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**REECE LIMITED  
ACN 004 313 133**

**CONSTITUTION**

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# CORPORATIONS ACT

## CONSTITUTION

of

**REECE LIMITED**

**ACN 004 313 133**

A public company limited by shares

### **PART 1 INTERPRETATION AND DEFINITIONS**

#### **1 Replaceable rules do not apply**

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

#### **2 Definitions and interpretation**

2.1 In this Constitution unless the contrary intention appears:

2.1.1 “**ASX Settlement**” means ASX Settlement Pty Ltd.

2.1.2 “**ASX Settlement Operating Rules**” means the settlement operating rules of ASX Settlement, and to the extent they are applicable, the operating rules of ASX Clear Pty Limited, in both cases to the extent amended or replaced from time to time.

2.1.3 “**ASX**” means ASX Limited or such other body corporate that is declared by the directors to be the Company's primary stock exchange for the purposes of this definition.

2.1.4 “**branch office**” means any office outside Australia at which a branch register of members is kept.

2.1.5 “**business day**” has the same meaning as in the Listing Rules.

2.1.6 “**certificated holding**” has the same meaning as in the ASX Settlement Operating Rules.

2.1.7 “**CHESS**” means the Clearing House Electronic Subregister System operated in accordance with the ASX Settlement Operating Rules.

2.1.8 “**Company**” means Reece Limited (ACN 004 313 133).

2.1.9 “**Computerised Share Transfer System**” means any computerised or electronic system for transferring or dealing in uncertificated holdings of shares operated in accordance with the ASX Settlement Operating Rules, the Listing Rules and the Corporations Act, and includes CHESS.

2.1.10 “**Constitution**” means the Constitution for the time being of the Company.

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

2.1.12 “**Director**” means any person acting as a director of the Company by whatever name called (including an alternate Director).

- 2.1.13 “**Directors**” or “**Board**” means a quorum of Directors of the Company acting as a board.
- 2.1.14 “**Executive Director**” means a Director who is an employee (whether full-time or part-time) of the Company or of any related body corporate of the Company.
- 2.1.15 “**listed company**” means a company which is admitted to, and for the time being remains on, the official list of the ASX.
- 2.1.16 “**Listing Rules**” means the Listing Rules of ASX as they apply to the Company (including any waiver of those Listing Rules, and any condition to be complied with in relation to a waiver).
- 2.1.17 “**Managing Director**” means any person appointed to that office under Part 6.4.
- 2.1.18 “**member**” means a member for the time being of the Company appearing as such in the register.
- 2.1.19 “**office**” means the registered office for the time being of the Company.
- 2.1.20 “**person**” includes individuals, partnerships, associations, corporations, companies, and other unincorporated and incorporated bodies, and includes executors, administrators, successors and assigns of any of them.
- 2.1.21 “**record date**” has the same meaning as in the ASX Settlement Operating Rules.
- 2.1.22 “**register**” means the register of members of the Company to be kept pursuant to the Corporations Act.
- 2.1.23 “**representative**” means a representative, appointed pursuant to section 250D of the Corporations Act, by a member who is a body corporate.
- 2.1.24 “**Restricted Securities**” has the same meaning as in the Listing Rules.
- 2.1.25 “**Secretary**” includes any person appointed to perform the duties of company secretary temporarily and where more than one Secretary has been appointed means any one of them.
- 2.1.26 “**uncertificated holding**” means an uncertificated holding of shares in the Company in accordance with the Listing Rules, the ASX Settlement Operating Rules and the Corporations Act, being a holding which is recorded on that part of the company’s register for uncertificated holdings maintained by or on behalf of the Company.
- 2.2 A member shall be regarded as being present at a general meeting of the Company if the member is present in person, or by proxy, attorney or representative or if they have duly lodged a valid direct vote in relation to the general meeting under clause 94.5.
- 2.3 A Director shall be regarded as being present at a meeting of Directors if the Director is present in person or by alternate Director.

- 2.4 Words importing the singular include the plural and vice versa, and words importing the masculine gender include the feminine and neutral genders.
- 2.5 Unless the context otherwise requires, headings are for reference only and do not affect the construction of this Constitution.
- 2.6 Unless the contrary intention appears, an expression in this Constitution has the same meaning as in the Corporations Act. Where the expression has more than one meaning in the Corporations Act and a provision of the Corporations Act deals with the same matter as a clause of this Constitution, that expression has the same meaning as in that provision.
- 2.7 A reference to a statute, code or other law includes regulations and other instruments made under it and includes consolidations, amendments, re-enactments or replacements of any of them.
- 2.8 A reference to an authority, institution, association or body ("**original entity**") that has ceased to exist, been reconstituted, renamed or replaced or whose powers or functions have been transferred to another entity, is a reference to the entity that most closely serves the purposes or objects of the original entity.
- 2.9 If there is a conflict between the Corporations Act and:
- 2.9.1 the Listing Rules;
  - 2.9.2 the ASX Settlement Operating Rules; or
  - 2.9.3 this Constitution,
- the provisions of the Corporations Act prevail.
- 2.10 A term of this document which has the effect of requiring anything to be done on or by a date which is not a business day in the place in which the thing must be done must be interpreted as if it required it to be done on or by the next business day in that place.
- 2.11 A reference to communications technology means any form of communications technology including on-line platforms, audio-visual technology and other forms of communications that allow persons to communicate amongst each other.

### 3 Listing Rules prevail

While the Company remains a listed company, the following provisions apply:

- 3.1 notwithstanding anything in this Constitution, if the Listing Rules prohibit an act being done, the act must not be done;
- 3.2 nothing in this Constitution prevents an act being done that the Listing Rules require to be done;
- 3.3 if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- 3.4 if the Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision;

- 3.5 if the Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision; and
- 3.6 if any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

In addition, the Company and the Directors must comply with the obligations imposed on them by the ASX Settlement Operating Rules.

#### **4 Exercise of powers**

- 4.1 The Company may in any manner permitted by the Corporations Act:
- 4.1.1 exercise any power;
  - 4.1.2 take any action; and
  - 4.1.3 engage in any conduct,
- which under the Corporations Act a company limited by shares may exercise, take or engage in if authorised by its Constitution.
- 4.2 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.
- 4.3 Where this Constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- 4.4 Where this Constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- 4.5 Where this Constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
- 4.5.1 to appoint a person to act in the office or position until a person is appointed to the office or position;
  - 4.5.2 subject to any contract between the Company and the relevant person, to remove or suspend any person appointed, with or without cause; and
  - 4.5.3 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.
- 4.6 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.

