the director is conclusive for all purposes of clause (a).

108. Payment of superannuation contributions

- (a) The Company may also pay the directors superannuation contributions of an amount necessary to meet the minimum level of superannuation contributions required under any applicable legislation to avoid any penalty, charge, tax or impost.

109. Loans to directors

- (a) Subject to the Act and the provisions of this constitution dealing with loans to Shareholders, the Company may make loans to directors or provide guarantees or security for obligations undertaken by directors.

110. Appointment of secretary

- (a) If the directors appoint a secretary, it must be in accordance with the Act.
- (b) The directors may appoint a person as an acting secretary or as a temporary substitute for a secretary.

111. Terms of office of secretary

- (a) A secretary of the Company holds office on the terms and conditions (including as to remuneration) that the directors determine.

112. Payment of dividends

- (a) The directors may pay dividends (both interim and final) and may fix:
 - (i) the amount;
 - (ii) the time for payment; and
 - (iii) the method of payment.
- (b) Interest is not payable on a dividend.

113. Change decision to pay dividend

- (a) The directors may amend or revoke a decision by them to pay a dividend, at any time before the time fixed for payment arrives.

114. Power to employ reserves

- (a) The directors may, before recommending or deciding to pay any dividend, set aside out of the profits of the Company those sums they think proper as reserves, to be applied, at the discretion of the directors, for any purpose to which the profits of the Company may be properly applied.
- (b) Pending the application of reserves under clause (a), the reserves may, at the discretion of the directors, be used in the business of the Company or be invested as the directors see 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.

115. Crediting of dividends

- (a) Subject to the rights of persons (if any) entitled to shares with special rights as to dividend and to this clause, all dividends are apportioned and paid equally on each share.
- (b) If a share is issued on terms that it will rank for dividend as from a particular date, that share ranks for dividend only from that date.
- (c) Despite any other provision of this clause, the holder of a partly paid share is not entitled to a greater proportion of the dividend than the proportion which the amount paid (not credited) is of the total amounts paid and payable (excluding amounts credited). Amounts paid in advance of a call are ignored when calculating the proportion.

116. Dividends where different classes of shares

- (a) If there is more than one class of shares, any dividend whether interim or otherwise may be paid on the shares of any one or more class or classes to the exclusion of the shares of any other class or classes.
- (b) If dividends are to be paid on more than one class, the dividend on the shares of one class may be at a higher or lower rate than one at the same rate as the dividend on the shares of another class, but the shares within each class must share equally in any dividend in respect of that class.

- (c) An objection may not be raised to any resolution which:
 - (i) determines a higher rate of dividend on the shares of any class than the dividend determined on the shares of any other class; or
 - (ii) determines a dividend on the shares of any class to the exclusion of the shares of any other class, on the ground that:
 - (iii) the resolution was passed by the votes of the holders of the shares of a class to receive the higher rate of dividend or to receive the dividend (as the case may be); and
 - (iv) the resolution was opposed by the holders of the shares of a class to receive the lower rate of dividend or to be excluded (as the case may be).

117. Deductions from dividends

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

118. Unclaimed dividends

- (a) Unclaimed dividends may be invested or otherwise made use of by the directors for the benefit of the Company until claimed.

119. Entitlement to dividends

- (a) Unless otherwise specified in the decision to pay a dividend, all dividends are payable to the Shareholders on the Register on the date fixed for payment.

120. Payment of dividends on transmission

- (a) The directors may retain the dividends or bonuses payable on any share to which Transmission of Shares applies until the person entitled to elect to be registered as holder of the share or to transfer the share does so.

121. Indemnity

- (a) To the extent permitted by the Act, the Company indemnifies:
 - (i) every person who is or has been an officer of the Company; and
 - (ii) where the board of directors considers it appropriate to do so, any person who is or has been an officer of a related body corporate of the Company, against all losses, liabilities, costs, charges and expenses incurred by that person in his or her capacity as an officer of the Company or of the related body corporate (as the case may be). This indemnity includes:
 - (a) a liability for negligence; and
 - (b) a liability for reasonable legal costs on a solicitor client basis including in respect of civil or criminal proceedings except to the extent prohibited by section 199A(3) of the Act.
- (b) The indemnity does not extend to and is not an indemnity against any amount in respect of which the indemnity would otherwise be illegal, void or unenforceable or not permitted by law and does not operate in respect of any liability of the officer to the extent that liability is covered by insurance.

- (c) In accordance with section 199A of the Act, the Company must not indemnify a person against:
- (i) any of the following liabilities incurred as an officer of the Company:
 - (a) a liability owed to the Company or a related body corporate;
 - (b) a liability for a pecuniary penalty order under section 1317G of the Act or a compensation order under sections 961M, 1317H, 1317HA or 1317HB of the Act; or
 - (c) a liability that is owed to someone other than the Company or a related body corporate and did not arise out of conduct in good faith; or
 - (ii) legal costs incurred in defending an action for a liability incurred as an officer of the Company if the costs are incurred:
 - (a) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified;
 - (b) in defending or resisting criminal proceedings in which the person is found guilty;
 - (c) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for the court order are found by the court to have been established; or
 - (d) in connection with proceedings for relief to the person under the Act, in which the Court denies the relief.

