

CORPORATIONS ACT 2001

CONSTITUTION

of

**AFM PERSEUS FUND PTY LTD
ACN 087 023 612**

This is the constitution of AFM Perseus Fund Pty Ltd (ACN 087 023 612) adopted by a special resolution of its members on 23 August 2023.

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1. INTERPRETATION

The following definitions and rules of interpretation apply in this constitution.

1.1 Definitions

ASIC means the Australian Securities and Investments Commission.

Business Day means a day on which banks are open for business, other than Saturdays, Sundays and public holidays, in the place where the company's registered office is located.

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

Default Interest Rate means the most recent cash rate announced and published by the Reserve Bank of Australia.

Government Agency means any government or governmental, administrative, monetary, fiscal or judicial body, department, commission, authority, tribunal, agency or entity in any part of the world.

Holding Company means the term "holding company" as defined in the Corporations Act.

PPSA means the *Personal Property Securities Act 2009* (Cth).

PPSA Security Interest means the term "security interest" as defined in the PPSA.

Related Body Corporate means the term "related body corporate" as defined in the Corporations Act.

Representative means in relation to a body corporate, an individual appointed by that body corporate under section 250D of the Corporations Act to act as a representative of that body corporate to exercise its powers.

Security Interest means any of the following:

- (a) an interest or power reserved in or over an interest in any asset or created or otherwise arising over any interest in any asset under a security agreement, charge, mortgage, pledge, bill of sale, hypothecation, lien, arrangement concerning the deposit of documents evidencing title, trust, power, title retention arrangement or any other covenant or arrangement of any nature made by way of, or having similar commercial effect to, security for the payment of a debt, any other monetary obligation or the performance or observance of an obligation;
- (b) a PPSA Security Interest;
- (c) any agreement or arrangement (whether legally binding or not) to grant or create anything referred to in paragraphs (a) or (b).

Shareholders' Deed means a shareholders' deed (if any) in place between the company and its members, as amended from time to time.

Subsidiary means the term “subsidiary” as defined in the Corporations Act.

Transmission Event means:

- (a) in respect of a member of the company who is an individual, the death or bankruptcy of that member, or the member becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; and
- (b) in respect of a member of the company that is a body corporate, the winding up of the member or the succession by another person or body corporate to the assets and liabilities of the member.

Virtual Meeting Technology means any technology that allows a person to participate in a meeting without being physically present at the meeting.

1.2 Interpretation

In this constitution the following rules of interpretation apply, unless the contrary intention appears or context otherwise requires:

- (a) a reference in this constitution to a partly paid share is a reference to a share that has any amount of its issue or subscription price remaining unpaid;
- (b) a reference in this constitution to a call or an amount called in respect of a share includes a reference to a sum that becomes payable on issue or at a fixed date by the terms of issue of that share;
- (c) a member is taken to be present at a general meeting if the member is present in person or by proxy, attorney or Representative;
- (d) a reference in this constitution in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being;
- (e) headings and subheadings are for convenience only and do not affect the interpretation of this constitution;
- (f) references to:
 - (i) rules or clauses are references to the operative provisions of the main body of this constitution; and
 - (ii) schedules, annexures, appendices and attachments are, respectively, references to the schedules, annexures, appendices and attachments to this constitution;
- (g) words denoting the singular include the plural and words denoting the plural include the singular;
- (h) words denoting any gender include all genders;

- (i) the word “person” includes any individual, corporation or other body corporate, partnership, joint venture, association and any Government Agency;
- (j) references to any person include that person's permitted assignees and successors, including executors and administrators and legal representatives;
- (k) a reference to a body, whether statutory or not, that ceases to exist or has its powers or functions transferred to another body is a reference to the body that replaces it or that substantially succeeds to its powers or functions;
- (l) a reference to any agreement or document includes any amendments to or replacements of that document;
- (m) a reference to a law includes:
 - (i) legislation, regulations and other instruments made under legislation and any consolidations, amendments, re-enactments or replacements of them;
 - (ii) any constitutional provision, treaty or decree;
 - (iii) any judgment; and
 - (iv) any rule or principle of common law or equity,and is a reference to that law as amended, consolidated, re-enacted, replaced or applied to new or different facts;
- (n) any promise, agreement, representation or warranty on the part of two or more persons binds them jointly and each of them severally;
- (o) no provision of this constitution will be construed adversely to a party because that party was responsible for the preparation of that provision or this constitution;
- (p) if a period of time begins on a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (q) a reference to time is a reference to local time in the place where the company's registered office is located, unless otherwise specified;
- (r) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (s) if any act is required to be performed under this constitution by a party on or by a specified day and the act is performed after 5.00 pm on that day, the act is deemed to be performed on the next day;
- (t) if any act is required to be performed under this constitution on or by a specified day and that day is not a Business Day, the act must be performed on or by the next Business Day;

- (u) a reference to an amount of dollars, Australian dollars, \$ or A\$ is a reference to Australian currency, unless the amount is specifically denominated in another currency;
- (v) specifying anything in this constitution after the terms “include”, “including”, “includes”, “for example”, “such as” or any similar expression does not limit the sense of the words, description, definition, phrase or term preceding those terms unless there is express wording to the contrary;
- (w) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (x) an agreement other than this constitution includes a deed, undertaking or legally enforceable agreement or understanding whether in writing or not; and
- (y) if there is any conflict between the terms of the main body of this constitution and the terms of this constitution’s schedules and attachments, the terms of the main body of this constitution will prevail.

1.3 Application of the Corporations Act

- (a) Except as provided by clause 1.4:
 - (i) nothing in this constitution is intended to derogate from the operation of the Corporations Act; and
 - (ii) where the Corporations Act and this constitution deal with the same or a similar topic differently, the Corporations Act prevails over the provisions of this constitution to the extent of that difference.
- (b) In this constitution, unless the contrary intention appears:
 - (i) a word or expression defined or given a meaning in the Corporations Act has the same meaning when used in this constitution in a similar context; and
 - (ii) references to sections, items, parts and schedules in this constitution are to sections, items, parts and schedules in the Corporations Act.

1.4 Replaceable rules do not apply

- (a) This Constitution is adopted by the company in substitution for any former constituent documents of the company.
- (b) The replaceable rules set out in the Corporations Act do not apply to the company and are displaced in full by the provisions of this constitution.

1.5 Shareholders' deed prevails over this constitution

If, and for any period during which, a Shareholders' Deed is in force in relation to the company:

- (a) the provisions of this constitution have effect subject to the provisions of the Shareholders' Deed, to the extent permitted at law;
- (b) where this constitution and the Shareholders' Deed deal with the same or a similar topic differently (other than as provided by clause 1.5(c)(ii) below), the Shareholders' Deed prevails to the extent of that difference and:
 - (i) the company, each director and each member must do everything within their power to amend this constitution to remove any such difference as soon as reasonably practicable; and
 - (ii) the company, each director and each member must comply with the prevailing provisions of the Shareholders' Deed as if they were incorporated into this constitution; and
- (c) in this constitution, unless the contrary intention appears:
 - (i) a word or expression defined in the Shareholders' Deed, but not defined in this constitution, has the same meaning when used in this constitution; and
 - (ii) a word or expression defined in the Shareholders' Deed and also defined in this constitution has the meaning given to it by the defined term in this constitution.

1.6 Proprietary company limited by shares

As long as the company is a proprietary company limited by shares, it must:

- (a) not have more than 50 non-employee members, counting joint holders of shares as one person; and
- (b) not engage in any activity that would require disclosure to investors under Chapter 6D of the Corporations Act, except for an offer of its shares to:
 - (i) existing members of the company; or
 - (ii) employees of the company or of a Subsidiary of the company.

1.7 Exercise of powers

- (a) The company may:
 - (i) exercise any power;
 - (ii) do any act or thing; or
 - (iii) engage in any conduct or procedure,

in any way that the Corporations Act permits a proprietary company limited by shares to do if authorised by its constitution.

- (b) Where this constitution provides that a person or body may do a particular act or thing and the word “may” is used, the act or thing may be done at the discretion of the person or body.
- (c) Where this constitution confers a power to do a particular act or thing, then unless the contrary intention appears, the power includes a power exercisable in the same manner and subject to the same conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this constitution confers a power to do a particular act or thing with respect to particular matters, then unless the contrary intention appears, the power includes a power:
 - (i) to do that act or thing with respect to only some of those matters or with respect to a particular class or particular classes of those matters; and
 - (ii) to make different provision with respect to different matters or different classes of matters.
- (e) Where this constitution confers a power to make appointments to any office or position, then unless the contrary intention appears, the power includes a power:
 - (i) to appoint a person to act in the office or position temporarily, until a person is formally appointed to the office or position;
 - (ii) subject to any contract between the company and the relevant person, to remove or suspend any person appointed to that office or position, with or without cause; and
 - (iii) to appoint another person temporarily in the place of any person so removed or suspended, or in place of any sick or absent holder of such office or position.
- (f) Where this constitution confers a power or imposes a duty, then unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (g) Where this constitution confers a power or imposes a duty on the holder of an office as such, then unless the contrary intention appears, the power may be exercised and the duty must be performed by the person who is the holder for the time being of that office.
- (h) Where this constitution confers power on a person or body to delegate a function or power:
 - (i) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;

- (ii) the delegation may be either general or limited in any manner provided in the terms of delegation;
- (iii) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
- (iv) the delegation may include the power to delegate;
- (v) where the performance or exercise of that function or power is dependent on the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate on the opinion, belief or state of mind of the delegate in relation to that matter; and
- (vi) the delegated function or power, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body who delegated that function or power.

1.8 Single member company

If at any time the company has only one member then, unless the contrary intention appears:

- (a) a reference in a rule to the “members” is a reference to that member; and
- (b) without limiting clause 1.8(a), a rule that confers power or imposes an obligation on the members to do a particular act or thing confers that power or imposes that obligation on that member.

1.9 Single director company

If at any time the minimum number of directors fixed under this constitution is one and the company in fact only has one director then, unless the contrary intention appears:

- (a) a reference in a rule to “the directors” is a reference to that director; and
- (b) without limiting clause 1.9(a), a rule that confers a power or imposes an obligation on the directors to do a particular act or thing confers that power or imposes that obligation on that director.

2. SHARES

2.1 Issue of shares and grant of options

(a) Subject to clause 2.1(c) and clause 2.2, the directors may:

- (i) allot and issue shares; or
- (ii) grant options to acquire shares,

to any person at any time and may decide in their discretion the terms and conditions on which such shares are issued or options are granted.

- (b) Subject to clause 2.1(c) and clause 2.2, the directors may issue shares or grant options subject to any preferred, deferred or other special rights or special restrictions relating to dividends, voting, return of capital, participation in the property of the company on a winding up or otherwise as they decide in their discretion.
- (c) If an issue of shares or grant of options would have the effect of varying or cancelling any rights attaching to any existing class of shares, then the directors may not proceed to issue such shares or grant such options without the resolution or consent of members as required by clause 2.3.