- 4.7 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 holder for the time being of the office.
- 4.8 Where this Constitution confers power on a person or body to delegate a function or power:
- 4.8.1 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;
  - 4.8.2 the delegation may be either general or limited in any manner provided in the terms of delegation;
  - 4.8.3 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;
  - 4.8.4 the delegation may include the power to delegate;
  - 4.8.5 where the performance or exercise of that function or power is dependent upon 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 upon the opinion, belief or state of mind of the delegate in relation to that matter; and
  - 4.8.6 the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

## **PART 2 SHARE CAPITAL**

### **PART 2.1 Share buy-backs**

#### **5 Company may buy-back shares**

Subject to law, the Company may buy ordinary shares in itself on such terms as the Board may determine.

### **PART 2.2 Capital & holders of shares**

#### **6 Shares under control of Directors**

##### **6.1 General power of Directors**

Subject to this Constitution, the Corporations Act, the Listing Rules and the rights attached to any special class of shares:

- 6.1.1 the unissued shares of the Company and all options over unissued shares are under the control of the Directors; and
- 6.1.2 the Directors may allot, issue or otherwise dispose of unissued shares and options over unissued shares to such persons on such terms and conditions and at such times as the Directors think fit with full power to give to any person the call of any shares and for such consideration as the Directors think fit.

However, no Director and no person associated with a Director shall participate, directly or indirectly in any issue of shares, options or other securities if to do so would contravene the Listing Rules or the Corporations Act.

## **6.2 Shares with special rights or restrictions**

Without limiting the powers of the Directors under clause 6.1, but subject to the restrictions in that clause, the Directors may issue and allot shares with:

- 6.2.1 preferential, deferred or special rights, privileges or conditions; and
- 6.2.2 restrictions in regard to dividend, voting or return of capital.

## **6.3 Preference shares (including redeemable)**

- 6.3.1 Without limiting clause 6.1, the Company may issue preference shares including preference shares which are, or at the option of either or both the Company and the holder are, liable to be redeemed.
- 6.3.2 If the Directors propose to issue any preference shares or to convert any issued shares into preference shares, the rights of the holders of those shares with respect to repayment of capital, participation in surplus assets and profits, cumulative or non-cumulative dividends, voting and priority of payment of capital and dividends in relation to other shares or other classes of preference shares, and whether the Company has power to issue further preference shares ranking equally with preference shares already issued, shall be set out in this Constitution.
- 6.3.3 While the Company remains a listed company and the Listing Rules require, the holder of a preference share must be entitled to vote in each of the following circumstances and in no other:
  - (a) during a period during which a dividend (or part of a dividend) in respect of the share is in arrears;
  - (b) on a proposal to reduce the Company's share capital;
  - (c) on a resolution to approve the terms of a buy-back agreement;
  - (d) on a proposal that affects rights attached to the share;
  - (e) on a proposal to wind up the Company;
  - (f) on a proposal for the disposal of the whole of the Company's property, business and undertaking; and
  - (g) during the winding up of the Company.
- 6.3.4 The holder of a preference share must be entitled to a dividend at a commercial rate in preference to holders of ordinary shares.
- 6.3.5 The holder of a preference share must be entitled to return of capital in preference to holders of ordinary shares when the Company is wound up.



- 6.3.6 A holder of a preference share must be entitled to the same rights as a holder of an ordinary share in relation to receiving notices, reports and audited accounts and attending general meetings.

## **7 Instalments on shares**

Under the conditions of allotment of any share, if the whole or part of the amount or issue price of that share is payable by instalments, every such instalment must when due be paid to the Company by the registered holder of the share or by the legal personal representative of the registered holder of the share.

## **8 Brokerage and commission**

Subject to the Corporations Act and the Listing Rules:

- 8.1 the Company may exercise the power to make payments by way of brokerage or commission in the manner provided by the Corporations Act; and
- 8.2 payments by way of brokerage or commission may be satisfied by the payment of cash, by the allotment of fully or partly paid shares or by a combination of cash payment and allotment of fully or partly paid shares.

## **9 Shares may be issued subject to different conditions as to calls**

The Directors may make arrangements on the issue of shares for a difference between the members in the issue price and in the amounts and times of payment of calls on their shares.

## **10 Trusts not recognised**

- 10.1 Except as required by law and subject to this Constitution, the Company is entitled to treat the registered holder of any share as the absolute owner of that share.
- 10.2 Except as ordered by a court of competent jurisdiction or as required by statute, the Company is not obliged to recognise any equitable or other claim to or interest in a share on the part of any other person, whether or not the Company has notice of that claim or interest.

## **11 Power of attorneys**

- 11.1 If any member executes any instrument or does any act by or through an attorney he must provide the Company the instrument appointing such attorney and must pay the prescribed fee (if any) and must (if required by the Company) file with the Company a certified copy of that instrument which the Company must retain.
- 11.2 The Directors may at any time require such evidence as they may think fit that any instrument appointing an attorney is effective and remains in force.

## **12 Share certificates**

- 12.1 While the Company remains a listed company, unless the Company is authorised to do so under the Listing Rules and/or the ASX Settlement Operating Rules and only if Directors in their absolute discretion decide to so issue share certificates, no member is entitled to receive a share certificate.
- 12.2 If any share certificates are issued by the Company they must be issued, despatched and replaced in accordance with the requirements of the Corporations Act, the Listing Rules and the ASX Settlement Operating Rules.

## **PART 2.3 Calls**

### **13 Directors can make calls**

- 13.1 Subject to the terms on which any shares are issued and subject to this Constitution, the Corporations Act and the Listing Rules, the Directors may make calls upon members in respect of any moneys unpaid on shares.
- 13.2 Each member must pay the amount of every call in accordance with the call notice issued by the Directors.
- 13.3 A call may be made payable by instalments and is deemed to have been made at the time when the resolution of the Directors authorising such call was passed.

### **14 Notice of calls**

- 14.1 Notice of calls must specify the amount of the call, the time and place of payment, and to whom such call must be paid, and give such other information and be given at such time prior to the time fixed for payment of the call as may be required by the Listing Rules.
- 14.2 Subject to the Listing Rules, the Directors may, by notice in writing to the members, revoke or extend the time for payment of a call.
- 14.3 A call is valid even if a member for any reason does not receive notice of the call.

### **15 When interest on call or instalment payable**

If the sum payable in respect of any call or instalment is not paid on or before payment is due, the registered holder for the time being of the relevant share must pay interest on all unpaid sums from the due date until payment is made at a rate equal to 2% higher than the per annum rate prescribed in respect of unpaid judgements by the *Penalty Interest Rates Act 1983* (Vic.). The Directors may remit altogether or in part any interest payable under this Constitution.