Clause 121 (c) (ii) (c) does not apply to costs incurred in responding to actions taken by the Australian Securities and Investments Commission or a liquidator as part of an investigation before commencing proceedings for a court order.
 - (iii) For the purposes of clause 121 (c) (ii) the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.
- (d) An officer must:
- (i) give notice to the Company promptly on becoming aware of any Claim against the officer that may give rise to a right to be indemnified by the Company;
 - (ii) take such action as the Company reasonably requests to avoid, dispute, resist, appeal against, compromise or defend any Claim or any adjudication of a Claim;
 - (iii) not make any admission of liability in respect of or settle any Claim without the prior written consent of the Company;
 - (iv) allow the Company or its insurers to assume the conduct, negotiation or defence of any Claim and, on request by the Company, render all reasonable assistance and cooperation to the Company or its insurers in the conduct of any Claim, including giving the Company or its insurers any document, authority or direction that the Company or its insurers may reasonably require for the prosecution or advancement of any counterclaim or crossclaim;
 - (v) on request by the Company or its insurers, do everything necessary or desirable which the Company reasonably requests to enable the Company or its insurers (so far as it is possible) to be subrogated to and enjoy the benefits

of the officer's rights in relation to any counterclaim or crossclaim or any claims against any third party and render such assistance as may be reasonably requested by the Company or its insurers for that purpose; and

- (vi) notify any Claim to an insurer or any other person who may be liable to indemnify the officer in respect of that Claim and promptly take all reasonable steps to enforce all the officer's rights against the insurer or other person.
- (e) In clause 121 (d) **Claim** means:
 - (i) any writ, summons, crossclaim, counterclaim, application or other originating legal or arbitral process against an officer as an officer of the Company;
 - (ii) any hearing, complaint, inquiry, investigation, proceeding or application commenced or originating against an officer as an officer of the Company; or
 - (iii) any written or oral demand or threat that might result in the officer reasonably believing that any such process, hearing, complaint, inquiry, investigation, proceeding or application referred to in clauses (e)(i) or (e)(ii) may be initiated.
- (f) If an officer of the Company becomes personally liable for the payment of any sum primarily due from the Company, and the officer may be indemnified under clause (a) the directors may, despite the interest (if any) of the directors or any of them, execute or cause to be executed a mortgage, charge or security over or affecting the whole or any part of the assets or undertaking of the Company by way of indemnity to secure the officer so becoming liable from any loss in respect of that liability.

122. Insurance

- (a) The Company may pay or agree to pay a premium in respect of a contract insuring a person who is or has been an officer of the Company or a related body corporate of the Company against any liability incurred by the person as an officer of the Company or a related body corporate except a liability (other than one for legal costs) arising out of:
 - (i) conduct involving a wilful breach of duty in relation to the Company; or
 - (ii) a contravention of section 182 or 183 of the Act.

123. Director voting on contract of indemnity or insurance

- (a) Despite anything in this constitution, a director is not precluded from voting in respect of any contract or proposed contract of indemnity or insurance merely because the contract indemnifies or insures or would indemnify or insure the director against a liability incurred by the director as an officer of the Company or of a related body corporate.

124. Liability

- (a) An officer of the Company is not liable for the act, neglect or default of any other officer or for joining in any act or for any other loss, expense or damage which arises in the execution of the duties of his or her office unless it arises through his or her own negligence, default, breach of duty or breach of trust.

125. Meaning of "officer"

- (a) For the purposes of clauses 121, 122, 123 and 124, **officer** means a director or secretary, or a Shareholder of a local board or agency appointed under Committee of Directors.

126. Shareholders' rights on distribution of assets

- (a) If the Company is wound up, the liquidator may, with the sanction of a special resolution, divide among the Shareholders in kind the whole or any part of the property of the Company and may for that purpose set the value the liquidator considers fair upon any property to be so divided and may determine how the division is to be carried out as between the Shareholders or different classes of Shareholders. This division need not be in accordance with the legal rights of the Shareholders, and in particular, any class may be given preferential or special rights or may be excluded altogether or in part.
- (b) The liquidator may, with the sanction of a special resolution, vest the whole or any part of the property referred to in (a) in trustees upon trusts for the benefit of the contributories that the liquidator sees fit, but so that no Shareholder is compelled to accept any shares or other securities on which there is any liability.