2.2 Preference shares

The company may issue preference shares to any person at any time, but the company may only do so if either of the following apply:

- (a) if the preference shares are issued on terms set out in this constitution or a schedule to this constitution; or
- (b) if the terms of the preference shares have been otherwise approved by special resolution of the company.

2.3 Variation of rights attaching to shares

- (a) Unless the Corporations Act or the terms of issue of shares in a particular class provide otherwise, the company may vary or cancel rights attached to shares in that class, or convert shares from one class to another, only with the sanction of a special resolution of the company and:
 - (i) the sanction of a special resolution passed at a meeting of the class of members holding shares in that class; or
 - (ii) the written consent of members who hold at least 75% of the issued shares in that class.
- (b) The provisions of this constitution relating to general meetings apply, so far as they are capable of application and with any necessary changes, to a meeting of members holding a specified class of shares.

2.4 Alteration of share capital

- (a) The company may alter its share capital in any manner permitted by law, including by:
 - (i) consolidating or dividing any of its shares into larger or smaller numbers, in which case, any amount unpaid on those shares prior to conversion is to be divided equally among the number of shares on issue immediately after conversion; or
 - (ii) cancelling any shares that have been forfeited.
- (b) Where fractions of shares would otherwise be created by an alteration of share capital under clause 2.4(a), the directors may:

- (i) make cash payments for the value of those fractions;
- (ii) decide that fractions of shares are to be disregarded or rounded down to the nearest whole share; or
- (iii) decide that fractions of shares are to be rounded up to the nearest whole share by capitalising any amount available for capitalisation under clause 9.6 even though only some of the members may participate in that capitalisation.

2.5 Effect of share issue on class rights

The rights attached to any class of shares are not taken to be varied by the issue or creation of further shares ranking equally with them unless expressly provided by the terms of issue of the shares of that class.

2.6 Share certificates

- (a) The company must issue, free of charge, an individually numbered share certificate to each member for all the shares in each class that are registered in that member's name from time to time.
- (b) Each share certificate issued under clause 2.6 must be duly executed and be in the form required by the Corporations Act.
- (c) Joint holders of shares are entitled to only one certificate between them in respect of shares in any one class that are jointly held.
- (d) If a share certificate is damaged, defaced or incorrect, the directors may order it to be cancelled. If it is cancelled, the directors must issue a replacement to the person entitled to the relevant shares and may charge a fee for that replacement unless the damage or error is caused by the company.
- (e) If a share certificate is lost or destroyed, the directors must issue a replacement to the person entitled to the relevant shares and may charge a fee for that replacement.

2.7 Joint holders of shares

Where two or more persons are registered as the holders of a share, they hold it as joint tenants with rights of survivorship subject to the following provisions:

- (a) the company is not bound to register more than three of those persons as joint holders of the share;
- (b) each of those persons and their respective legal personal representatives are liable severally as well as jointly for all payments, including calls, that are required to be made in respect of the share;
- (c) subject to clause 2.8(b), on the death of any one of them, the company is entitled to recognise the survivor or survivors as the only person or persons who have any title to the share;

- (d) any one of those persons may give effective receipts for any dividend, interest or other distribution or payment in respect of the share; and
- (e) the company is not bound to issue more than one certificate for the share and delivery of a certificate to any one of those persons is sufficient delivery to all of them.

2.8 Equitable interests in shares

- (a) The company may treat the registered holder of a share as the absolute owner of that share, except where a law or this constitution requires otherwise.
- (b) The company is not bound or compelled in any way to recognise an equitable, contingent, future, partial or other right or interest in a share or unit of a share, even if the company has notice of that right or interest.
- (c) Without in any way limiting clause 2.8(a), with the consent of the directors and unless otherwise directed by the registered holder, shares held by a trustee, custodian, nominee or other agent on behalf of one or more other parties may be marked in the register in such a way as to identify them as being held subject to that relevant relationship.

2.9 No Prohibition on Foreign Ownership

Nothing in this Constitution shall have the effect of limiting or restricting the ownership of any securities of the company by foreign persons except where such limits or restrictions are prescribed by Australian law.

3. CALLS, FORFEITURE, INDEMNITIES, LIEN AND SURRENDER

3.1 Calls

- (a) The directors may, at any time, make calls on the members for any money unpaid on the members' shares, unless the terms of issue of those shares specify that unpaid amounts are payable at fixed times.
- (b) A call is made when the directors pass a resolution to make the call.
- (c) If the terms of issue of those shares specify that an unpaid amount is payable at a fixed time, the amount is deemed to be called and notified at that time, and, in the case of non-payment, all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise apply as if the amount had become payable by virtue of a call duly made and notified.
- (d) When the directors issue shares, they may differentiate between the holders as to the amount of calls to be paid and the times of payment.
- (e) The directors may require a call to be paid by any number of instalments.
- (f) If the directors make a call on a member in respect of that member's shares, that member must pay the called amount to the company at the time or times and place specified, provided that the company gives the member at

least ten Business Days' notice. Joint holders are jointly and severally liable to comply with any call.

- (g) The directors may revoke or postpone a call or extend the time for payment.
- (h) Neither the accidental failure of the company to give notice of a call to any member nor the failure of the member to receive such notice invalidates the call.
- (i) If an amount called on a share is not paid in full by the day appointed for payment, the person from whom the amount is due must pay:
 - (i) interest on the unpaid amount from the date appointed for payment of the sum to the date of actual payment, at a rate determined under clause 3.9; and
 - (ii) any costs, expenses or damages incurred by the company in relation to the non-payment or late payment of the sum.
- (j) The directors may waive or compromise all or any part of any payment due to the company under the terms of issue of a share or under this clause 3.1, to the extent permitted by law.

3.2 Proceedings for recovery of calls

- (a) In any proceedings for the recovery of a call, or for interest or costs or expenses incurred in relation to the non-payment or late payment of a call, it is sufficient and conclusive evidence of the debt to prove that:
 - (i) the name of the defendant is entered in the register as the holder or one of the holders of the share in respect of which the call is claimed;
 - (ii) the resolution making the call is recorded in the minute book; and
 - (iii) notice of the call was given to the defendant in accordance with this constitution.

It is not necessary to prove the appointment of the directors who made the call or any other matter.

- (b) In clause 3.2(a), "defendant" includes a person against whom a set-off or counter-claim is alleged by the company and "proceedings for the recovery of a call" is to be construed accordingly.

3.3 Prepayments in advance of calls

- (a) A member may prepay to the company all or any part of the amount unpaid on a share even though no part of that amount has been called by the directors.
- (b) The directors may authorise the company to pay interest on all or any part of an amount accepted under clause 3.3(a), until the date on which the amount would have become payable under a call, at an interest rate agreed between the directors and the member paying the amount.

- (c) The directors may repay to a member all or any part of any amount prepaid under clause 3.3 on or before the date on which the amount becomes payable under a call. If the directors decide to do so they must notify the member in writing of that decision.

3.4 Forfeiture of partly paid shares

- (a) If a member fails to pay the whole of a call or instalment of a call by the time appointed for payment of the call or instalment, the directors may serve a notice on that member:
 - (i) requiring payment of the unpaid amount, together with any interest that has accrued and all costs, expenses or damages that may have been incurred by the company by reason of the non-payment or late payment of the call or instalment;
 - (ii) specifying a place and a time (which must be at least ten Business Days after the date of the notice) for payment of the call or instalment; and
 - (iii) stating that the shares on which the call was made are liable to be forfeited if the whole amount payable is not paid by the time and at the place specified in the notice.
- (b) If a member does not comply with a notice under clause 3.4(a), the directors may resolve that the shares to which the notice relates are forfeited.
- (c) Where a share has been forfeited, the company must:
 - (i) give notice of the resolution to the member in whose name the share was registered immediately before the forfeiture; and
 - (ii) enter the forfeiture and the date of forfeiture in the register of members.
- (d) Failure by the company to give the notice or to make the entry required under clause 3.4(c)(ii) does not invalidate the forfeiture.
- (e) The directors may:
 - (i) sell or otherwise dispose of a share that has been forfeited on the terms and in the manner the directors think appropriate;
 - (ii) at any time before a sale or disposal of a share that has been forfeited, cancel the forfeiture of a share on the terms the directors think appropriate; and
 - (iii) reissue a share that has been forfeited, with or without any money paid on the share by any former holder being credited as paid, and on the other terms and in the manner the directors think appropriate.

- (f) A person whose shares have been forfeited ceases to be a member in respect of the forfeited shares, but remains liable to pay to the company as decided by the directors:
 - (i) all calls, instalments, interest, costs, expenses and damages owing in respect of the shares at the time of the forfeiture; and
 - (ii) interest on so much of the amount payable under clause 3.4(f)(i) as is unpaid from time to time, from the date of the forfeiture to the date of actual payment, at a rate determined under clause 3.9.
- (g) Subject to this constitution, forfeiture of a share extinguishes all interest in, and all claims and demands against the company in respect of, the forfeited share and all other rights incident to the share, including all dividends, interest and other amounts payable by the company on the forfeited shares that the company has not actually paid before the forfeiture.
- (h) The directors may:
 - (i) exempt a share from all or any part of this clause 3.4; and
 - (ii) waive or compromise all or any part of any payment due to the company under this clause 3.4.
 - (iii) The company may, by ordinary resolution, cancel a share that has been forfeited under the terms of issue of that share.

3.5 Indemnity for payments by the company

- (a) A member (or, if the member has died, that member's legal personal representative) must indemnify the company against any liability which the company incurs under any law to make a payment for or on account of that member, including in respect of:
 - (i) shares held by that member, solely or jointly;
 - (ii) a transfer or transmission of shares by a member; or
 - (iii) dividends, bonuses or other money due or payable or that may become due or payable to the member.
- (b) Clause 3.5(a) includes, without limitation, a payment arising from:
 - (i) the death of that member;
 - (ii) the non-payment of any income tax, capital gains tax, wealth tax or other tax by that member or the legal personal representative of that member; or
 - (iii) the non-payment of any estate, probate, succession, death, stamp or other duty by that member or the legal personal representative of that member.

- (c) A member (or, if the member has died, that member's legal personal representative) must pay to the company immediately on demand:
 - (i) the amount required to reimburse the company for a payment described in clause 3.5(a); and
 - (ii) interest on any part of that amount that is unpaid from the date the company makes the payment until the date the company is reimbursed in full for that payment, at a rate determined under clause 3.9.
- (d) The company may refuse to register a transfer or transmission of any shares by a member or the member's legal personal representative until all money payable to the company under clause 3.5(a) has been paid.
- (e) The company may recover an amount due and payable under clause 3.5(a) from the member or the member's legal personal representative, including by deducting all or any part of that amount from any amount payable by the company to that member.
- (f) The company has a lien over all dividends, interest and other amounts payable in respect of the shares held solely or jointly by a member or that member's legal personal representative for all amounts payable to the company under clause 3.5(a).
- (g) This clause 3.5 is in addition to any right or remedy the company may have under the law which requires it to make any payment referred to in clause 3.5(a).
- (h) The directors may:
 - (i) exempt a share from all or any part of this clause 3.5; and
 - (ii) waive or compromise all or any part of any payment due to the company under this clause 3.5.