### **16 Amounts payable at fixed times or by instalments payable as calls**

If the terms of issue of any share or otherwise requires amounts paid at a fixed time or by instalments at fixed times, those amounts or instalments must be paid as if the sum had become payable by virtue of a call made and notified under this Constitution.

### **17 Evidence in action for call**

In any action for the recovery of any money due for any call, it is sufficient to prove that:

- 17.1 the name of the member sued is entered in the register as a holder of the shares in respect of which such debt accrued;
- 17.2 the resolution making the call is recorded in the minute book; and
- 17.3 notice of such call was given to the member pursuant to this Constitution.

Proof of the above matters is conclusive evidence of the debt and it is not necessary to prove the appointment of the Directors who made the call or any other matter.

**18 Calls may be paid in advance**

- 18.1 The Directors may accept from any member any part of the sum due upon the shares held by him beyond the sums actually called.
- 18.2 The Company may pay interest upon amounts paid in advance at such rate as the member and the Directors agree upon, and the Directors may repay the amount advanced upon giving to such member one month's notice in writing.

**PART 2.4 Forfeiture****19 Notice if call or instalment not paid**

If any member fails to pay any call or instalment by the due date for payment, the Directors may, after that time while the call or instalment remains unpaid, serve a notice on such member requiring him to pay those amounts together with any interest that may have accrued and all expenses that may have been incurred by the Company by reason of such non-payment.

**20 Notice of default**

The notice must name the day (not being less than fourteen days from the date of the notice) by which such call, instalment, interest and expenses are to be paid. The notice must also state that in the event of non-payment by the appointed time, the relevant shares in respect of which the call was made or instalment is payable will be liable to be forfeited.

**21 Forfeiture if notice not complied with**

Subject to the provisions of the Listing Rules and the Corporations Act, if the requirements of any such notice under clause 20 are not complied with, any shares in respect of which such notice has been given may after that time before payment required by the notice, be forfeited by a resolution of the Directors to that effect. Such forfeiture includes all dividends declared or determined in respect of the forfeited shares and not actually paid before the forfeiture.

**22 Forfeited share to become property of the Company**

- 22.1 A forfeited share becomes the property of the Company. The Directors may, subject to the Listing Rules and the Corporations Act, sell or otherwise dispose of forfeited shares on such terms and in such manner as the Directors think fit.
- 22.2 If any forfeited shares are sold after forfeiture, any surplus remaining after payment of the expenses of sale and all calls and instalments due in respect of such shares and interest and other expenses incurred by the Company in respect of that forfeiture must be paid to the person in whose name such shares were registered at the time of such forfeiture.

**23 Notice and entry of forfeiture**

- 23.1 If a share is forfeited in accordance with this Constitution, notice of the forfeiture must be given to the member in whose name it stood immediately prior to the forfeiture.
- 23.2 An entry that notice of forfeiture was given and of the forfeiture with the date of forfeiture must be made in the register opposite the share.
- 23.3 No forfeiture is invalidated by any omission or neglect to give any notice or to make any entry under this clause 23.

**24 Power to annul forfeiture**

The Directors may, before any forfeited share is sold, reallocated or otherwise disposed of, annul the forfeiture upon such conditions as they think fit.

**25 Effect of forfeiture on former holder's liability**

Any member whose shares have been forfeited:

- 25.1 ceases to be a member in respect of the forfeited shares; and
- 25.2 remains liable to pay all calls, instalments, interest and expenses owing in relation to such shares at the time of the forfeiture together with interest on those amounts from the time of forfeiture until payment at the rate prescribed by clause 15 and the Directors may enforce the payment of those amounts.

**PART 2.5 Lien****26 Company's lien on shares**

- 26.1 Subject to the Corporations Act, the Listing Rules and the ASX Settlement Operating Rules, the Company has a first and paramount lien for all unpaid calls and instalments and interest and expenses (whether the period for payment fulfilment or discharge has arrived or not) upon those shares in respect of which such calls or instalments are due.
- 26.2 Any lien extends to all dividends declared or determined in respect of the shares on which the lien exists.
- 26.3 Subject to clauses 10 and 32, no equitable interest in any share is created.
- 26.4 Unless otherwise agreed, the registration of a transfer of shares operates as a waiver of the Company's lien (if any) on such shares.

**27 Enforcement of lien**

For the purpose of enforcing a lien, the Directors may sell the shares subject to the lien in such manner as they think fit but no sale is to be made until such period has arrived nor until notice in writing of the intention to sell has been served on the member and the member is in default of payment for seven days after such notice. A notice given after the death of any member and addressed generally to the personal representatives of such member at their address appearing in the register and served in any manner hereinafter provided for the service of notices shall be sufficient and shall be deemed to have been duly served whether such member shall have any personal representatives or not.

**28 Application of proceeds of sale**

- 28.1 The net proceeds of a sale must be applied in payment of the amount presently payable which gave rise to the lien.
- 28.2 The residue (if any) must be paid to the member, their executors administrators or assigns or as they direct.

## 29 Validity of sales

- 29.1 Upon any sale after forfeiture or for enforcing a lien in purported exercise of the powers under this Constitution, the Directors may appoint some person to transfer the shares sold to the purchaser of the shares and cause the purchaser's name to be entered in the register in respect of the shares sold.
- 29.2 The purchaser is not bound to see to the application of the purchase money.
- 29.3 After the purchaser's name has been entered in the register in respect of such shares, the validity of the sale must not be impeached by any person and the remedy of any person aggrieved by the sale is in damages only and against the Company exclusively.
- 29.4 A certificate in writing signed by two Directors and countersigned by the Secretary that:
- 29.4.1 a call or instalment in respect of any shares was made;
  - 29.4.2 notice was served;
  - 29.4.3 default in payment of the call or instalment was made; and
  - 29.4.4 forfeiture of the shares was made by a resolution of the Directors,
- is sufficient evidence of the facts stated against all persons claiming to be entitled to such shares and to the title of the Company to dispose of those shares.