127. Minutes to be kept

- (a) The directors must keep minute books in which they record within one month:
 - (i) proceedings and resolutions of meetings of the Company's Shareholders;
 - (ii) proceedings and resolutions of directors' meetings (including meetings of a committee of directors);
- (b) The directors must ensure that minutes of a meeting are signed within a reasonable time after the meeting by one of the following:
 - (i) the chairperson of the meeting; or
 - (ii) the chairperson of the next meeting.
- (c) The directors must ensure that minutes of the passing of a resolution without a meeting are signed by a director within a reasonable time after the resolution is passed.
- (d) Without limiting (a), the directors must record in the minute books:
 - (i) all appointments of officers;
 - (ii) the names of the directors and alternate directors present at all meetings of directors and the Company;
 - (iii) in the case of a technology meeting, the method by which the meeting was held;
 - (iv) all orders, resolutions and proceedings of general meetings and of meetings of the directors and of committees formed by the directors;
 - (v) proxy votes exercisable and exercised in respect of each resolution at a meeting; and
 - (vi) all other matters required by the Act to be recorded in the minute books, including each notice and standing notice given by a director of a material personal interest in a matter that relates to the affairs of the Company.

128. Rights of inspection

- (a) The directors of the Company, or the Company by a resolution passed at a general meeting, may authorise a Shareholder to inspect books of the Company.

- (b) A Shareholder other than a director does not have the right to inspect any document of the Company, other than the minute books for the meetings of its Shareholders except as provided by law or authorised by the directors or by the Company in general meeting.
- (c) Directors have the rights of inspection and access provided by section 198F of the Act.

129. Confidential information

- (a) Except as provided by the Act, no Shareholder (not being a director) is entitled to require or receive any information concerning the business, trading or customers of the Company or any trade secret, secret process or other confidential information of or used by the Company.

130. Common seal

- (a) The Company may, but need not, have a common seal.

131. Share seal

- (a) The Company may have a duplicate common seal. It must be a copy of the common seal with the words **duplicate seal, share seal** or certificate seal added.

132. Use of common seal

- (a) If the Company has a common seal the directors must provide for its safe custody.
- (b) The common seal must not be fixed to any document except by the authority of a resolution of the directors or of a committee of the directors duly authorised by the directors.
- (c) The Company executes a document with its common seal if the fixing of the seal is witnessed by:
 - (i) 2 directors of the Company;
 - (ii) a director and a company secretary of the Company;

133. Execution of documents without common seal

- (a) The Company may execute a document without using a common seal if the document is signed by:
 - (i) 2 directors of the Company;
 - (ii) a director and a company secretary of the Company;

134. Notices other than notices of meeting

- (a) Subject to Schedule 1, any notice by the Company to a Shareholder, including a notice in connection with a call or forfeiture, may be given in the same way as a notice of meeting may be given under clause 28, and the time the notice is taken to be given is the same as provided in the case of a notice of meeting by clause 29
- (b) The references in clause 27 (a) to notices to persons entitled to a share in consequence of the death or bankruptcy of a Shareholder, and in clause 12 (a) (v) to notices to joint holders of a share apply to any notice given by the Company.

135. Formalities omitted

- (a) If some formality required by this constitution is inadvertently omitted or is not carried out, the omission does not invalidate anything, including any resolution, which but for the omission would have been valid unless it is proved to the satisfaction of the directors that the omission has directly prejudiced any Shareholder financially. The decision of the directors is final and binding on all Shareholders.

SCHEDULE 1: Shareholder Matters

BACKGROUND

This schedule sets out with more specificity how the affairs of the Company will be conducted.

OPERATIVE PARTS

1. Board of Directors

1.1 Number of Directors

The Directors will consist of no more than seven directors (excluding alternative Directors) and must have at least two directors while the Company is making a CSF Offer or has one or more CSF Shareholders. Of those directors:

- (a) if there are only two of them – at least one must ordinarily reside in Australia; or
- (b) otherwise – a majority of them must ordinarily reside in Australia.

1.2 Appointment and removal of Director by other Shareholders

- (a) The Founders or Founder Entities (as applicable) may appoint 2 Directors for so long as they hold 10% or more of the Shares in aggregate.
- (b) The Founders or Founder Entities (as applicable) maintains the right to appoint 1 Director as long as they remain a Shareholder of the Company.
- (c) Shareholders may appoint 1 Director for so long as they hold 10% or more of the Shares in aggregate.
- (d) A Shareholder entitled to appoint a Director under this clause may remove and replace that Director by notice in writing to the Company.

1.3 Removal of Directors

A Shareholder that has appointed a Director under clause 1.2 must remove that Director from the Board by giving written notice to the Company and must ensure that the Director resigns as a director of all relevant Group Companies and committees of the Board, if:

- (a) at any time that Shareholder does not meet the requisite Share Qualification for the appointment of the relevant Director; or
- (b) the Director:
 - (i) becomes incapable of managing his or her own affairs due to a medical or mental condition (as evidenced by a certificate to that effect by a qualified medical practitioner); or
 - (ii) is precluded from taking part in the management of a corporation under the provisions of Part 2D of the Corporations Act.

1.4 Notice of appointment or removal

- (a) Following service of a notice in accordance with clause 1.2(c) of this Schedule, the appointment of the relevant Director takes effect when his or her written consent to act as a Director is received at the registered office of the Company.
- (b) The removal of a Director takes effect when the written notice of removal under clause 1.2(c) of this Schedule, or the Director's resignation letter, is received at the registered office of the Company

2. Management and decision making

2.1 Overall direction of the Company

The Board must decide all matters concerning the overall direction and management of the Company and the Group and the formulation of the policies to be applied in the conduct of the Business.