3.6 Lien on shares

- (a) To the extent permitted by law, the company has a first and paramount lien on:
 - (i) each partly paid share for all due and unpaid calls and instalments in respect of that share;
 - (ii) each share registered in the name of a holder for all money presently payable by the holder or the holder's estate to the company; and
 - (iii) each share for any amounts the company may be required by law to pay, and has paid, in respect of that share.
- (b) The company's lien on a share extends to:
 - (i) all dividends payable in respect of the share; and

- (ii) all proceeds of sale of the share.
- (c) The directors may sell a share on which the company has a lien in any manner they think appropriate, where:
 - (i) an amount in respect of which a lien exists under this clause 3.6 remains payable;
 - (ii) the company has, not less than ten Business Days before the date of the sale, given to the registered holder of the share a notice in writing stating the amount due and demanding payment of the amount; and
 - (iii) as at the date of the sale, the amount remains unpaid.
- (d) The directors may do all things necessary or desirable to protect any lien, charge or other right to which the company may be entitled under any law or under this constitution.
- (e) Where the company registers a transfer of shares on which the company has a lien without giving notice of its claim to the transferee, the company releases its lien on those shares in so far as it relates to sums owing by the transferor or any predecessor in title.
- (f) The directors may:
 - (i) exempt a share from all or any part of this clause 3.6; and
 - (ii) waive or compromise all or any part of any payment due to the company under this clause 3.6.

3.7 Surrender of shares

- (a) The directors may accept a surrender of a share by way of compromise of any claim as to whether or not that share has been validly issued or in any other case where the surrender is within the powers of the company.
- (b) Any share surrendered under clause 3.7(a) may be sold, reissued or otherwise disposed of in the same manner as a forfeited share.

3.8 General provisions applicable to a sale, reissue or other disposal of shares by the company

- (a) A reference in this clause 3.8 to a disposal of shares under this constitution is a reference to:
 - (i) any sale, reissue or other disposal of a forfeited share under clause 3.4(g) or a surrendered share under clause 3.7; and
 - (ii) any sale of a share on which the company has a lien under clause 3.6(c).

- (b) Where the company disposes of any shares under this constitution, the directors may:
- (i) receive the purchase money or consideration given for the shares on the disposal;
 - (ii) effect a transfer of the shares and, if necessary, execute, or appoint a person to execute, on behalf of the former holder an instrument of transfer of the shares or any other instrument for the purpose of giving effect to the disposal; and
 - (iii) register as the holder of the shares the person to whom the shares have been disposed.
- (c) A person to whom the company disposes of shares need not take any steps to investigate the regularity or validity of the disposal, or to see how the purchase money or consideration on the sale is applied.
- (d) The title of a person to whom the company disposes shares under this constitution is not affected by an irregularity or invalidity in connection with that disposal.
- (e) The remedy of any person aggrieved by a disposal of shares under this constitution is limited to damages only. Any such claim for damages can only be made against the company.
- (f) The proceeds of a disposal of shares under this constitution must be applied in paying:
- (i) first, the expenses of the disposal;
 - (ii) secondly, all amounts presently payable by the former holder whose shares have been disposed of; and
 - (iii) finally, but subject to any lien under clause 3.6 for money not presently payable, any remaining proceeds must be paid to the former holder as soon as practicable. The former holder must first deliver to the company the certificate for the shares that have been disposed of or any other proof of title as the directors may accept.
- (g) A statement in writing signed by a director or secretary of the company to the effect that a share in the company has been:
- (i) duly forfeited under clause 3.4(b);
 - (ii) duly sold, reissued or otherwise disposed of under clause 3.4(e) or clause 3.7; or
 - (iii) duly sold under clause 3.6(c),

on a date stated in the statement is conclusive evidence of the facts stated in the statement as against all persons claiming to be entitled to the share and of the right of the company to forfeit, sell, reissue or otherwise dispose of the share.

3.9 Interest payable by member

- (a) Where this constitution requires a member to pay interest on any amount payable to the company, the interest rate is:
 - (i) if the directors have fixed a rate, that rate; or
 - (ii) in any other case, the Default Interest Rate.
- (b) Interest payable under any rule of this constitution accrues daily and may be capitalised monthly or at other intervals as the directors think appropriate.

4. TRANSFER AND TRANSMISSION OF SHARES

4.1 Transfer of shares

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, a member may transfer all or any of the member's shares by an instrument in writing in any usual form or in any other form that the directors approve.
- (b) A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register of members in respect of the shares.
- (c) The company must not charge a fee for the registration of a transfer of shares.
- (d) An instrument of transfer referred to in clause 4.1 (a) must be signed by or on behalf of both the transferor and the transferee unless the transfer:
 - (i) relates only to fully paid shares and signature by the transferee has been dispensed with by the directors; or
 - (ii) is a sufficient transfer of securities for the purposes of the Corporations Act.
- (e) In the case of a transfer of partly-paid shares, an instrument of transfer referred to in clause 4.1 (a) must be endorsed by, or be accompanied by an instrument executed by, the transferee under which the transferee agrees to accept the shares subject to the terms and conditions on which the transferor held them and to become a member and to be bound by the company's constitution.
- (f) An instrument of transfer referred to in clause 4.1 (a) must be duly stamped if required by law to be stamped.
- (g) An instrument of transfer referred to in clause 4.1(a) must be lodged for registration at the company's registered office, or at such other place as the directors determine, accompanied by any evidence that the directors require to prove the title of the transferor or the transferor's right to the shares (including the share certificate, if any) and to prove the right of the transferee to be registered as the owner of the shares.

- (h) Subject to the powers vested in the directors under clauses 4.2 and 4.3, where the company receives an instrument of transfer complying with clauses 4.1(d), 4.1(e) and clause 4.1(f), the company must register the transferee named in the instrument as the holder of the shares to which the instrument relates.
 - (i) The company may retain any registered instrument of transfer received by the company under clause 4.1(g) for any period as the directors think appropriate.
 - (ii) Except in the case of fraud, the company must return any instrument of transfer received under clause 4.1(g) which the directors decline to register to the person who deposited it with the company.
- (i) The directors may, to the extent permitted by law, waive all or any of the requirements of this clause 4.1.

4.2 Power to decline registration of transfers

- (a) Subject to any special rights conferred on the holders of any shares or class of shares, the directors may, in their absolute discretion, decline to register any transfer of shares, including if:
 - (i) the Corporations Act or any other law requires the company to do so;
 - (ii) the transfer is not in registrable form;
 - (iii) the shares are not fully paid;
 - (iv) the company has a lien on the shares; or
 - (v) the directors have not been given any further information they reasonably require to establish the right of the person transferring the shares to make the transfer.
- (b) Subject to clause 4.2(c), if the company declines to register a transfer, the company must send to the transferee notice of the refusal within two months after the date on which the transfer was lodged with the company.
- (c) The company's decision to decline to register the transfer is not invalidated if the company fails to give a notice under clause 4.2(b).
- (d) Despite clause 4.2(a) or any other provision in this constitution, the directors must not decline to register any transfer of shares where such transfer is made to:
 - (i) a person entitled to the benefit of a Security Interest (whether or not as agent, trustee or nominee for a person entitled to the benefit of the Security Interest); or
 - (ii) a person who purchases the shares from the holder of those shares or a person entitled to the benefit of the Security Interest (or a person acting as agent, trustee or nominee on its behalf),

pursuant to, or in connection with, the enforcement of that Security Interest in respect of the shares. Any such person (including any agent, trustee or nominee for a person entitled to the benefit of the Security Interest) may be registered as the holder of such shares pursuant to, or in connection with, such enforcement.

4.3 Power to suspend registration of transfers

- (a) Subject to clause 4.3(b), the directors may suspend the registration of a transfer of shares at the time and for the period the directors think appropriate, but the period of suspension must not exceed a total of 30 days in any 12-month period.
- (b) Despite clause 4.3(a) or any other provision of this constitution, the directors must not suspend the registration of a transfer of shares where such transfer is made to:
 - (i) a person entitled to the benefit of a Security Interest (whether or not as agent, trustee or nominee for a person entitled to the benefit of the Security Interest); or
 - (ii) a person who purchases the shares from the holder of those shares or a person entitled to the benefit of the Security Interest (or a person acting as agent, trustee or nominee on its behalf),

pursuant to, or in connection with, the enforcement of that Security Interest in respect of the shares.

4.4 Transmission of shares

- (a) In the case of the death of a member, the only persons the company will recognise as having any title to the member's shares or any benefits accruing in respect of those shares are:
 - (i) the legal personal representative of the deceased member, where the deceased member was a sole holder; and
 - (ii) the survivor or survivors, where the deceased was a joint holder.
- (b) Nothing in clause 4.4(a) releases the estate of a deceased member from any liability in respect of a share, whether that share was held by the deceased solely or jointly with other persons.
- (c) A person who becomes entitled to a share as a result of a Transmission Event may elect:
 - (i) to be registered as the holder of the share by signing and serving on the company a notice in writing stating that election; or
 - (ii) to have some other person nominated by that person registered as the transferee of the share by executing or otherwise effecting a transfer of the share to that other person,

after producing any evidence the directors require to prove that person's entitlement to the share, including the certificate for the share.

(d) The provisions of this constitution relating to:

- (i) the right to transfer shares; and
- (ii) the registration of transfers of shares,

apply, so far as they are capable of application and with any necessary changes, to any transfer under clause 4.4(c)(ii) as if the relevant Transmission Event had not occurred and the transfer were executed or effected by the registered holder of the share.

(e) If two or more persons become jointly entitled to a share under a Transmission Event, on registration as the holders of the share, those persons are taken to hold the share as joint tenants subject to this clause 4.4.

(f) Despite clause 4.4(a), the directors may register a transfer of shares signed by a member before a Transmission Event even though the company has notice of the Transmission Event.

5. GENERAL MEETINGS

5.1 Convening of general meetings

(a) A general meeting may be convened by:

- (i) the directors by ordinary resolution of the board (passed by a majority of directors);
- (ii) members with at least 5% of the votes that may be cast at a general meeting, in accordance with section 249F of the Corporations Act; or
- (iii) the Court on application by any director or any member who would be entitled to vote at the general meeting, if it is impracticable to call the meeting in any other way, in accordance with sections 249G and 1319 of the Corporations Act.

(b) The directors must call a general meeting if requested by the prescribed number of members in accordance with section 249D of the Corporations Act.

(c) If the directors do not call a general meeting within 21 days after a request by members under clause 5.1(b), then members with more than 50% of the votes of all of the members who made the request under clause 5.1(b) may convene a general meeting within three months of the request, in accordance with section 249D of the Corporations Act.