## PART 2.6 Restricted Securities

### 29A RESTRICTED SECURITIES

- 29A.1 If, at any time, any of the securities issued by the Company are Restricted Securities then despite any other provision of this Constitution:
- 29A.1.1 A holder of Restricted Securities must not dispose of, or agree or offer to dispose of, the securities during the escrow period applicable to those securities except as permitted by the Listing Rules or ASX.
  - 29A.1.2 If the Restricted Securities are in the same class as quoted securities, the holder will be taken to have agreed in writing that the Restricted Securities are to be kept on the Company's issuer sponsored sub-register and are to have a holding lock applied for the duration of the escrow period applicable to those securities.
  - 29A.1.3 The Company will refuse to acknowledge any disposal (including, without limitation, to register any transfer) of Restricted Securities during the escrow period applicable to those securities except as permitted by the Listing Rules or ASX.
  - 29A.1.4 A holder of Restricted Securities will not be entitled to participate in any return of capital on those securities during the escrow period applicable to those securities except as permitted by the Listing Rules or ASX.
  - 29A.1.5 If a holder of Restricted Securities breaches a restriction deed or a provision of this Constitution restricting a disposal of those securities, the holder will not be entitled to any dividend or distribution, or to exercise

any voting rights, in respect of those securities for so long as the breach continues.

29A.2 For the purpose of this clause 29A, “**Dispose**” has the meaning given to it in the Listing Rules and “**Disposal**” has a corresponding meaning.

## **PART 3 MEMBERS AND SHAREHOLDINGS**

### **PART 3.1 Register of members**

#### **30 Members**

Subject to the Corporations Act, the Listing Rules and the ASX Settlement Operating Rules, every person whose name is entered in the register is, until the registration of the transfer or transmission to some other person or the forfeiture or cancellation of all their shares in the Company, deemed to be a member of the Company.

#### **31 The register**

The Company must keep at its registered office, or at such other office as the Directors may determine, a register of its members and enter all particulars in the register as required by the Corporations Act and the Listing Rules.

#### **32 Notice of trust not to be entered on register**

32.1 Except as provided by the Corporations Act and the Listing Rules, no notice of any trust express, implied or constructive is to be entered in the register or be receivable by the Company and the Company is not bound to see to the execution of any trust whether express, implied or constructive to which any share may be subject.

32.2 Subject to this Constitution, the receipt by a registered member is a sufficient discharge to the Company for any dividend or other sum of money payable in respect of a share notwithstanding any trust to which a share may then be subjected and whether or not the Company has notice of such trust.

32.3 The Company is not bound to see to the application of the moneys paid upon any such receipt.

#### **33 Index of members**

Unless the register is in such a form as to constitute in itself an index, an index of the names of the members must be kept at the office where the register is kept and within fourteen days after the date on which any alteration is made in the register any necessary alteration must be made in the index.

#### **34 Inspection of register**

The register and the index of members (if any) except when closed under clause 37 must during business hours be open to inspection by any member without charge and to the inspection of any other person on the payment of such sum as the Directors may prescribe for each inspection not exceeding any maximum allowed by law.

#### **35 Copies of register**

Subject to the Corporations Act, any member or other person may require a copy of the register or of any part of the register on payment of such sum not exceeding any maximum prescribed by law as the Directors may prescribe from time to time. The Company must

cause any copy required by any person to be despatched to that person at any address known to the Company within the period prescribed by law.

### **36 Register of members prima facie evidence**

For the purposes of the Corporations Act and this Constitution the register is prima facie evidence of all matters shown in the register.

### **37 Register may be closed**

Subject to the Corporations Act, Listing Rules and the ASX Settlement Operating Rules, the register may be closed during such time as the Directors think fit not exceeding in total thirty days in any calendar year.

## **PART 3.2 Joint holders of shares**

### **38 38.1 Maximum number of joint holders**

The Company is not obliged to register more than three persons (not being the trustees or executors of a deceased member) as the holder of any share.

### **38.2 Survivorship**

Where two or more persons are registered as the holders of any share, they are deemed to hold those shares as joint tenants with benefit of survivorship, subject to this Constitution.

### **38.3 Certificate to any joint holder**

The certificates for shares registered in the names of two or more persons may be delivered to any one of them.

### **39 Liability of joint holders**

The joint holders of a share are jointly and severally liable for the payment of all calls, instalments and interest due in respect of such share.

### **40 Natural person and corporation may hold jointly**

The Directors may register a transfer of a share to a corporation and a natural person jointly.

### **41 Several executors or administrators to be joint holders**

Where there are several executors or administrators of a deceased member or representatives of a member under incapacity, they are (subject to this Constitution) deemed to be the joint holders of the share registered in the name of the member.

### **42 Receipts to joint holders**

Any one of several persons registered as the joint holders of any share may give effectual receipts for all dividends and payments on account of dividends, bonus or return of capital in respect of that share.

### **43 Payments to joint holders**

Any dividend or capital payment to joint holders may be made:

- 43.1 by transfer to any bank account authorised by those holders; or
- 43.2 by cheque sent through the post to the registered address of the first named member on the register in respect of the joint holding.

Every cheque or transfer must be made payable to all the joint holders unless otherwise directed by all such joint holders.

#### **44 Notices to joint holders**

All notices to be given to joint holders may be given to any one of them and that notice is to be taken as sufficient notice to each of them.

#### **45 Voting by joint holders**

Any one of the joint holders of a share may vote in respect of that share but if more than one joint holder votes at any meeting, only the vote of the first named member on the register will be counted in respect of that share.

### **PART 3.3 Transfer and transmission of shares**

#### **46 Member's right to transfer shares**

A member is entitled, subject to this Constitution and to the rights or restrictions attaching to any shares or class of shares, to transfer any of those shares in accordance with this Part 3.3.

#### **47 Transferor remains holder until registration**

A transferor of shares remains the holder of shares until the transfer is:

- 47.1 effected in accordance with the ASX Settlement Operating Rules; or
- 47.2 registered and the name of the transferee is entered in the register in respect of the shares.

#### **48 Written instruments of transfer**

- 48.1 Subject to this Constitution, a member may transfer shares by written instrument of transfer ("**transfer**") in any usual, common, or other form approved either by the Directors or the ASX.
- 48.2 Subject to clause 48.3, a transfer must be executed by or on behalf of the transferor, and executed by or on behalf of the transferee unless the transfer is otherwise a sufficient transfer under the Corporations Act, the Listing Rules or the ASX Settlement Operating Rules.
- 48.3 The Directors may dispense with the execution of a transfer by or on behalf of the transferee where it is lawful to do so and they think fit.

#### **49 Computerised share transfer systems**

- 49.1 The Directors may do anything necessary or desirable to enable the Company to participate in any computerised share transfer system.
- 49.2 If the Company participates in a computerised share transfer system then notwithstanding anything to the contrary in this Constitution:



- 49.2.1 shares may be transferred and transfers registered in accordance with the ASX Settlement Operating Rules, the Listing Rules and Corporations Act applicable to the relevant system (“**Relevant Rules**”);
- 49.2.2 the Company must comply with and give effect to the Relevant Rules; and
- 49.2.3 the Company may, in accordance with the Relevant Rules, decline to issue share certificates for holdings of shares.