2.2 Board decisions by Required Resolution

The Company must not make, and must ensure that no Subsidiary makes, any decision covering a matter listed in Part A of Schedule 3 without the approval of the Board by Required Resolution.

2.3 Shareholder decisions by Special Resolution

The Company must not make, and must ensure that no Subsidiary makes, any decision covering a matter listed in Part B of Schedule 3 without the approval of the Shareholders by Special Resolution.

3. General restrictions on Disposal and Issue

3.1 General restriction on Security Interests

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

3.2 Deed of Accession

Any Disposal or issue of Securities to any person who is not a Shareholder must be conditional on the person agreeing to bound by this Constitution and each Shareholder agrees that on the Disposal of their shares the obligations under clauses 11 (non-competition), 12 (confidentiality), and 14 (Goods and Services Tax) of this Schedule continue in force.

4. Pre-emptive rights on issue of Securities

4.1 Excluded issues

This clause 4 does not apply to any Excluded Issue.

4.2 Subject to clause 4.1,

before issuing shares of a particular class, the Directors must offer them to the following holders of shares of that class:

- (a) Holders of shares prior to 4 April 2024 (including Founder Shareholders); and

- (b) Any holder of at least 5% of the total number of shares on issue in that class.

As far as practicable, the number of shares offered to each shareholder must be in proportion to the number of shares of that class that the shareholder already holds.

4.3 Offer

The Company must offer each Shareholder referred to in 4.2 (a) and (b) of this Schedule 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; and
- (c) the date on which subscription monies for the Issue Securities must be paid to the Company.

4.4 Acceptance

A Shareholder referred to in 4.2 (a) and (b) of this Schedule 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 of the number of Issue Securities it is willing to subscribe for (Issue Acceptance).

4.5 Allocation

- (a) If the aggregate Issue Acceptances received by the Board in accordance with clause 4.4 is less than the total number of Issue Securities, each Accepting Subscriber's allocation of Issue Securities (Allocation) is the amount of Issue Securities set out in its Issue Acceptance.
- (b) If the aggregate Issue Acceptances received by the Board in accordance with clause 4.4 is greater than the total number of Issue Securities, each Accepting Subscriber's Allocation is the lesser of:
 - (i) its Issue Acceptance; and
 - (ii) the relevant Accepting Subscriber's Respective Proportion of the Issue Securities.
- (c) Any Issue Securities which remain unallocated must be re-offered to those remaining Accepting Subscribers who in their Issue Acceptance specified a number of Issue Securities greater than their Respective Proportion of the Issue Securities and this process will be repeated until every Accepting Subscriber offered Issue Securities under this clause has rejected the offer.
- (d) The Directors may issue any shares not taken up under the offer under clause 4.2 as they decide, provided the terms of issue are no more favourable than those offered under clause 4.2.

4.6 Notice of Allocation

As soon as reasonably practicable after the determination of the entitlements of each Shareholder in accordance with clause 4.4 and subsequently 4.5 (d) of this Schedule the Company must give each Accepting Subscriber a notice setting out its Allocation and the time and place for completion of the issue of the Issue Securities.

4.7 Completion

- (a) On the date that is 10 Business Days after the Company notifies the Accepting Subscribers of the Allocations under clause 4.5 of this Schedule, 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, the respective Allocation on the terms set out in the Issue Notice;
 - (ii) each Accepting Subscriber must pay the subscription price for its Allocation to the Company; and
 - (iii) the Company must:
 - (A) register the issue of the Allocation and enter each Accepting Subscriber in the Company's register of Shareholders 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 the Issue Securities when due, such Issue Securities will be treated as Remaining Securities (as that term is defined in clause 4.7 of this Schedule) and may be issued by the Company in accordance with clause 4.7 of this Schedule.

4.8 Issue to Third Parties

- (a) After the procedures set out in this clause 4 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 parties selected by the Board, on terms no more favourable to that party than those offered to the Shareholders.
- (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 Securities without complying again with this clause.

5. Share plan

The Shareholders agree that:

- (a) at any time, the Board may establish a formal written employee incentive plan to issue Securities to eligible service providers (whether Directors, employees or contractors) that results in the issue of that number of shares of an amount up to 10% of the fully diluted share capital of the Company as at the date of this agreement (Share Plan);

- (b) the Share Plan will authorise the Directors to issue Securities under the Share Plan to eligible service providers in their discretion; and
- (c) any issue of Securities under the Share Plan will be an Excluded Issue.

6. Permitted Disposals

6.1 Disposal to Affiliates

Subject to clauses 3.2 and 6.2 of this Schedule but despite any other provision of this agreement:

- (a) a Shareholder may Dispose any or all of its Securities from time to time to any of its Affiliates without restriction; and
- (b) an Affiliate of a Shareholder may Dispose any or all of its Securities from time to time to that Shareholder or another Affiliate of that Shareholder without restriction.