(d) A general meeting convened under section 249D of the Corporations Act:

- (i) may not be postponed beyond the date by when section 249D requires it to be held; and

- (ii) may not be cancelled without the consent of the member or members who requested it.
- (e) Subject to clause 5.1(d), the directors may postpone, cancel or change the venue for a general meeting by giving notice not later than five Business Days before the time when the general meeting was originally scheduled to be held to each person who is at the date of the notice:
 - (i) a member;
 - (ii) a director; or
 - (iii) an auditor of the company,and in the case of a postponement or change of venue, specifying the new date, time and place of the general meeting.
- (f) Subject to clause 5.5, a general meeting may be held at two or more venues using Virtual Meeting Technology or using Virtual Meeting Technology only.

5.2 Notice of general meetings

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, notice of a general meeting must be given within the time limits prescribed by the Corporations Act and in the manner authorised by clause 13.1 to each person who is at the date of the notice:
 - (i) a member;
 - (ii) a director; or
 - (iii) an auditor of the company.
- (b) A notice of a general meeting must specify:
 - (i) the date, time and place of the meeting;
 - (ii) if the meeting is to be held using Virtual Meeting Technology in accordance with clause 5.5(b), the technology that will be used to facilitate the meeting and sufficient information to allow the members to participate in the meeting by means of the Virtual Meeting Technology; and
 - (iii) the general nature of the business to be transacted at the meeting and any other matters required under the Corporations Act.
- (c) A person may waive notice of any general meeting by notice in writing to the company.
- (d) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this clause 5.1(f) does not invalidate any act, matter or thing done, or resolution passed, at the general meeting if:

- (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the person waives notice of that meeting under clause 5.2(c); or
 - (iii) before or after the meeting, the person notifies the company of the person's agreement to that act, matter, thing or resolution by notice in writing to the company.
- (e) A person's attendance at a general meeting:
- (i) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
 - (ii) waives any objection that person may have to the consideration of a particular matter at the meeting that is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

5.3 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum of members is present and remains present throughout the meeting.
- (b) A quorum consists of:
- (i) if the number of members entitled to vote is two or more, two of those members; or
 - (ii) if only one member is entitled to vote, that member,
- being present at the meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
- (i) where the meeting was convened by, or at the request of, a member or members, the meeting must be dissolved; or
 - (ii) in any other case the meeting stands adjourned to the day, and at the time and place, as the directors determine or, if no determination is made by the directors, to the same day in the next week at the same time and place; and if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

5.4 Chair of general meetings

- (a) The chair of directors must preside as chair at each general meeting if present within 15 minutes after the time appointed for the meeting and willing to act.

- (b) The directors present at a general meeting may elect a person present to chair the meeting if:
 - (i) there is no chair of directors;
 - (ii) the chair of directors is not present within 15 minutes after the time appointed for the meeting; or
 - (iii) the chair of directors is present within that time but is not willing to act as chair of the meeting.
- (c) Subject to clauses 5.4(a) and 5.4(b), if at a general meeting:
 - (i) a chair has not been previously elected by the directors; or
 - (ii) a previously elected chair is not available or is not willing to act as a chair of the meeting (or part of the meeting),

the members present must elect as chair of the meeting another person who is present and willing to act.

5.5 Use of technology at general meetings

- (a) Subject to the Corporations Act and this constitution, a general meeting may be held using one or more technologies that give the members participating a reasonable opportunity to participate in the meeting without being physically present.
- (b) Where a general meeting is held using any form of technology in accordance with clause (a)5.5(a):
 - (i) the technology used must be reasonable and allow the members who are entitled to attend the meeting, and do attend the meeting using that Virtual Meeting Technology, as a whole, to exercise their right to ask questions and make comments both verbally and in writing;
 - (ii) a member participating in the meeting is taken for all purposes, including the quorum requirements in clause 5.3, to be present in person at the meeting;
 - (iii) if a person is entitled to attend the meeting, or to vote at the meeting, by proxy, the Chair of the meeting must treat a duly appointed proxy in the same way as the person would be entitled or required to be treated if he or she attended the meeting in person;
 - (iv) the provisions of this constitution relating to general meetings apply, so far as they can and with any necessary changes, to general meetings held using that technology; and
 - (v) if the meeting is held:

- (A) at more than one physical venue (whether or not it is also held using Virtual Meeting Technology), the meeting will be taken to be held at the main physical venue of the meeting as set out in the notice of the meeting; or
- (B) using Virtual Meeting Technology only, the meeting will be taken to be held at the registered office of the company.

5.6 Admission to and safety at general meetings

The chair of a general meeting may take any action he or she considers appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting and may refuse admission to the meeting to, or require to leave and to remain out of the meeting, any person:

- (a) who behaves or threatens to behave in a dangerous, offensive or disruptive manner;
- (b) in possession of:
 - (i) any article that the chair considers to be dangerous, offensive or liable to cause disruption, including a placard or banner;
 - (ii) a device capable of recording sound or images;
- (c) who refuses to produce on reasonable request, or to permit reasonable examination of, any article, or the contents of any article in the person's possession; or
- (d) who is not:
 - (i) a member, or a proxy, attorney or representative of a member;
 - (ii) a director;
 - (iii) an auditor of the company; or
 - (iv) a person whom the chair or the directors have requested to attend the meeting.

5.7 Multiple venues

- (a) If the chair of a general meeting considers that there is not enough room for the members who wish to attend the meeting, they may arrange for any person whom they consider cannot be seated in the main meeting room to observe or attend the general meeting in a separate room. Even if the members present in the separate room are not able to participate in the conduct of the meeting, the meeting is nevertheless treated as validly held in the main room.
- (b) If a separate meeting place is linked to the main place of a general meeting by Virtual Meeting Technology which, by itself or in conjunction with other arrangements:

- (i) gives the general body of members in the separate meeting place a reasonable opportunity to participate in proceedings in the main place;
- (ii) enables the chair to be aware of proceedings in the other place; and
- (iii) enables the members in the separate meeting place to vote on a show of hands or on a poll,

a member present at the separate meeting place is taken to be present at the general meeting and entitled to exercise all rights as if they were present at the main place.

- (c) If any technical difficulty occurs, whether before or during the general meeting, which results in one or more of the matters in clause 5.7(b) no longer being satisfied, the chair may, subject to the Corporations Act and clause 5.3:
 - (i) allow the meeting to continue; or
 - (ii) adjourn the meeting either for a reasonable period of time as may be required to fix the technology or to such other date, time and location as the chair of the meeting considers appropriate.
- (d) To avoid doubt, where the chair has allowed the general meeting to continue in accordance with clause 5.7(c)(i), any resolution passed at that meeting is valid.

5.8 Conduct and adjournment of general meetings

- (a) The chair of a general meeting is responsible for the general conduct and procedure of the meeting and may require the members to adopt any procedures that are, in his or her opinion, necessary or desirable for proper and orderly:
 - (i) discussion and debate at the general meeting, including limiting the time that a person may speak on a motion or other item of business;
 - (ii) casting and recording of votes at the general meeting, including the appointment of persons to scrutinise the voting.
- (b) Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chair of the meeting, whose decision is final. No motion of dissent from a ruling by the chair will be accepted.
- (c) The chair of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

- (d) It is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting unless a meeting is adjourned for 30 days or more. In that case, notice of the adjourned meeting must be given to each person entitled to receive notice of a meeting under clause 5.2(a).

5.9 Decisions at general meetings

- (a) Except where the Corporations Act or this constitution requires a question or matter to be passed as a special resolution, questions and matters arising at a general meeting are to be decided by a majority of votes cast by the members present and entitled to vote at the meeting. A decision made in this way is for all purposes a determination of the members.
- (b) In the case of an equal amount of votes on any proposed resolution: the chair of the meeting has a second or casting vote in addition to any votes he or she may have in his or her capacity as a member.
- (c) A resolution put to the vote of a general meeting may be decided on a show of hands unless a poll is demanded before a vote by show of hands is taken, or before or immediately after the result of the show of hands is declared:
 - (i) by the chair of the meeting; or
 - (ii) by any member present and entitled to vote on the relevant resolution.
- (d) A demand for a poll does not prevent the meeting from continuing in order to consider or transact any business other than the question on which the poll is demanded.
- (e) Unless a poll is duly demanded, a declaration by the chair of a general meeting of the result of a vote on a show of hands and a subsequent entry to that effect in the minutes of the meeting signed by the chair of that meeting is conclusive evidence of that result.
- (f) If a poll is duly demanded at a general meeting, it will be taken when and in the manner the chair of the meeting directs and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (g) A poll cannot be demanded at a general meeting to decide:
 - (i) the election of the chair of the meeting; or
 - (ii) a question of adjournment of the meeting.
- (h) A demand for a poll may be withdrawn at any time before the poll is taken.

5.10 Voting rights

- (a) On a show of hands at a general meeting, every member present has one vote, unless otherwise provided by this constitution or by any rights or restrictions attached to any shares or class of shares.
- (b) On a poll at a general meeting, every member present has:

- (i) one vote for each fully paid share held by the member and in respect of which the member is entitled to vote; and
- (ii) a fraction of a vote for each partly paid share held by the member and in respect of which the member is entitled to vote, equivalent to the proportion which the amount paid (not credited) on the share bears to the total of the amounts paid and payable (excluding amounts credited) on the share and ignoring any amount paid on a share in advance of a call,

unless otherwise provided by this constitution or by any rights or restrictions attached to any shares or class of shares.

- (c) Where a person present at a general meeting represents more than one member, whether personally or by proxy, attorney or Representative, the following rules apply to a vote taken on a show of hands:
 - (i) the person is entitled to one vote only despite the number of members the person represents; and
 - (ii) the person's vote will be taken as having been cast for all the members the person represents.
- (d) A joint holder may vote at any meeting in person or by proxy, attorney or Representative as if that person was the sole holder. If more than one joint holder tenders a vote, only the vote of the holder whose name appears first in the register of members counts.
- (e) The parent or guardian of a member who is an infant may vote at a general meeting by producing evidence of the relationship or of the appointment as a guardian to the chair, as the chair or the directors may reasonably require. The chair must accept any vote tendered by a parent or guardian of an infant member to the exclusion of any vote by any attempt to vote by the actual infant member.
- (f) If a person becomes entitled to a share as a result of a Transmission Event, that person may vote at a general meeting as if that person were the registered holder of the share if, before the meeting, the directors have:
 - (i) admitted that person's right to vote at that meeting in respect of the share; or
 - (ii) been satisfied of that person's right to be registered as the holder of, or to transfer, the share under clause 4.4(c),and the chair must accept any vote tendered by that person to the exclusion of any attempt to vote by the registered holder of the share.
- (g) Where a member holds any partly paid share on which any call or other amount due and payable to the company has not been paid at the time of the meeting:

- (i) that member is only entitled to be present and to vote at a general meeting if the member holds other shares on which no call or other amounts are due and payable at the time of the meeting; and
 - (ii) if a poll is demanded, that member is not entitled to vote in respect of the partly paid share, but may vote in respect of any other shares held on which no call or other amount is then due and payable.
- (h) Any objection or challenge to the qualification of a person to vote at a general meeting:
 - (i) must be raised at that meeting, either before or immediately after the result of the motion on which the challenged vote is tendered; and
 - (ii) must be referred to the chair of the meeting, whose decision is final, and if a vote is allowed by the chair under this clause 5.10(h) it is valid for all purposes.