## **50 Share transfer procedures**

### **50.1 Certificated holding**

For a transfer of shares held in a certificated holding:

- 50.1.1 the written instrument of transfer, stamped (if required by law) must be left at the office accompanied by such evidence as the Directors may require to prove the title of the transferor or their right to transfer the shares, including the certificates then on issue in respect of those shares;
- 50.1.2 all instruments of transfer which are registered must be retained by the Company but any instrument of transfer which the Directors may decline to register must (except in case of fraud or suspected fraud) be returned to the person depositing the transfer; and
- 50.1.3 the Company must comply with and give effect to the Relevant Rules relating to such transfers.

### **50.2 Uncertificated holding**

For a transfer of shares held in an uncertificated holding:

- 50.2.1 the transfer must be effected in accordance with the Relevant Rules relating to such transfers; and
- 50.2.2 the Company must comply with and give effect to the Relevant Rules relating to such transfers.

### **50.3 No fees**

The Company must register all registrable transfer forms, split certificates, renunciations and transfers, issue certificates (if any) and transmission receipts, effect conversions between sub-registers and note transfer forms without charge except where the charge is permitted by the Listing Rules.

### **50.4 Holding lock**

The Board may, if it thinks fit, and in the circumstances in which it is permitted to do so under the Listing Rules or the ASX Settlement Operating Rules, request ASX Settlement to apply a holding lock to prevent a transfer of shares in the Company being registered.

## 51 Refusal to register share transfers

- 51.1 Subject to clause 49.2, the Directors may, in their absolute discretion, refuse to register a transfer of shares or other securities in any circumstance in which the Listing Rules, the ASX Settlement Operating Rules and the Corporations Act permit or do not prohibit the Company from so doing.
- 51.2 Subject to clause 49.2. the Directors must refuse to register a transfer of shares or other securities:
- 51.2.1 where the Company is required to do so by the Listing Rules, the ASX Settlement Operating Rules or the Corporations Act; or
- 51.2.2 where the transfer is in breach of any restriction agreement entered into by the Company under the Listing Rules.
- 51.3 If the Directors refuse to register a transfer of any shares, they must give notice in such form, to such persons and within such period as may be required by the Listing Rules, the ASX Settlement Operating Rules and the Corporations Act.

## 52 Transmission of shares

- 52.1 The executors or administrators of a deceased member (not being one of several joint holders) are the only persons recognised by the Company as having any title to the shares registered in the name of such member.
- 52.2 In the case of the death of any joint holder of any shares or the dissolution of any corporation registered as joint holder, the surviving joint holders are the only persons recognised by the Company as having any title to, or interest in such shares.
- 52.3 The Directors may require such evidence of death or dissolution as they think fit and nothing in this clause 52 releases the estate of the deceased member from any liability in respect of any such shares.

## 53 Title to shares on death, bankruptcy or incapacity of member

- 53.1 Subject to the *Bankruptcy Act 1966* (Cth) and the ASX Settlement Operating Rules, any person becoming entitled to shares in consequence of:
- 53.1.1 the death, bankruptcy or insolvency of any member; or
- 53.1.2 any member, through mental or physical infirmity, becoming incapable of managing their affairs,
- on producing proper evidence that they sustain the character in respect of which they propose to act under this clause or of their title to the shares, may by notice in writing signed by them and given to the Company, elect to be registered as a member in respect of the shares or may transfer the shares.
- 53.2 Subject to the ASX Settlement Operating Rules, all the provisions of this Constitution relating to the right to transfer and the registration of transfers of shares are applicable to any such notice or transfer as if the death, bankruptcy, insolvency, mental infirmity or physical infirmity of the member had not occurred and the notice or transfer were a transfer signed by that member.

**54 Cancellation of certificate on transfer of shares**

- 54.1 On every application to register the transfer of any shares, or to register any person as a member in respect of any shares which may have been transmitted to such person by operation of law or otherwise, the certificate (if any) specifying the shares in respect of which such registration is required must be delivered to the Company for cancellation.
- 54.2 Upon the registration of a transfer of any shares, a new certificate in similar form specifying the shares transferred or transmitted must be delivered to the transferee or transmittee.
- 54.3 If the registration of any transfer is required in respect of some only of the shares specified in the certificate delivered to the Company, a new certificate specifying the shares remaining untransferred must be delivered to the transferor.
- 54.4 This clause 54 does not apply in respect of any shares while they are an uncertificated holding.

**54A Small holdings divestment**

- 54A.1 Subject to the Corporations Act and the Listing Rules, the Company may sell a member's holding by following the procedures in this clause 54A where:
- 54A.1.1 the holding is less than a marketable parcel (as defined in the Listing Rules); or
- 54A.1.2 the holding was a new holding created by the transfer of shares that was less than a marketable parcel at the time the transfer was initiated or lodged with the entity (for paper based transfers), excluding shares transferred before 1 September 1999.
- 54A.2 The Company may exercise its power to sell a holding under this clause 54A only once in any 12 month period (other than during the period of any takeover bid) by giving the member notice in writing of its intention to do so.
- 54A.3 For the purposes of clause 54A.2, the notice must explain this clause 54A and give the member at least six weeks from the date the notice is sent in which to tell the Company that the member wishes to retain the holding. If the member tells the Company that the member wishes to retain the holding, the Company must not sell it under this clause 54A.
- 54A.4 On the date specified in the notice, the Company is irrevocably appointed agent of the member and may proceed to sell the holding unless the member:
- 54A.4.1 tells the Company that the member wishes to retain the holding within the time specified in the notice; or
- 54A.4.2 increases their holding to a marketable parcel.
- 54A.5 The Company or the purchaser must pay the costs of the sale (including brokerage and stamp duty) and pay the proceeds of sale (less the costs of the sale) to the holder, subject to clause 54A.6.
- 54A.6 The Company must not send the proceeds of sale to the member until the Company receives any certificate relating to the shares (or is satisfied that the certificate has been lost or destroyed).

54A.7 The Company's power to sell shares under this clause 54A lapses following the announcement of a takeover. A new notice may be given by the Company under clause 54A.2 after the closing time for that takeover bid.

## **PART 4 POWERS OF COMPANY**

### **PART 4.1 Alteration of capital**

#### **55 Power to alter share capital**

Subject to the Corporations Act, the Company may convert any of its shares into a larger or smaller number of shares by resolution passed at a general meeting.