6.2 Ceasing to be an Affiliate

If a person to whom a Shareholder has disposed any Securities ceases to be an Affiliate (as applicable) of that Shareholder:

- (a) that Shareholder must procure that that person immediately Disposes the relevant Securities back to the original transferor (who must purchase the Securities); and
- (b) all rights attaching to the Securities held by that person will be suspended until the Disposal back to the original transferor is completed.

7. Pre-emptive rights on Disposal

7.1 Pre-emptive Offer

- (a) A Shareholder wishing to Dispose of Securities (Seller) must first give to the Board, and the Board must give notice to each other Shareholder a written notice (Transfer Notice) which constitutes an offer by the Seller to Dispose of the Sale Securities as defined in clause 7.1 (b) (i) of this Schedule at the price stated in the Transfer Notice and in the manner outlined in this clause.
- (b) The Transfer Notice must set out:
 - (i) the number and class of Securities it proposes to Dispose of (Sale Securities);
 - (ii) the name of any proposed third party buyer;
 - (iii) the price payable per Sale Security; and
 - (iv) the key terms of any offer from a purchaser or agreement between the Seller and the purchaser concerning the Seller's Securities.

7.2 Acceptance

A Shareholder wishing to purchase Sale Securities (Accepting Shareholder) 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 Securities it is willing to purchase (Transfer Acceptance).

7.3 Allocation

- (a) If the aggregate Transfer Acceptances received by the Board in accordance with clause 7.2 of this Schedule is less than the total number of Sale Securities, each Accepting Shareholder's allocation of Sale Securities (Allocation) is the amount of Securities set out in its Transfer Acceptance.
- (b) If the aggregate Transfer Acceptances received by the Board in accordance with clause 7.2 of this Schedule is greater than the total number of Sale Securities, each Shareholder's Allocation is the lesser of:
 - (i) its Transfer Acceptance; and
 - (ii) the relevant Accepting Shareholder's Respective Proportion of the Sale Securities.
- (c) Any Sale Securities which remain unallocated must be re-offered to those remaining Accepting Shareholders who in their Transfer Acceptance specified a number of Sale Securities greater than their Respective Proportion of the Sale Securities and this process will be repeated until either all Sale Securities are allocated, or every Shareholder offered Securities under this clause has rejected the offer.

7.4 Transfer of Securities to third party

If there are unallocated Sale Securities after all Allocations have been exhausted:

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

7.5 Completion

At completion, the Seller must transfer, and each Accepting Shareholder must accept, the respective Allocation of Securities on the terms set out in the Transfer Notice.

7.6 Tag Along Option

- (a) If a Seller is permitted to Dispose unallocated Sale Securities to another party pursuant to clause 7.4 of this Schedule and the unallocated Sale Securities total 20% or more of the total issued Shares, the Seller must give each other Shareholder a notice (Tag Along Notice) of their intention.
- (b) A Tag Along Notice gives each other Shareholder the right (Tag Along Option) to require the Seller to procure the purchase by the proposed purchaser all of the Securities held by the other Shareholders and must include details of:
 - (i) the name of the purchaser;
 - (ii) the number of Securities in the proposed Disposal to the third party;

- (iii) the sale price and any other terms of the proposed Disposal to the purchaser; and
- (iv) the period during which a Tag Along Option may be exercised, which must be a period of not less than 10 Business Days from the date of service of the Tag Along Notice (Exercise Period).

7.7 Exercise of Tag Along Option

- (a) A Tag Along Option may be exercised by notice (Exercise Notice) to the Seller given within the Exercise Period.
- (b) If a Shareholder exercises its Tag Along Option, the Seller must not Dispose of any Securities to the purchaser unless the purchaser, at the same time, buys the Securities specified in the Exercise Notice at the same price per Security and otherwise on the same terms.
- (c) If the Tag Along Option is not exercised within the period specified in the Tag Along Notice, it will be deemed to have lapsed at midnight on the last day of the Exercise Period.

8. Drag Along

8.1 Drag Along Notice

- (a) If the Company or any Shareholder receives a bona fide offer from a third party to purchase all of the Securities in the Company (Third Party Offer) and the holders of at least 75% of the issued Shares accept the Third Party Offer (Dragging Shareholders) (provided that Shareholders holding a majority of the Seed Preference Shares must be Dragging Shareholders) , any Dragging Shareholder is entitled to issue to some or all of the remaining Shareholders (Other Shareholders) a notice (Drag Along Notice) requiring each Other Shareholder to sell to the third party specified in the Drag Along Notice some or all of the Other Shareholders' Securities upon the terms and conditions specified in the Drag Along Notice.
- (b) Despite anything else in this agreement, the pre-emption procedure set out in clause 7 of this Schedule does not apply to the relevant Securities once a Drag Along Notice has been issued.

8.2 Terms of Offer

- (a) The terms on which the Dragging Shareholders require the Other Shareholders to sell their Securities must be no less favourable to the Other Shareholders than the terms on which the Dragging Shareholders are selling their Securities.
- (b) The Drag Along Notice must specify:
 - (i) the details of the third party buyer;
 - (ii) the consideration payable for each Security; and
 - (iii) any other key terms and conditions upon which the Other Shareholders' Securities will be purchased pursuant to the Drag Along Notice.