5.11 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:
 - (i) in person or, where a member is a body corporate, by its Representative;
 - (ii) by proxy or, if the member is entitled to cast two or more votes at the meeting, by not more than two proxies; or
 - (iii) by not more than two attorneys.
- (b) A proxy, attorney or Representative may be a member of the company but does not have to be a member.
- (c) A proxy, attorney or Representative may be appointed by a member for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Unless otherwise provided in the Corporations Act or in the appointment, an appointment of a proxy, attorney or Representative confers authority on that person:
 - (i) to agree to a meeting being convened by shorter notice than is required by the Corporations Act or by this constitution;
 - (ii) to speak to any proposed resolution on which the proxy, attorney or Representative may vote;
 - (iii) to demand or join in demanding a poll on any resolution on which the proxy, attorney or Representative may vote;
 - (iv) even though the appointment may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled

or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue; and

- (v) even though the appointment may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions, to do any act specified in clause 5.11 (e).
- (e) The acts referred to in clause 5.11 (d)(v) are:
- (i) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put to the meeting, or any similar motion;
 - (ii) to vote on any procedural motion, including any motion to elect the chair, to vacate the chair or to adjourn the meeting; and
 - (iii) to act generally at the meeting.
- (f) The chair of a meeting may require any person purporting to act as a proxy, attorney or Representative to establish to the satisfaction of the chair that the person has been validly appointed as a proxy, attorney or Representative and is the person named in the relevant instrument of appointment, failing which the person may be excluded from attending or voting at the meeting.
- (g) Where a member appoints two proxies or attorneys to vote at the same general meeting and the authority of one is not conditional on the other failing to attend or vote, the following rules apply:
- (i) where the appointment does not specify the proportion or number of the member's votes which each proxy or attorney may exercise, each proxy or attorney may exercise half of the member's votes;
 - (ii) on a show of hands, neither proxy or attorney may vote;
 - (iii) on a poll, each proxy or attorney may only exercise the voting rights the proxy or attorney represents; and
 - (iv) if both appointments cannot be validly exercised at the meeting, the later appointment revokes the earlier appointment of a proxy or attorney.
- (h) An instrument appointing a Representative, proxy or attorney may direct the manner in which the Representative, proxy or attorney is to vote in respect of a particular resolution. If so, the Representative, proxy or attorney must not vote on the proposed resolution except as directed in the instrument.
- (i) A Representative, proxy or attorney may not vote at a general meeting or adjourned meeting unless the instrument appointing the Representative, proxy or attorney, and the original or a certified copy of the power of attorney or other authority (if any) under which the instrument is signed, are received:

- (i) at the company's registered office or at the place, fax number or electronic address specified for that purpose in the notice convening the meeting; and
 - (ii) by the time specified in the notice of meeting.
- (j) Unless the company has received written notice of the matter by the time and at the place or in the manner set out in clause 5.11(j), a vote cast by a Representative, proxy or attorney is valid even if, before the Representative, proxy or attorney votes:
- (i) a Transmission Event occurs in relation to the appointer;
 - (ii) the member revokes the Representative's, proxy's or attorney's appointment;
 - (iii) the member revokes the authority under which any third party appointed the Representative, proxy or attorney; or
 - (iv) the member transfers the shares in respect of which the Representative, proxy or attorney was appointed.
- (k) The authority of a proxy or attorney to speak and vote for a member at a general meeting is suspended while the member is present at the meeting.

5.12 Resolutions without meetings

- (a) Subject to clause 5.12(c), the company may pass a resolution without a general meeting being held, if all of the members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) For the purposes of clause 5.12(a):
- (i) the document may be sent to members in any manner described in clause 13;
 - (ii) the resolution is passed when the last member signs;
 - (iii) separate copies of a document may be used for signing by members if the wording of the resolution and statement is identical in each copy;
 - (iv) a signature of a member transmitted to the company by fax or email is sufficient evidence of signature; and
 - (v) where a share is held jointly, each joint member must sign.
- (c) 5.11(a) does not apply to a resolution to remove an auditor.
- (d) Where a document is signed in accordance with clause 5.11(a), the document is to be taken as a minute of the passing of the resolution.

5.13 Resolutions of single member company

If the company has only one member, to the extent permitted by law, the company may pass a resolution in writing by the member recording it and signing the record. That record is to be taken as a minute of the passing of that resolution and shall be valid and effectual as if it had been passed at a meeting of members duly convened and held. A facsimile transmission, an email bearing the signature of the member or an email of the member addressed to an officer of the company confirming agreement with the resolution and undertaking to sign the resolution as soon as practicable shall be deemed to be a record in writing signed by the member.

6. DIRECTORS

6.1 Appointment and removal of directors

- (a) At all times, the company must have:
 - (i) at least one director; and
 - (ii) subject to clause 6.1(c), not more than five (5) directors.
- (b) The directors in office on the date that this constitution was adopted by the company continue in office but on the terms and conditions set out in this constitution.
- (c) The company in general meeting may, by resolution:
 - (i) increase or reduce the maximum number of directors; and
 - (ii) appoint or remove a director.
- (d) The directors may by resolution appoint any individual to be a director, either to fill a casual vacancy or as an addition to the existing directors, but the total number of directors must not at any time exceed the maximum number allowed under this constitution.
- (e) Subject to clause 6.2 and to the terms of any agreement entered into between the company and the relevant director, a director holds office until the director dies or is removed from office pursuant to clause 6.1(c)(ii).

6.2 Vacation of office

A director ceases to be a director and his or her office becomes vacant:

- (a) automatically and immediately if the director:
 - (i) becomes prohibited or disqualified from holding office as a director, ceases to be a director or is removed as a director in circumstances prescribed by the Corporations Act or any order made under it;
 - (ii) is disqualified from holding office as a director on the grounds of not being fit and proper within the meaning of any other applicable Australian legislation or regulation;

- (iii) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; or
 - (iv) is convicted of an indictable offence not resulting in disqualification under the Corporations Act, unless the directors otherwise resolve to confirm the director's appointment;
- (b) if the director is removed from office pursuant to clause 6.1(c)(ii), with effect from the date specified in the resolution;
- (c) if the director resigns by notice in writing to the company, with effect from the date specified in the notice and subject to any other conditions in the notice; or
- (d) is absent for more than six (6) months, without permission of the directors, from meetings of the directors held during that period.

6.3 Remuneration of directors

- (a) The directors may determine the entitlement of each director to remuneration out of the company's funds, but if the company in general meeting has fixed a limit on the amount of remuneration payable to the directors, the aggregate remuneration of the directors must not exceed that limit.
- (b) The remuneration of directors may be:
 - (i) a stated salary or a fixed sum for attendance at each meeting of directors or both and in either case is taken to accrue from day to day; or
 - (ii) a share of a fixed sum which is to be divided between the directors in the proportions agreed between them or, failing agreement, equally.
- (c) In addition to their remuneration under clause 6.3(a), the directors are entitled to be paid or reimbursed, out of the company's funds, for all travelling and other expenses which they properly incur in the exercise of their powers and performance of their duties in relation to:
 - (i) attending and returning from general meetings of the company;
 - (ii) meetings of the directors or of committees of the directors; or
 - (iii) the business or affairs of the company generally.
- (d) If a director renders or is called on to perform extra services or to make any special exertions in connection with the affairs of the company, the directors may arrange for a special remuneration to be paid to that director, either in addition to or in substitution for that director's remuneration under clause 6.3(a).

- (e) Nothing in clause 6.3(a) restricts the remuneration to which a director may be entitled as an officer of the company or of a Related Body Corporate of the company in a capacity other than director, which may be either in addition to or in substitution for that director's remuneration under clause 6.3(a).
- (f) For the purposes of clause 6.3(a), the maximum amount (if any) fixed by the company as remuneration payable to the directors does not include any amount paid by the company or a Related Body Corporate of the company:
 - (i) to a superannuation, retirement or pension fund for a director so that the company is not liable to pay the superannuation guarantee charge or similar statutory charge;
 - (ii) for any insurance premium paid or agreed to be paid for a director under clause 12.5; or
 - (iii) to an executive director of the company as remuneration.
- (g) The directors may, subject to the Corporations Act:
 - (i) at any time after a director dies or otherwise ceases to hold office as a director, pay to the director or a legal personal representative, spouse, relative or dependant of the director, in addition to the remuneration of that director under clause 6.3(a), a pension or lump sum payment for past services rendered by that director; and
 - (ii) cause the company to enter into a contract with the director, or a legal personal representative, spouse, relative or dependant of the director, for the purpose of providing for or giving effect to that payment.
- (h) The directors may establish or support, or assist in the establishment or support of, funds and trusts to provide pension, retirement, superannuation or similar payments or benefits to or in respect of the directors or former directors.

6.4 Director need not be a member

- (a) A director is not required to hold any shares in the company to qualify for appointment.
- (b) A director is entitled to attend and speak at general meetings even if he or she is not a member of the company.

6.5 Interested directors

- (a) A director may:
 - (i) hold any other office or role (except that of an auditor) with the company concurrently while holding office as a director; and
 - (ii) be remunerated for other work performed for the company or a Related Body Corporate of the company,

on terms as the directors decide in their discretion.

- (b) A director must disclose an interest in any contract or arrangement with the company in accordance with the Corporations Act.
- (c) A director of the company may be a director or other officer of:
 - (i) a Related Body Corporate of the company;
 - (ii) a body corporate promoted by the company; or
 - (iii) a body corporate in which the company is interested, as shareholder or otherwise,

or be otherwise interested in any of those bodies corporate. A director does not have to account to the company for any remuneration or other benefits received by the director as a director or officer of that body corporate or from having an interest in that body corporate, provided that the director discloses the interest giving rise to those benefits in accordance with the Corporations Act.

- (d) A director may give a notice of disclosure of:
 - (i) the matters referred to in clause 6.5(b) or clause 6.5(c); or
 - (ii) the fact that he or she is an officer or member of another specified body corporate or business, or has an interest in it in some way,

to the company at its registered office setting out the nature and extent of the interest being disclosed. This notice is effective on all subsequent occasions as a standing notice of disclosure of the director's interest in a matter involving the company and that arrangement or the other body corporate or business, provided that the director's interest has not increased since the date of the notice.