#### **56 How far new shares to rank with shares in original capital**

Subject to the conditions of issue and this Constitution, any capital raised by the creation of new shares must be considered part of the original capital and must be subject to the provisions in this Constitution relating to that capital.

#### **57 Subdivision and consolidation of shares**

The resolution whereby any shares are converted into a larger or smaller number of shares may determine that as between the holders of the shares resulting from such conversion, one or more of such shares is to have some preference or special advantage as regards dividend, capital or otherwise over or as compared with the others.

#### **58 Power to reduce share capital**

Subject to the Corporations Act and the Listing Rules, the Company may reduce its share capital in any manner.

### **PART 4.2 Borrowing powers**

#### **59 Directors may raise money**

The Directors may raise, borrow or secure the payment of any amount of money for the purposes of the Company.

#### **60 Conditions on which money may be borrowed**

The Directors may raise or secure the repayment of such amounts in such manner and upon such terms and conditions as they think fit, and in particular by the issue of bonds perpetual, redeemable debentures, debenture stock or any mortgage, charge or other security on the undertaking of the whole or any part of the property of the Company (both present and future) including its uncalled capital.

#### **61 Securities assignable free from equities**

Debentures, debenture stock and other securities may be made assignable free from any equities between the Company and the person to whom the same may be issued.

#### **62 Issue at a discount**

Debentures, debenture stock bonds or other securities may be issued at a discount premium or otherwise and with or without the right or obligation of the holders of them to exchange the same in whole or in part for shares in the Company and with any special privileges as to,

without limitation, redemption, surrender, drawings, allotment of shares, attending and voting at meetings of the Company, and appointment of Directors.

**63 NOT USED**

**64 NOT USED**

**65 Indemnity may be given**

If a Director or any other persons becomes personally liable for the payment of any sum primarily due from the Company, the Directors may execute or cause to be executed any mortgage, charge or security over or affecting the whole or any part of the assets of the Company by way of indemnity to secure the Director or persons so becoming liable from any loss in respect of such liability.

**66 Charge on uncalled capital**

66.1 If any uncalled capital of the Company is included in or charged by any mortgage or other security, the Directors may by deed authorise the person in whose favour such mortgage or security is executed or any other person in trust for him to make calls on the members in respect of such uncalled capital.

66.2 The provisions in this Constitution relating to calls apply with the necessary changes to calls made under an authority given under clause 66.1. Such authority may be made exercisable either conditionally or unconditionally and either presently or contingently and either to the exclusion of the Directors' power or otherwise and is assignable if expressed so to be.

**67 Mortgage of uncalled capital**

Where any uncalled capital of the Company is charged, all persons taking any subsequent charge take the same subject to such prior charge and are not entitled by notice to the shareholders or otherwise to obtain priority over such prior charge.

**PART 5 GENERAL MEETINGS**

**PART 5.1 Procedures for general meetings**

**68 Convening of meetings**

**68.1 Convening of general meetings**

68.1.1 A general meeting may be convened by:

- (a) a Director, while the Company is a listed Company;
- (b) the Directors by resolution of the Board;
- (c) the members in accordance with the Corporations Act; or
- (d) the Court in accordance with the Corporations Act.

68.1.2 The Directors must convene a general meeting on a requisition of members as provided by the Corporations Act.

## **68.2 Annual general meetings**

Annual general meetings must be convened and held at least once in every calendar year in accordance with the requirements of the Corporations Act and the Listing Rules.

## **69 Notice of meetings**

69.1 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 to each person who is at the date of this notice:

69.1.1 a member;

69.1.2 a Director or alternate Director; or

69.1.3 an auditor of the Company,

and, while the Company is a listed Company, notice must be given to the ASX in accordance with and within the time limits prescribed by the Listing Rules.

69.2 Subject to the Listing Rules and the Corporations Act, not less than 28 days' notice of a general meeting shall be given to members.

69.3 Subject to the Corporations Act and the Listing Rules, the notice of meeting may be given in any matter determined by the Directors, including by sending the notice to an electronic address nominated by the member or making the notice available to members by other electronic means established by the Company and nominated by the member as a means of receiving notices from the Company.

## **70 Omission to give notice**

The accidental omission to give notice of any general meeting to, or non-receipt of any such notice by, any of the members, a Director, an alternate Director, an auditor of the Company or the ASX does not invalidate the general meeting or any resolution passed at any such meeting.

## **71 Contents of notice**

A notice of a general meeting must specify the physical location (if any), date and time of the meeting, any access by any communication technology that will be used to facilitate the meeting, the general nature of the business to be transacted and in the case of special business, the general nature of that business, and any other matters as are required by the Corporations Act.

## **71A Methods of holding meetings**

71A.1 Subject to the Corporations Act, the Directors shall determine in relation to each general meeting the means of attendance at and participation in the general meeting, including whether the persons entitled to attend and participate in the general meeting shall be enabled to do so by:

71A.1.1 a quorum of members being assembled together at the place, date, and time notified for the meeting to take place; and/or

71A.1.2 by using any communication technology that gives the members as a whole a reasonable opportunity to participate in the meeting (including

where the Directors or chair considers that any persons attending the general meeting cannot be accommodated in the physical place (if any) where the meeting is notified to take place).

71A.2 If a member is linked to the general meeting by any communication technology, which by itself or in conjunction with other arrangements:

71A.2 gives the member a reasonable opportunity to participate in proceedings of the meeting; and

71A.2 enables the member to vote on a poll,

a member accessing the meeting by that communication technology is taken for all purposes to be present at the general meeting (including for the purpose of establishing a quorum) and entitled to exercise all rights as if he or she was physically present at the general meeting in person.

71A.3 If, before or during the meeting, any technical difficulty occurs where one or more of the matters set out in clause 71A.1 is not satisfied, the chair may:

71A.1 adjourn the meeting until the difficulty is remedied; or

71A.2 continue to hold the meeting and transact business,

and no member may object to the meeting being held or continuing provided that sufficient members are able to participate in proceedings in the meeting as are required to constitute a quorum under clause 75.

## **72 Meaning of special business**

For the purpose of clause 71, special business means any business to be transacted at an annual general meeting other than the items of ordinary business referred to in clause 74.1 and all business transacted at any other general meeting.

## **73 Cancellation or postponement of meeting**

73.1 Subject to clause 73.2, the Directors may postpone, cancel or change the venue of any general meeting whenever they think fit (other than a meeting convened under clause 68.1.2 except where the requisition for that meeting is withdrawn).