- (c) Subject to clause 8.2 (d) of this Schedule, each Other Shareholder must, within 10 Business Days of service of the Drag Along Notice sell all of their Securities to the third party buyer specified in the Drag Along Notice in accordance with the key terms and conditions of the Drag Along Notice.
- (d) The Other Shareholders are not obliged to sell their Securities in accordance with clause 8.2 (c) of this Schedule if the Dragging Shareholders do not complete the sale of all their Securities to the third party buyer on the same key terms and conditions set out in the Drag Along Notice.

9. Founder Vesting

9.1 Vesting of Founder Shares

0% of the Shares held by each Founder or Founder Entity (as applicable) as at the date of this agreement will be Unvested Shares, and those Unvested Shares will vest as follows:

- (a) 0% will vest on the date that is 0 months after the date of this agreement.

9.2 Right to purchase Founder Shares

In consideration of the payment of \$1 by the Company to each Founder Entity, then each Founder Entity agrees that if that Founder (or their Affiliate, as the case may be):

- (a) ceases to be employed or engaged by a Group Company;
- (b) attempts to transfer any of its Unvested Shares (other than as permitted by this agreement); or
- (c) breaches the covenants set out in clause 11 of this Schedule.

the Company may, by written notice to the Founder or Founder Entity (as applicable), buy back, or direct the Founder Entity to transfer to a person nominated by the Board, the Unvested Shares from the Founder or Founder Entity (as applicable) for a price equal to \$1.00 in total for all Unvested Shares and the Founder or Founder Entity (as applicable) must do everything necessary to facilitate the sale of the Unvested Shares to the Company within 5 Business Days of the Company's notice.

9.3 Restriction

Despite clause 9.2 of this Schedule, the Company may only buy back the Unvested Shares if that is permitted under Part 2 J.1 of the Corporations Act and, for the avoidance of doubt, if the buyback will not materially prejudice the Company's ability to pay its creditors.

10. Bad leaver arrangements

10.1 Bad Leaver

- (a) In consideration of the payment of \$1 by the Company to each Founder Entity, then each Founder Entity agrees that if a Founder (or their Affiliate, as the case may be) ceases to be employed or engaged by a Group Company in circumstances where they are a Bad Leaver, the

Company may by written notice, buy back the Shares held by the Founder or Founder Entity, as applicable (Default Shares) from the Founder or Founder Entity (as applicable) or direct the Founder or Founder Entity (as applicable) to transfer to a person nominated by the Board all of the Default Shares at the price set out in clause 10.2 of this Schedule. For the avoidance of any doubt, the Default Shares exclude any Unvested Shares, which will be dealt with in accordance with clause 9.2 of this Schedule.

- (b) If the Company notifies the Founder or Founder Entity (as applicable) that it wishes to buy back or require a compulsory transfer of the Default Shares under clause (a), the Founder or Founder Entity (as applicable) and the other Shareholders must do everything necessary to facilitate the sale of the Default Shares to the Company or the Company's nominee within 10 Business Days of the Company's notice.
- (c) Despite clauses 10.1 (a) and 10.1 (b) of this Schedule, the Company may only buy back the Default Shares if that is permitted under Part 2 J.1 of the Corporations Act and, for the avoidance of doubt, if the buyback will not materially prejudice the Company's ability to pay its creditors.

10.2 Price for Default Shares

The price for the Default Shares (Default Price) is 25% of Fair Market Value.

10.3 Other remedies

The rights and remedies set out in this clause do not exclude any other rights or remedies that a party may have against a party in default of this agreement.

10.4 Suspension

To the extent that the Law allows, from the time of giving notice under clause 10.1 of this Schedule:

- (a) the Founder or Founder Entity (as applicable) and any person appointed as a Director by that party is deemed to have provided a resignation notice to the Company at the same time as a Founder or Founder Entity (as applicable) is notified pursuant to clause 10.1 of this Schedule and is automatically removed from the Board at that time, and has no further right to participate in the Business or management of the Group; and
- (b) the rights of the relevant Founder or Founder Entity (as applicable) as a holder of Securities (including dividend and distribution rights in relation to Securities, and the rights to attend and vote at general meetings of Shareholders and to receive information and documents) are suspended until those Securities have been acquired by the Company or as directed by the Company.

10.5 Fair Market Value

- (a) The Board will determine by Required Resolution the Fair Market Value of the Default Shares and will notify the Founder within 5 Business Days of such determination.

- (b) If the Board is unable to determine the Fair Market Value by required Resolution, the Board must appoint an Independent Expert to determine the Fair Market Value.