- (e) The directors may exercise the voting rights conferred by shares in any body corporate held or owned by the company as the directors decide in their discretion. This includes voting in favour of any resolution appointing a director as a director or other officer of that body corporate, or voting for the payment of remuneration to the directors or other officers of that body corporate. A director may, if permitted by law, vote in favour of the exercise of those voting rights even if he or she is, or may be about to be appointed, a director or other officer of that other body corporate.
- (f) A director is not disqualified merely because of being a director from contracting with the company in any respect including, without limitation:
 - (i) selling any property to, or purchasing any property from, the company;
 - (ii) lending any money to, or borrowing any money from, the company with or without interest and with or without security;

- (iii) guaranteeing the repayment of any money borrowed by the company for a commission or profit;
 - (iv) underwriting or guaranteeing the subscription for securities in the company or in a Related Body Corporate of the company or any other body corporate promoted by the company or in which the company may be interested as a shareholder or otherwise, for a commission or profit; or
 - (v) being employed by the company or acting in any professional capacity, other than auditor, on behalf of the company.
- (g) No contract made by a director with the company and no contract or arrangement entered into by or on behalf of the company in which any director may be in any way interested, is voided or rendered voidable merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (h) No director contracting with the company or being interested in any arrangement involving the company is liable to account to the company for any profit realised by or under a contract or arrangement of that kind merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (i) Subject to clauses 6.5(g) and 6.5(h), a director who is in any way interested in a contract or arrangement or proposed contract or arrangement with the company may, despite that interest:
 - (i) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement;
 - (ii) vote in respect of the contract or arrangement or proposed contract or arrangement or any matter arising out of those things; and
 - (iii) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement.
- (j) Clause 6.5(i) does not apply if, and to the extent that, it would be contrary to the Corporations Act.
- (k) The directors may make regulations requiring the disclosure of interests that a director, and any person deemed by the directors to be related to or associated with the director, may have in any matter concerning the company or a Related Body Corporate of the company. Any regulations made under this clause 6.5(k) bind all directors and apply in addition to any obligations imposed on the directors by the Corporations Act to disclose interests to the company.
- (l) Subject to the Corporations Act, each director is authorised to act in the best interests of any Holding Company of the company.

6.6 Powers and duties of directors

- (a) The directors are responsible for managing the business of the company. The directors may exercise, to the exclusion of the company in general meeting, all the powers of the company which neither the Corporations Act nor this constitution require to be exercised by the company in general meeting.
- (b) Without limiting clause 6.6(a) the directors may exercise all the powers of the company to borrow or otherwise raise money, to charge any property or business of the company or all or any of its uncalled capital and to issue debentures, give any indemnities or guarantees, or give any other security for a debt, liability or obligation of the company or of any other person.
- (c) The directors may determine how any negotiable instruments or other documents must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the company.
- (d) The directors may pay out of the company's funds all expenses of the promotion, formation and registration of the company and the vesting in it of the assets acquired by it.
- (e) The directors may:
 - (i) appoint or employ any person to be an officer, agent or attorney of the company for the purposes, for the period and on the conditions as they think appropriate;
 - (ii) resolve to delegate any of their powers to an officer, agent or attorney and the officer, agent or attorney must exercise the powers delegated in accordance with any directions of the directors;
 - (iii) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (iv) subject to any contract between the company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney of the company at any time, with or without cause.
- (f) The directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the company for the purposes, with the powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the directors), for the period and subject to the conditions as they think fit. A power of attorney may contain provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors think appropriate and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the person.

6.7 Convening of meetings of directors

- (a) A director may convene a meeting of the directors at any time.

- (b) A secretary must convene a meeting of the directors if requested by any director.
- (c) The directors may regulate their meetings as they decide in their discretion.

6.8 Notice of meetings of directors

- (a) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice:
 - (i) a director, other than a director on leave of absence approved by the directors; or
 - (ii) an alternate director appointed under clause 6.15 by a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
 - (i) must specify the date, time and place of the meeting;
 - (ii) must be given not less than 24 hours before the meeting;
 - (iii) must, if the meeting is to be held in two or more places in accordance with clause 6.11 specify the technology that will be used to facilitate this;
 - (iv) need not state the nature of the business to be transacted at the meeting;
 - (v) must be given either by personal telephone contact or in writing by the convenor of the meeting; and
 - (vi) is taken to have been given to an alternate director if it is given to the director who appointed that alternate director.
- (c) A director or alternate director may waive notice of a meeting of directors by notifying the company to that effect in person or by post, or by a form of technology.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director or alternate director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the director or alternate director waives notice of that meeting under clause 6.8(c);
 - (iii) before or after the meeting, the director or alternate director notifies the company of his or her agreement to that act, matter, thing or resolution by notice to the company (which need not be in writing); or

- (iv) the director or alternate director attended the meeting.
- (e) If a person attends a meeting, that person waives any objection that person and:
 - (i) if the person is a director, an alternate director appointed by that person; or
 - (ii) if the person is an alternate director, the director who appointed that person as alternate director,may have to a failure to give notice of the meeting.

6.9 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
- (b) A quorum consists of:
 - (i) if the directors have fixed a number for the quorum, that number of directors;
 - (ii) in the case of a company with a single director, that director; or
 - (iii) in any other case, two directors.
- (c) If there is a vacancy in the office of a director, the remaining director or directors may act but, if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, the remaining director or directors may act only:
 - (i) in an emergency;
 - (ii) to increase the number of directors to a number sufficient to constitute a quorum; or
 - (iii) to convene a general meeting of the company.

6.10 Chair of directors

- (a) The directors may elect one of the directors to the office of chair of directors and may determine the period for which that director is to be chair of directors.
- (b) The office of chair of directors may be treated as an extra service or special exertion performed by the director holding that office for the purposes of clause 6.3(d)if:
 - (i) the directors resolve to do so; and
 - (ii) the limit fixed by the company for remuneration of directors under clause 6.3(a) will not be exceeded.

- (c) Subject to clause 6.10(d), the chair of directors must preside as chair at each meeting of directors, if present within 10 minutes after the time appointed for the holding of the meeting and willing to act.
- (d) The directors present at the meeting of directors must elect one of themselves to be chair of the meeting or part of the meeting if:
 - (i) there is no chair of directors;
 - (ii) the chair of directors is not present within 10 minutes after the time appointed for the holding of the meeting; or
 - (iii) the chair of directors is present within that time but is not willing to act as chair of the meeting or of part of the meeting.
- (e) If the company has only one director, that director is regarded as the chair of directors for the purposes of this constitution.

6.11 Use of technology

- (a) A meeting of directors may be held using any technology consented to by all the participating directors, including but not limited to telephone, television or any other audio or visual device which permits instantaneous communication.
- (b) Subject to the Corporations Act, a meeting of directors may be convened at two or more venues, provided that the form of technology used provides the directors participating at each venue the reasonable ability to participate in the meeting at the same time.
- (c) Where a meeting of directors is held at two or more venues using any form of technology:
 - (i) a director participating in the meeting is taken to be present in person at the meeting;
 - (ii) the provisions of this constitution relating to meetings of directors apply, so far as they can and with any necessary changes, to meetings of directors held using that technology; and
 - (iii) the meeting is taken to be held at the place determined by the chair provided that at least one of the directors present at the meeting was at the place for the duration of the meeting.
- (d) If the technology used for the purposes of this clause 6.11 encounters a technical difficulty, whether before or during the meeting, which results in one or more directors not being able to participate in the meeting, the chair may, subject to the Corporations Act and clause 6.9:
 - (i) allow the meeting to continue; or
 - (ii) adjourn the meeting either for a reasonable period of time as may be required to fix the technology or to such other date, time and location as the chair of the meeting considers appropriate.

- (e) To avoid doubt, where the chair has allowed the meeting to continue in accordance with clause 6.11(d)(i), any resolution passed at that meeting is valid.

6.12 Decisions of directors

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under the Corporations Act and this constitution.
- (b) Questions arising at a meeting of directors are to be decided by a majority of votes cast by the directors present at the meeting. A decision made in this way is for all purposes a determination of the directors.
- (c) In the case of an equal amount of votes on a proposed resolution:
 - (i) the chair of the meeting does not have a second or casting vote; and
 - (ii) the proposed resolution is to be taken as having been unsuccessful.

6.13 Resolutions without meetings

- (a) The directors may pass a resolution without a directors' meeting being held if a document containing a statement to that effect is assented to by all of the directors other than:
 - (i) a director on leave of absence approved by the directors;
 - (ii) director who disqualifies himself or herself from considering the resolution in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest; and
 - (iii) a director who the directors reasonably believe is not entitled to vote on the resolution in question,and the directors who assent to the resolution would have constituted a quorum at a meeting held to consider that resolution.
- (b) Two or more copies of a document may be used for signing by the directors if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last director assents.
- (d) A director may signify assent to a document by:
 - (i) signing the document; or
 - (ii) by notifying the company of the director's assent in person or by post, fax, electronic, telephone or other method of written, audio or audio visual communication.
- (e) Where a director signifies assent to a document otherwise than by signing the document, the director must confirm his or her assent by signing the

document as soon as practicable and no later than the next meeting of the directors attended by that director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.

- (f) Where a document is assented to in accordance with this clause 6.13, the document is to be taken as a minute of the passing of the resolution.
- (g) Nothing in this clause 6.13 limits the operation of clause 6.14.

6.14 Resolutions of single director company

- (a) If the company has only one director, the director may:
 - (i) pass a resolution by recording it and signing the record; and
 - (ii) make a declaration by recording it and signing the record.
- (b) The record of the decision is to be taken as a minute of the passing of that resolution.
- (c) The record of the declaration:
 - (i) satisfies any requirement in the Corporations Act that the declaration be made at a directors' meeting; and
 - (ii) is to be taken as a minute of the making of the declaration.

6.15 Alternate directors

- (a) A director may, with the approval of a majority of the directors, appoint a person to be that director's alternate director for a period determined by that director in his or her discretion.
- (b) An alternate director may be a member or a director of the company but need not be a member or a director.
- (c) One person may act as alternate director to more than one director.
- (d) An alternate director is entitled, if the appointing director does not attend a meeting of directors, to attend and vote in place of and on behalf of the appointing director.
- (e) An alternate director is entitled to a separate vote for each director the alternate director represents, in addition to any vote the alternate director may have as a director in his or her own right.
- (f) In the absence of the appointing director, an alternate director may exercise any powers that the appointing director may exercise and the exercise of that power by the alternate director is taken to be the exercise of the power by the appointing director.
- (g) The office of an alternate director is vacated if and when the appointing director vacates office as a director.

- (h) The appointment of an alternate director may be terminated at any time by the appointing director, even though the period of the appointment of the alternate director has not yet expired.
 - (i) An appointment, or the termination of an appointment, of an alternate director must be in writing signed by the director who makes or made the appointment and does not take effect unless and until the company has received notice in writing of the appointment or termination.
 - (ii) An alternate director is not to be taken into account in determining the minimum or maximum number of directors allowed under this constitution.
- (i) In determining whether a quorum is present at a meeting of directors:
 - (i) where a director has appointed an alternate director, that alternate director is counted if the appointing director is not present;
 - (ii) where a person is present as director and an alternate director for another director, that person is counted separately provided that there is at least one other director or alternate director present; and
 - (iii) where a person is present as an alternate director for more than one director, that person is counted separately for each appointment provided that there is at least one other director or alternate director present.
- (j) An alternate director is entitled to be paid the remuneration that the directors think appropriate, either in addition to or in reduction of the remuneration payable to the director for whom the alternate director acts as alternate, provided that the total amount fixed by the company for remuneration of directors under clause 6.3(a) is not exceeded.
- (k) An alternate director is not entitled to be remunerated by the company for his or her services as alternate director except as provided in clause 6.15(l).
- (l) An alternate director, while acting as a director, is responsible to the company for his or her own acts and defaults and is not to be taken to be the agent of the director by whom he or she was appointed.