73.2 The Directors must give notice of the postponement, cancellation or change of venue to all persons entitled to receive notices of general meetings from the Company specifying the place, date and time not later than five business days before the general meeting is to be held.

## **74 Business of annual general meeting**

74.1 The ordinary business of an annual general meeting is:

74.1.1 to receive and consider the financial reports required by the accounting standards, the reports of the Directors and of the auditors, and any other documents required by law to be laid before the meeting;

74.1.2 to elect Directors in the place of those retiring under this Constitution; and

74.1.3 to transact any other business which under this Constitution or the Corporations Act ought to be transacted at an annual general meeting.

74.2 No business is to be transacted at any annual general meeting other than:

74.2.1 the ordinary business referred to in clause 74.1, and

74.2.2 any special business set out in the notice of meeting.

## **75 Quorum**

The quorum for a general meeting of the Company is three members present in person or by representative, proxy or attorney. In determining whether a quorum is present, each individual attending as a representative, proxy or attorney is to be counted, provided that:

75.1 where a member has appointed more than one representative, proxy or attorney only one is to be counted; and

75.2 where an individual is attending both as a member and as a representative, proxy or attorney, that individual is to be counted only once.

## **76 Chair at general meeting**

76.1 The chair of the Board is entitled to take the chair at every general meeting.

76.2 If there is no chair of the Board present and willing to chair within fifteen minutes after the time appointed for holding the meeting, the members present may choose another Director as chair of the meeting.

76.3 If no Director is present or if all Directors present decline to take the chair then the members present may choose one of their number to be chair of the meeting.

## **77 Adjournment**

If within fifteen minutes from the time appointed for the holding a general meeting a quorum is not present:

77.1 the meeting, if convened upon such requisition of members pursuant to clause 68.1.2 must be dissolved, but

77.2 in any other case the meeting stands adjourned to the same day in the next week at the same time and place. At such adjourned meeting, the members present and entitled to vote form a quorum whatever their number and may transact the business for which the meeting was called. No notice of such adjourned meeting need be given to the members.

## **78 How resolutions to be decided**

Subject to clause 82, every resolution submitted to a general meeting must be decided in the first instance by a poll. In the case of an equality of votes the chair, both on a show of hands and at a poll, does not have a casting vote in addition to the votes to which he may be entitled as a member.

## **79 Evidence of resolution**

At any general meeting where a resolution is decided by a show of hands, a declaration by the chair that a resolution has been carried or carried by a particular majority or lost or not



carried by a particular majority and an entry to that effect in the books of proceedings of the Company is conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution.

## **80 Poll**

A poll may be demanded by:

- 80.1 the chair;
- 80.2 by at least five members present in person or by proxy, attorney or representative and entitled to vote on the relevant resolution; or
- 80.3 by a member or members present in person, or by proxy, attorney or representative; or who together represent at least 5% of the votes that may be cast on the resolution on a poll.

## **81 Taking of poll**

Subject to clause 82 when a poll is demanded it must be taken in such manner and at such time and place as the chair of the general meeting directs and either at once or after an interval or adjournment. The result of a poll may be announced in the manner and at the time (whether during the relevant meeting or afterwards) which the chair of the general meeting considers appropriate and must be deemed to be the resolution of the general meeting at which the poll was demanded. The demand of a poll may be withdrawn.

## **82 When poll not to be taken at meeting**

No poll may be demanded on the election of a chair of a general meeting and a poll demanded on any question of adjournment must be taken at the general meeting and without adjournment. Unless the chair determines otherwise, a poll is not required for a procedural resolution.

## **83 Business may proceed notwithstanding demand for poll**

The demand of a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which a poll has been demanded.

## **84 Adjournment**

- 84.1 During the course of a general meeting, the chair may adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion either to a later time at the same meeting or to an adjourned meeting.
- 84.2 If the chair exercises a right of adjournment of a meeting under clause 84.1, the chair has the sole discretion to decide whether to seek the approval of the members present to the adjournment and, unless the chair exercises that discretion, no vote may be taken by the members present in respect of the adjournment.
- 84.3 No business may be transacted at any adjourned general meeting other than the business left unfinished at the general meeting from which the adjournment took place.
- 84.4 Where a general meeting is adjourned, notice of the adjournment must be given to the ASX, but need not be given to any other person if the adjournment is for one month or less.

**85 Conduct of general meetings**

- 85.1 The chair is responsible for the general conduct of general meetings and for the procedures to be adopted at general meetings and the chair's decision is final.
- 85.2 The chair may require the adoption of any procedures, which are in the chair's opinion, necessary or desirable for proper and orderly debate or discussion (including limiting the time that a person present may speak on a motion or other item of business before the meeting), and for the proper and orderly casting or recording of votes at any general meeting of the Company, whether on a show of hands or on a poll, including the appointment of scrutineers.
- 85.3 Subject to sections 250S and 250T of the Corporations Act, the chair of a general meeting may, as he considers it necessary or desirable for the proper and orderly conduct of the meeting:
- 85.3.1 terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the members present; or
  - 85.3.2 allow debate or discussion on any business, question, motion or resolution being considered by the meeting to continue.
- 85.4 Subject to sections 250S and 250T of the Corporations Act, the chair of a general meeting may refuse to allow debate or discussion on any business, question, motion or resolution which is not within the business referred to in the notice of meeting.
- 85.5 Persons in possession of visual-recording, pictorial-recording or sound-recording devices or placards, banners or articles considered by the chair to be dangerous, offensive or liable to cause disruption, or persons who refuse to produce or to permit examination of any articles in their possession, or refuse to comply with searches, restrictions or other security arrangements which the chair considers appropriate, may be refused admission to any general meeting or may be required to leave and remain out of the meeting.
- 85.6 Nothing in this clause 85 shall be taken to limit the powers conferred on the chair by law.

**86 Right of officers and others to attend general meeting**

- 86.1 A Director who is not a member is entitled to be present and to speak at any general meeting.
- 86.2 A Secretary who is not a member is entitled to be present and, at the request of the chair, to speak at any general meeting.
- 86.3 Any other person (whether a member or not) requested by the Directors to attend any general meeting is entitled to be present and, at the request of the chair, to speak at that general meeting.

**87 When meeting declared over no business to be discussed**

After the chair of any meeting declares the meeting over, no business or question is to be brought forward or discussed.