11. Non-competition

11.1 Enforceability and severance

- (a) This clause has effect as if it were separate and independent clauses, each one being severable from the others and consisting of the covenant set out in clause 11.2 of this Schedule combined with each separate period referred to in clause 11.3 of this Schedule, and each combination combined with each separate area referred to in clause 11.4 of this Schedule.
- (b) If any of these separate clauses are void, invalid or unenforceable for any reason, it will be deemed to be severed to the extent that it is void or to the extent of voidability, invalidity or unenforceability and will not affect the validity or enforceability of any other separate clause or other combinations of the separate provisions of clauses 11.2, 11.3 and 11.4 of this Schedule.

11.2 Prohibited activities

Each Shareholder other than the Investor (Restrained Shareholder) undertakes to the Group that it will not and will procure that their Affiliates do not:

- (a) engage in a business or activity that is the same or similar to, or competes with, the Business or any material part of the Business;
- (b) employ, solicit or entice away from a Group Company an officer, manager, consultant or employee of a Group Company or a person who was an officer, manager, consultant or employee of any Group Company in the 12 months before the Restrained Shareholder ceased to hold Securities; or
- (c) attempt, counsel, procure or otherwise assist a person to do any of the acts referred to in this clause,

except with the prior written consent of the Board by Required Resolution.

11.3 Duration of prohibition

The undertakings in this clause 11.3 begin on the date each Restrained Shareholder first holds Securities and end:

- (a) 3 years after the date on which the Restrained Shareholder ceased to hold Securities;
- (b) 2 years after the date on which the Restrained Shareholder ceased to hold Securities; and
- (c) on the first anniversary of the date on which the Restrained Shareholder ceased to hold Securities.

11.4 Geographic application of prohibition

The undertakings in clause 11.2 of this Schedule apply if the activity prohibited occurs in:

- (a) Australia;
- (b) New South Wales, Queensland and Victoria;

- (c) New South Wales; and
- (d) within a radius of 10 kilometres from any location from which the Group conducts the Business at the date the Restrained Shareholder ceases to be a Shareholder, during the periods set out in clause 11.3 of this Schedule.

12. Confidentiality

12.1 Confidentiality

Subject to clause 12.2 of this Schedule, no party may:

- (a) disclose any Confidential Information to any person;
- (b) use any Confidential Information in any manner which may cause loss to the Company or the other parties; or
- (c) make any public announcement or issue any press release regarding this agreement or a party's involvement with the Company.

12.2 Permitted disclosure

- (a) A party may disclose, and may permit its Representatives to disclose, any Confidential Information (and the other restrictions in clause 12.1 of this Schedule do not apply in such cases):
 - (i) with the prior written consent of the party to whom the Confidential Information relates;
 - (ii) to the extent it is required to do so by Law; or
 - (iii) to a professional adviser in order for it to provide advice in relation to matters arising under or in connection with this agreement and provided that the party disclosing the Confidential Information ensures that the professional adviser complies with the terms of this clause.
- (b) Each holder of Seed Preference Shares may disclose, and may permit its Representatives to disclose, any Confidential Information to its, and its Affiliate's, directors, officers, employees, advisers, investors, Shareholders, limited partners and unitholders.

13. Dispute resolution

13.1 Disputes

A party must not commence court proceedings or arbitration relating to any dispute arising from this constitution without first complying with this clause, except:

- (a) where a party seeks urgent interlocutory relief; or
- (b) where the dispute relates to compliance with this clause.

13.2 Notice of dispute

- (a) A party claiming that a dispute has arisen under this constitution must give written notice of the details of the dispute to the other party or parties in dispute.

- (b) Each party that has given or received notice of the dispute under this clause must promptly:
 - i designate as its representative in negotiations relating to the dispute a person with authority to settle the dispute; and
 - ii use its best endeavours to resolve the dispute.

13.3 Resolution

If within 20 Business Days of receipt of notice the parties to the dispute do not either, resolve the dispute, or agree as to:

- (a) a dispute resolution technique (for example, expert determination) and procedures to be adopted;
- (b) the timetable for all steps in those procedures; and
- (c) the selection and compensation of the independent person required for such technique,

the parties must mediate the dispute in accordance with the mediation clauses of Dispute Settlement Centre of Victoria and the parties must request the President of the Dispute Settlement Centre of Victoria or the President's nominee to select the mediator and determine the mediator's remuneration.

14. Goods and Services Tax

14.1 Definitions

In this clause:

- (a) GST means "GST" as defined in A New Tax System (Goods and Services Tax) Act 1999 as amended (GST Act) or any replacement or other relevant legislation and regulations;
- (b) words used in this clause which have a particular meaning in the GST law (as defined in the GST Act, and also including any applicable legislative determinations and Australian Taxation Office public rulings) have the same meaning, unless the context otherwise requires;
- (c) any reference to GST payable by a party includes any corresponding GST payable by the representative Shareholder of any GST group of which that party is a Shareholder; and
- (d) if the GST law treats part of a supply as a separate supply for the purpose of determining whether GST is payable on that part of the supply or for the purpose of determining the tax period to which that part of the supply is attributable, such part of the supply is to be treated as a separate supply.

14.2 General exclusion of GST

Unless GST is expressly included, the consideration expressed to be payable under any other clause of this agreement for any supply made under or in connection with this agreement does not include GST.