6.16 Delegation to committees of directors

- (a) The directors may resolve to delegate any of their powers to one or more committees consisting of such number of directors as they decide in their discretion and may also resolve to revoke that delegation.
- (b) A committee to which any powers have been so delegated must exercise those delegated powers in accordance with any directions or conditions imposed by the directors acting as a board.
- (c) The provisions of this constitution applying to meetings and resolutions of directors apply, so far as they can and with the changes as are necessary, to meetings and resolutions of a committee of directors.

- (d) Membership of a committee of directors may be treated as an extra service or special exertion performed by the members of the committee for the purposes of clause 6.3(d) if:
 - (i) the directors resolve to do so; and
 - (ii) the total amount fixed by the company for remuneration of directors under clause 6.3(a) will not be exceeded.

6.17 Delegation to individual directors

- (a) The directors may resolve to delegate any of their powers to an individual director and may also resolve to revoke that delegation.
- (b) An individual director to whom any powers have been delegated under clause 6.17(a) must exercise those delegated powers in accordance with any directions or conditions imposed by the directors acting as a board.
- (c) Acceptance of such a delegation may be treated as an extra service or special exertion performed by the delegate for the purposes of clause 6.3(d) if:
 - (i) the directors resolve to do so; and
 - (ii) the total amount fixed by the company for remuneration of directors under clause 6.3(a) will not be exceeded.

6.18 Validity of acts

An act done by a person acting as a director, or by a meeting of directors or of a committee of directors that is attended by a person acting as a director, is not invalidated merely because of:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified to be a director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the directors or committee, as the case may be, at the time when the act was done.

7. EXECUTIVE OFFICERS

7.1 Managing directors

- (a) The directors may appoint one or more of the directors to the office of managing director.
- (b) A managing director's appointment as managing director automatically terminates if the managing director ceases to be a director.

7.2 Executive directors

- (a) A director who is also:
 - (i) an officer in a capacity other than a director; or
 - (ii) an employee,of the company or of a Related Body Corporate of the company is referred to as an executive director for the purposes of this constitution.
- (b) The directors may confer any other title on an executive director as they decide in their discretion.

7.3 Company secretaries

- (a) The directors may appoint one or more company secretaries.
- (b) The directors may appoint one or more assistant secretaries.
- (c) Any director may also be a company secretary or assistant secretary of the company.

7.4 Provisions applicable to all executive officers

- (a) A reference in this clause 7.4 to an executive officer is a reference to a managing director, executive director, company secretary or assistant secretary within the meaning of clause 7.
- (b) The appointment of an executive officer may be for the period, for the remuneration and on terms and conditions as the directors decide in their discretion provided that, in the case of a managing director or an executive director, the total amount fixed by the company for remuneration of directors under clause 6.3(a) is not exceeded.
- (c) Subject to any contract between the company and the relevant executive officer, an executive officer of the company may be removed or dismissed by the directors at any time, with or without cause. Such removal or dismissal does not remove that person from office as a director.
- (d) The directors may:
 - (i) confer on an executive officer the powers, discretions and duties as they decide in their discretion and may resolve to delegate any powers, discretions and duties vested in or exercisable by the directors;
 - (ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
 - (iii) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.

- (e) An executive officer is not required to hold any shares in the company to qualify for appointment.
- (f) An act done by a person acting as an executive officer is not invalidated merely because of:
 - (i) a defect in the person's appointment as an executive officer; or
 - (ii) the person being disqualified to be an executive officer,if that person did not know of the defect or disqualification at the time when the act was done.

8. EXECUTION OF DOCUMENTS

8.1 Execution under the Corporations Act or other law

Without limiting the ways a document can be signed under the Corporations Act, the company may execute a document without using a common seal if the document is signed by:

- (a) two directors;
- (b) a director and a company secretary; or
- (c) any person or persons authorised by the Directors for the purposes of executing that document or the class of document to which that document belongs.

8.2 Non-autographic signatures

The directors may resolve (either on a standing basis or in respect of a particular act or matter) that where an instrument or resolution must be signed by an officer of the company, the signature of that officer may be affixed to a document by mechanical, electronic or other means instead of that officer physically signing the document itself, subject to applicable law.

8.3 Adoption and use of common seal

- (a) The directors may determine that the company has a common seal or that the company no longer has a common seal.
- (b) Adoption of a common seal does not limit the ways in which the company may validly execute documents in accordance with the Corporations Act or any other law.
- (c) If the company adopts a common seal, the seal must be used only:
 - (i) by the authority of the directors; or
 - (ii) by a delegate of the directors authorised by the directors to use the seal.

- (d) Every document to which the common seal is affixed shall be signed by a director and countersigned by another director, (who may be an alternate director) a secretary or another person appointed by the directors to countersign that document or a class of documents in which that document is included.
- (e) The directors may decide on other procedures for the use of the common seal.

9. DIVIDENDS, OTHER DISTRIBUTIONS AND RESERVES

9.1 Ability of directors to declare and pay dividends

- (a) Subject to the Corporations Act, all applicable law and any rights and restrictions attached to a share or class of shares, the directors may declare and pay any interim and final dividends at any time in their discretion.
- (b) If there is more than one class of shares on issue, the directors may declare and pay a dividend on one class of shares:
 - (i) to the exclusion of some or all of the other classes; and
 - (ii) at a different rate from that on another class of shares.
- (c) To avoid doubt, the directors may pay any dividend that the terms of issue of a share require the company to pay, at the required time.
- (d) Declaration and payment of a dividend by the directors does not require any ratification by the members in general meeting.

9.2 Determination and apportionment of dividends

- (a) Subject to the Corporations Act and this constitution, on determining that a dividend is payable on a particular class of shares, the directors may fix:
 - (i) the amount of the dividend;
 - (ii) the record date in respect of the dividend;
 - (iii) the date of payment of the dividend; and
 - (iv) the form and method of payment of the dividend.
- (b) The form of payment of the dividend may include any combination of the following, without limitation:
 - (i) the payment of cash;
 - (ii) the issue of shares;
 - (iii) the grant of options; or
 - (iv) the distribution of assets, including fully paid shares or other securities in another body corporate.

- (c) The directors may resolve to pay the dividend to particular shareholders wholly or partly out of any particular fund or reserve or out of profits derived from any particular source and to the remaining shareholders wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source, in their discretion.
- (d) Interest is not payable on a dividend.
- (e) Subject to any rights or restrictions attached to a share or class of shares, dividends in respect of shares in a class held by a member:
 - (i) must be paid in proportion to the number of shares of that class held by all members;
 - (ii) if those shares are partly paid, must be paid in proportion to the amount paid or credited on those shares;
 - (iii) if the amount paid or credited on the shares has changed during the relevant period, must be paid proportionately to the amounts paid or credited on the shares for the relevant portions of that period

and for the purposes of clause 9.2(e)(ii) and clause 9.2(e)(iii), ignoring any amount paid on a share in advance of a call.

9.3 Timing and entitlement to dividends

- (a) A dividend in respect of a share must be paid to the person who is registered, or entitled under clause 4.1(g) to be registered, as the holder of the share:
 - (i) where the directors have fixed a record date in respect of the dividend, at 11:59 pm on the record date; or
 - (ii) where the directors have not fixed a record date in respect of that dividend, at 8:00 am on the date on which the dividend is paid.
- (b) A transfer of a share must be registered, or lodged for registration in accordance with clause 4.1(g), on or before the date referred to in clause 9.3(a) to entitle the transferee to receive the dividend payable on that share.
- (c) Where a person is entitled to a share as a result of a Transmission Event, the directors may, but are not obliged to, retain any dividends payable on that share until that person becomes registered as the holder of the share or transfers it.

9.4 Set-off

The directors may retain and deduct from any dividend payable to a member all amounts owed by the member to the company, including any unpaid calls on partly paid shares, and may apply the amount retained or deducted towards satisfaction of the member's debt to the company.

9.5 Remittance of payment

- (a) Any dividend, interest or other money payable in cash in respect of shares may be paid:
 - (i) by cheque and sent by post or courier to the address of the holder as shown in the register of members (or in the case of joint holders, to the address shown in the register of members as the address of the joint holder whose name appears first in the register of members), or to such other address as directed by the holder or joint holders;
 - (ii) by electronic funds transfer to an account nominated by and in the name of each member (or in the case of joint holders, to the account nominated by and in the name of the joint holder whose name appears first in the register of members); or
 - (iii) in any other manner determined by the directors.
- (b) A cheque sent under clause 9.5(a) (i) may be made payable to bearer or to the order of the member to whom it is sent or any other person the member directs in writing and is sent at the member's risk.

9.6 Capitalisation of profits

- (a) Subject to the Corporations Act and the terms of issue of any shares, the directors may determine to capitalise any amount that would otherwise be available for distribution as a dividend and to apply that amount:
 - (i) in paying up in full any unissued shares in, or other securities of, the company, to be issued to members as fully paid;
 - (ii) in paying up any amounts unpaid on shares or other securities held by the members;
 - (iii) partly as specified in clause 9.6(b) (i) and partly as specified in clause 9.6(b) (ii); or
 - (iv) in any other way permitted by the Corporations Act.
- (b) Each member:
 - (i) is entitled to benefit from any such capitalisation on the same basis as that member is entitled to dividends; and
 - (ii) must accept any application under clause 9.6(a) in full satisfaction of that member's interests in the capitalised amount.
- (c) Clauses 9.2 and 9.3 apply, so far as they can and with any necessary changes, to a capitalisation of an amount under this clause 9.6 as if references in those rules to a dividend and to the date a dividend is paid were references to a capitalisation of an amount and to the date the directors resolve to capitalise the amount under this clause 9.6 respectively.

9.7 Ancillary powers

- (a) To give effect to any resolution to pay a dividend or to capitalise any amount under this clause 9.7, the directors may determine to do all things that they consider appropriate including, without limitation:
 - (i) disregarding any fractional share entitlement to any share;
 - (ii) making a cash payment in respect of any fractional entitlement;
 - (iii) fixing the value for distribution of any specific asset or any part of such asset; or
 - (iv) making a cash payment to any member to adjust the value of distributions made to members.
- (b) If the company distributes to a member shares or other securities in the company or another body corporate or a trust, the member appoints the company as his or her agent to do anything needed to give effect to that distribution, including agreeing to become a member of that other body corporate.
- (c) Any agreement made under an authority referred to in this clause 9.7 is effective and binding on all members concerned.

9.8 Reserves

- (a) Subject to this constitution, the directors may set aside out of the profits of the company reserves or provisions for any purpose as they think appropriate.
- (b) The setting aside of an amount as a reserve or provision does not require the directors to keep the amount separate from other assets of the company or prevent the amount being used in the business of the company, invested as the directors think appropriate or subsequently distributed to members.

9.9 Capital reductions

The company may reduce its share capital by any of the means expressly authorised by the Corporations Act, or in any other way including by way of an in specie distribution of the assets of the company (including any shares, options or other securities in another body corporate), if the reduction:

- (a) is fair and reasonable to the members of the company as a whole;
- (b) does not materially prejudice the company's ability to pay its creditors; and
- (c) is approved by members in accordance with *section 256C* of the Corporations Act.

9.10 Shares in another body corporate

Where the company, pursuant to a reduction of its share capital in accordance with clause 9.9, distributes shares, options or other securities in another body corporate to members:

- (a) the members of the company will be deemed to have agreed to become members of that body corporate; and
- (b) each of the members appoints the company or any of the directors as its agent to execute any transfer or other document required to effect the distribution of shares, options or other securities to that member.

10. WINDING UP

10.1 Distribution of surplus

Subject to this constitution and to the rights or restrictions attached to any shares or class of shares:

- (a) if the company is wound up and the property of the company is more than sufficient:
 - (i) to pay all of the debts and liabilities of the company; and
 - (ii) the costs, charges and expenses of the winding up,the excess must be divided among the members in proportion to the number of shares held by them, irrespective of the amounts paid or credited as paid on the shares;
- (b) for the purpose of calculating the excess referred to in clause 10.1 (a), any amount unpaid on a share is to be treated as property of the company;
- (c) the amount of the excess that would otherwise be distributed to the holder of a partly paid share under clause 10.1 (a) must be reduced by the amount unpaid on that share at the date of the distribution; and
- (d) if the effect of the reduction under clause 10.1 (c) would be to reduce the distribution to the holder of a partly paid share to a negative amount, the holder must contribute that amount to the company.

10.2 Division of property

- (a) If the company is wound up, the liquidator may, with the sanction of a special resolution:
 - (i) divide among the members the whole or any part of the property of the company; and
 - (ii) determine how the division is to be carried out as between the members or different classes of members.

- (b) A division under clause 10.2(a) need not accord with the legal rights of the members and, in particular, any class may be given preferential or special rights or may be wholly or partly excluded.
- (c) Where a division under clause 10.2(a) does not accord with the legal rights of the members, a member is entitled to dissent and to exercise the same rights as if the special resolution sanctioning that division were a special resolution passed under section 507 of the Corporations Act.
- (d) If any of the property to be divided under clause 10.2(a) includes securities with a liability to calls, a person entitled under the division to any of the securities may within ten Business Days after the passing of the special resolution referred to in that rule, direct the liquidator in writing to sell the person's proportion of the securities and to account for the net proceeds. The liquidator must, if practicable, act accordingly.
- (e) Nothing in this clause 10.2 adversely affects any right to exercise any statutory or other power that would have existed if this rule were omitted.
- (f) Clause 9.7 applies, so far as it can and with necessary changes, to a division by a liquidator under clause 10.2(a) as if references in clause 9.7 to the directors were references to the liquidator and references in clause 9.7 to a distribution or capitalisation were references to the division.

11. MINUTES AND RECORDS

11.1 Minutes

The directors must record and keep minutes of:

- (a) all proceedings and resolutions of general meetings;
- (b) proceedings and resolutions of meetings of the directors and of committees of the directors;
- (c) resolutions passed by members without a meeting;
- (d) resolutions passed by a director or directors without a meeting; and
- (e) declarations made by a director of a single director company,

within one month after the meeting is held, the resolution is passed or the declaration is made.

11.2 Signing of minutes

- (a) Minutes of a meeting must be signed by the chair of the meeting or the chair of the next meeting as soon as practicable after the meeting.
- (b) Minutes of the passing of a resolution without a meeting or the making of a declaration must be signed by a director within a reasonable time after the resolution is passed.

11.3 Minutes as evidence

A minute that is recorded and signed in accordance with clause 11.1 and clause 11.2 is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

11.4 Access to records

- (a) Subject to the Corporations Act, the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the company or any of them will be open to the inspection of members other than directors.
- (b) Each member must provide the company with such information as is required for the company to administer all registers required to be kept by the company in accordance with the Corporations Act. If events occur that would cause any information contained in a register maintained by the company to be inaccurate, the member must notify the company in writing of the change within ten Business Days of such change occurring.
- (c) A person other than a director does not have the right to inspect any books, records or documents of the company except as provided by law or authorised by the directors.
- (d) The company may enter into contracts with any of its directors agreeing to provide continuing access for a specified period after cessation of office to board papers, books, records and documents of the company that relate to the period during which the director was a director on such terms and conditions as the directors think appropriate and that are not inconsistent with this clause 11.
- (e) The company may procure that its Subsidiaries provide similar access to board papers, books, records and documents of the company as that set out in the other provisions of this clause 11.4.

12. INDEMNITY AND INSURANCE

12.1 Persons to whom this rule applies

This clause 12 applies:

- (a) to each person who is or has been a director, alternate director or executive officer (within the meaning of clause 7.4(a)) of the company;
- (b) to such other officers or former officers of the company or of its Related Bodies Corporate as the directors in each case determine; and
- (c) if the directors so determine, to any auditor or former auditor of the company or of its Related Bodies Corporate.

12.2 Indemnity

The company indemnifies and agrees to keep indemnified, to the extent permitted by law, each person to whom this clause 12 applies for:

- (a) losses and liabilities incurred by the person in his or her capacity as an officer or auditor of the company; and
- (b) legal costs incurred by that person in defending any action or proceedings for a liability incurred as an officer or auditor of the company.

12.3 Extent of indemnity

The indemnity in clause 12.2:

- (a) is a continuing obligation and is enforceable by a person to whom clause 12.2 applies even though that person may have ceased to be an officer or auditor of the company or of a Related Body Corporate of the company;
- (b) applies to losses and liabilities incurred both before and after the date of adoption of that rule; and
- (c) operates only to the extent that the loss or liability is not covered by insurance.

12.4 Limits on indemnity

Despite clause 12.3, the company must not indemnify a person (whether by agreement or by making a payment and whether directly or through an interposed entity) against:

- (a) any of the following liabilities incurred as an officer or auditor of the company:
 - (i) a liability owed to the company or a Related Body Corporate of the company;
 - (ii) a liability for a pecuniary penalty order under *section 1317G* of the Corporations Act or a compensation order under *section 1317H* of the Corporations Act; or
 - (iii) a liability that is owed to someone other than the company or a Related Body Corporate of the company and that did not arise out of conduct in good faith; or
- (b) legal costs incurred by a person in defending any action or proceedings for a liability incurred as an officer or auditor of the company, if the costs are incurred:
 - (i) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under clause 12.4(a);

- (ii) in defending or resisting criminal proceedings in which the person is found guilty;
- (iii) in defending or resisting proceedings brought by ASIC or a liquidator for a court order, if the grounds for making the order are found by the court to have been established (but this clause 12.4(b)(iii) does not apply to any costs incurred by the person in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order); or
- (iv) in connection with proceedings for relief to the person under the Corporations Act in which the court denies relief.

12.5 Company may maintain insurance for losses or liabilities

The company may, to the extent permitted by law:

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

for any person to whom this clause 12 applies against any losses or liability incurred by the person as an officer or auditor of the company or of a Related Body Corporate of the company including, but not limited to, a liability for negligence or for legal costs.

12.6 Savings

Nothing in clause 12.2 or clause 12.5:

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

12.7 Company may enter into deed

The company may enter into a deed agreeing with the person to give effect to the rights of the person conferred by this clause 12, or the exercise of a discretion under this clause 12, on such terms and conditions as the directors decide in their discretion and subject to the provisions of this clause 12.

13. NOTICES

13.1 Notices by the company to members

- (a) A notice may be given by the company to a member in any of the following ways:
 - (i) by personal service;
 - (ii) by sending it by post (for members residing outside Australia, this must be by air mail or by international courier or in another way that

ensures it will be received quickly) to the member's address as shown in the register of members or any alternative address nominated by the member for the purpose; or

- (iii) by sending it by fax or email to the fax number or email address nominated by the member for the purpose.
- (b) A notice may be given by the company to the joint holders of a share in the manner authorised by clause 13.1(a) to the joint holder first named in the register of members in respect of the share, or any alternative address nominated by the joint holders for the purpose.

13.2 Person entitled on transmission event

- (a) A notice may be given by the company to a person entitled to a share as a result of a Transmission Event by serving it or sending it to that person:
 - (i) by any method authorised by clause 13.1(a), if that person has supplied an address, fax number or email address to the company for the giving of notices to that person; or
 - (ii) if no address, fax number or email address has been supplied, at or to the address, fax number or email address to which the notice would have been sent if the relevant Transmission Event had not occurred.
- (b) A notice given to a member in accordance with clauses 13.1(a) or 13.1(b) is, despite the occurrence of a Transmission Event and whether or not the company has notice of that occurrence:
 - (i) duly given in respect of any shares registered in that person's name, whether solely or jointly with another person; and
 - (ii) sufficient service on any person entitled to the shares as a result of the Transmission Event.
- (c) A notice given to a person who is entitled to a share as a result of a Transmission Event is sufficient service on the member in whose name the share is registered.

13.3 Time of service

Subject to clause 13.4, a notice is treated as having been effectively served:

- (a) where served personally, on delivery to that person;
- (b) where sent by post:
 - (i) within Australia, on the Business Day after the date of postage;
 - (ii) if to a place outside Australia, on the seventh Business Day after the date of postage;

- (c) where sent by fax or email, on the date of transmission, unless an automated transmission report indicating a delivery failure is received.

13.4 Service out of hours

For the purposes of clause 13.3, if the delivery or receipt is on a day that is not a Business Day or is after 9:00 pm (recipient's time) it is deemed to be received at 9:00 am on the following Business Day.

13.5 Other communications and documents

The provisions of this clause 13 apply, so far as they can and with necessary changes, to the service of any communication or document by or on the company, the members, the directors and any other person.

14. GENERAL

14.1 Currency

An amount payable to the holder of a share, whether by way of or on account of dividend, return of capital, participation in the property of the company on a winding up or otherwise, may be paid, with the agreement of the holder or pursuant to the terms of issue of the share, in:

- (a) Australian dollars; or
- (b) the currency of a country other than Australia and the directors may fix a date up to 30 days before the payment date as the date on which any applicable exchange rate will be determined for that purpose.

14.2 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this constitution that is void, illegal or unenforceable in any place is, in that place, ineffective only to the extent to which it is void, illegal or unenforceable.
- (b) Any provision of, or the application of any provision of, this constitution that is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

14.3 Governing law and jurisdiction

- (a) The company and each member, director and company secretary of the company each submits to the non-exclusive jurisdiction of each of the following courts:
 - (i) the Supreme Court of the Australian State or Territory where the company is registered or where the registered office of the company is located;
 - (ii) the Federal Court of Australia; and
 - (iii) the courts that may hear appeals from those courts.

- (b) The company and each member, director and company secretary of the company each irrevocably waives any right it has to object to the venue of any legal process in the courts described in clause 14.3(a) on the basis that:
- (i) any proceeding arising out of or in connection with this constitution has been brought in an inconvenient forum; or
 - (ii) the courts described in clause 14.3(a) do not have jurisdiction.