14.3 Gross-up of Taxable Supply

To the extent that any supply made under or in connection with this agreement is a taxable supply, the GST exclusive consideration otherwise payable for that

supply is increased by an amount equal to that consideration multiplied by the rate at which GST is imposed in respect of the supply and is payable at the same time.

14.4 Further acts

Each party agrees to do all things, including providing tax invoices and other documentation, that may be necessary or desirable to enable or assist the other party to claim any input tax credit, adjustment or refund in relation to any amount of GST paid or payable in respect of any supply made under or in connection with this agreement.

14.5 Reimbursement and indemnity

If a payment to a party under this constitution is a payment by way of reimbursement or indemnity and is calculated by reference to the GST inclusive amount of a loss, cost or expense incurred by that party, then the payment is to be reduced by the amount of any input tax credit to which that party is entitled in respect of that loss, cost or expense before any adjustment is made for GST pursuant to clause 14.3 of this Schedule.

15. Costs and expenses

15.1 Stamp duty

The Company must pay all stamp duty on this agreement and any instrument or document executed under this agreement.

16. General

16.1 Governing law and jurisdiction

- (a) The laws applicable in Victoria govern this Constitution.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of Victoria and any courts competent to hear appeals from those courts.

16.2 Invalidity

- (a) A word or provision must be read down if:
 - (i) this agreement is void, voidable, or unenforceable if it is not read down;
 - (ii) this agreement will not be void, voidable or unenforceable if it is read down; and
 - (iii) the provision is capable of being read down.
- (b) A word or provision must be severed if:
 - (i) despite the operation of clause (a), the provision is void, voidable or unenforceable if it is not severed; and
 - (ii) this agreement will be void, voidable or unenforceable if it is not severed.
- (c) The remainder of this agreement has full effect even if clause 16.2 (b) (i) or 16.2 (b) (ii) of this Schedule applies.

16.3 Constitution and its Schedules

- (a) If there is an inconsistency between the Constitution and its Schedules, the provisions in the schedule should prevail to the extent they are the *lex specialis* of Shareholder matters. 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 the Constitution and the Schedule.
- (b) If necessary, the Directors must recommend to the Shareholders that the Constitution (and the constitution of each Subsidiary) is amended as soon as is practicable to ensure that a provision in this Schedule is effective in accordance with its terms.
- (c) To the maximum extent permitted by Law, the parties agree to waive any provisions contained in the Constitution to the extent that those provisions are inconsistent with the provisions in the Schedule, so that they have no force or effect.

16.4 Cumulative Rights

The rights and remedies in this Constitution are in addition to other rights and remedies given by Law independently of this Constitution.

16.5 Relationship between parties

- (a) Nothing in this agreement:
 - (i) constitutes a partnership between the parties; or
 - (ii) except as expressly provided, makes a party an agent of another party for any purpose.
- (b) A party cannot in any way or for any purpose:
 - (i) bind another party; or
 - (ii) contract in the name of another party.
- (c) If a party must fulfil an obligation and that party is dependent on another party, then that other party must do each thing reasonably within its power to assist the other in the performance of that obligation.

16.6 Assignment

A party may not assign, transfer or in any other manner deal with its rights under this agreement.

SCHEDULE 2: Founder and Seed Shareholders

Name of Shareholder	Founder (Y/N)	Seed Investor (Y/N)	Class of Share
Matt Decarne	Y	N	Founder Shares
Leonard Hamersfeld	N	Y	Ordinary Shares
Tobias Bensimon	N	Y	Ordinary Shares
Tyson Gundersen	N	Y	Ordinary Shares
Adam Morgan	N	Y	Ordinary Shares
Loto Investments Pty Ltd	N	Y	Ordinary Shares

SCHEDULE 3: Critical Business Matters

Part A: Matters to be determined by Required Resolution

- 1 Matters to be determined by Required Resolution of the Board are:
- (a) appoint or remove or materially change the terms of engagement of the founder and key executives or any other employee with a total remuneration package in excess of \$100000 per annum, or pay any such person a bonus;
 - (b) appoint a director or otherwise alter the structure of the Board other than in accordance with this constitution;
 - (c) adopt or vary the terms of any Share Plan;
 - (d) make a material change in the nature of the Group's business;
 - (e) issue of Securities, other than an Excluded Issue;
 - (f) create any class of Securities with rights that are superior to the rights of the Seed Preference Shares;
 - (g) declare, make or pay a dividend;
 - (h) appoint an external administrator, liquidator or receiver;
 - (i) incur capital expenditure of more than \$150,000 in a specific transaction or commitment within a financial year.

Part B: Matters to be determined by Special Resolution of Shareholders

- 2 Matters to be determined by Special Resolution of the Shareholders are:
- (a) varying the rights of any Shares;
 - (b) amend the constitution of the Company; and
 - (c) other than as permitted by this agreement or the Constitution, transactions between the Company and a Shareholder or its Affiliate which are outside of the ordinary course of business, otherwise than on arm's length terms.