## **PART 5.2 Votes of members**

### **88 Voting rights of members**

Subject to this Constitution and to any rights or restrictions attached to any shares or class of shares, at a general meeting:

- 88.1 on a show of hands, each member present in person, by proxy, by attorney or by representative has one vote;
- 88.2 on a poll, each member present in person, by proxy, by attorney or by representative has:
  - 88.2.1 one vote for each fully paid share held by the member and in respect of which the member is entitled to vote; and
  - 88.2.2 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 bears to the total amounts paid and payable on the share; and
- 88.3 for the purposes of clause 88.2.2, an amount paid on a partly paid share in advance of a call and any amount credited as paid on a partly paid share is to be ignored.

### **89 Voting rights of person representing more than one member**

Where a person present at a general meeting represents personally or by proxy, attorney or representative more than one member, the following rules apply to a vote taken on a show of hands:

- 89.1 the person is entitled to one vote only despite the number of members the person represents; and
- 89.2 the person's vote will be taken as having been cast for all the members the person represents.

### **90 Voting rights where call due but unpaid**

Where a member holds any share on which any call due and payable to the Company has not been paid:

- 90.1 that member is only entitled to vote at a general meeting if other shares are held by that member on which no call is then due and payable; and
- 90.2 upon a poll, that member is not entitled to vote in respect of that share but may vote in respect of any other shares held by that member upon which no call is then due and payable.

### **91 No vote if contrary to Listing Rules or Corporations Act**

Notwithstanding any other clause, a member is not be entitled to vote, and any vote purported to be cast by the member or any proxy, attorney or representative of the member must be disregarded on a particular resolution where such a vote is prohibited by the Listing Rules, ASX or the Corporations Act.

## **92 Votes in respect of shares of deceased, incapacitated or bankrupt members**

Any person entitled under clause 53 to transfer any shares may vote at any general meeting in the same manner as if he were the registered holder of such shares provided that at least twenty four hours before the time of holding the meeting at which that person proposes to vote that person satisfies the Directors of their right to transfer such shares, unless the Directors have previously admitted that person's right to vote at such meeting.

## **93 Objection to voting qualification**

- 93.1 An objection to the qualification of a person to vote at a general meeting:
- 93.1.1 must be raised before or immediately after the result of the motion on which the vote objected to is given or tendered; and
  - 93.1.2 must be referred to the chair of the meeting, whose decision made in good faith is final.
- 93.2 A vote not disallowed by the chair of a meeting under clause 93.1 is valid for all purposes.

## **94 How votes may be given**

- 94.1 Subject to this Constitution, each member entitled to attend and vote at a meeting of members or at a meeting of any class of members of the Company may attend and vote:
- 94.1.1 in person or, where a member is a body corporate, by its representative appointed in accordance with the Corporations Act;
  - 94.1.2 by proxy or, if the member is entitled to cast two or more votes at the meeting, by not more than two proxies; or
  - 94.1.3 by attorney.
- 94.2 A proxy, attorney or representative need not be a member and may be appointed for all, any number of, or for a particular meeting.
- 94.3 The chair's decision as to the validity of a proxy, or power of attorney, is final and conclusive.
- 94.4 In relation to a resolution at a general meeting, the Directors may decide that a member who is entitled to attend that meeting and vote on that resolution is entitled to a direct vote in respect of that resolution. A "direct vote" includes a vote delivered to the Company by post, fax or other electronic means or communications technology approved by the Directors. The Directors may prescribe regulations in relation to direct voting, which without limitation may specify:
- 94.4.1 the method for direct voting (eg postal or electronic ballots); or
  - 94.4.2 the form, process and timing for participation in direct voting.
- 94.5 If a member casts a vote as a direct vote in accordance with this Constitution and any regulations prescribed by the Directors from time to time, the member casting the direct vote will be deemed to have cast the vote at the meeting in person.

## **PART 5.3 Proxies**

### **95 Voting rights of proxies**

- 95.1 If a member appoints one proxy only, that proxy may vote on a show of hands as well as on a poll.
- 95.2 Where a member appoints two proxies to vote at the same meeting and the authority of one is not conditional on the other failing to attend or vote, the following rules shall apply:
- 95.2.1 where the appointment does not specify the proportion or number of the member's votes, each proxy may exercise one half of the member's votes;
  - 95.2.2 on a show of hands, neither proxy may vote; and
  - 95.2.3 on a poll, each proxy may only exercise the voting rights the proxy represents.

### **96 Content and consequences of proxy forms**

- 96.1 An appointment of a proxy is valid if it is signed, authenticated in a manner approved by the Board and specified in the notice of general meeting for the receipt of proxy appointments or otherwise authenticated in accordance with the Corporations Act, by the member making the appointment and contains the following information:
- 96.1.1 the member's name and address;
  - 96.1.2 the Company's name;
  - 96.1.3 the proxy's name or the name of the office held by the proxy; and
  - 96.1.4 the meeting or meetings at which the appointment may be used.
- An appointment of proxy may be a standing one.
- 96.2 An undated appointment of proxy is to be taken to have been dated on the day it is given to the Company.
- 96.3 An appointment of proxy may, and any form of proxy issued by the Company must, specify the way the proxy is to vote on a particular resolution. If it does:
- 96.3.1 the proxy (if entitled to vote on a show of hands) need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
  - 96.3.2 if the proxy has 2 or more appointments that specify different ways to vote on the resolution, the proxy must not vote on a show of hands;
  - 96.3.3 if the proxy is the chair, the proxy must vote on a poll, and must vote that way; and
  - 96.3.4 if the proxy is not the chair, the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.

If a proxy is also a member, this clause 96.3 does not affect the way that he can cast any votes attached to shares held by them in their capacity as a member.

- 96.4 An appointment of a proxy does not need to be witnessed.
- 96.5 A later appointment of proxy revokes an earlier one if both appointments could not be validly exercised at the meeting.
- 96.6 An instrument appointing a proxy, unless the contrary is stated, is valid for the meeting to which it relates and any adjournment or postponement of that meeting.
- 96.7 The Company must include with a notice of meeting a form of proxy which makes provision for the member to indicate whether he requires the proxy to vote for or against each resolution or abstain from voting on the resolution and must make provision for the member to appoint proxies of the member's choice, but may specify who is to be appointed if the member does not choose. If the proxy form specifies that the chair is appointed as proxy if the member does not appoint another person to act as the member's proxy or the chair is appointed proxy by default, the form must also include a statement as to how the chair intends to vote undirected proxies.
- 96.8 The proxy is deemed to include the right to speak at the meeting and to demand or join in demanding a poll and (except to the extent to which the proxy is specially directed to vote for or against any proposal) includes power to act generally at the meeting for the person giving the proxy.

## **97 Proxies and powers of attorney to be lodged**

- 97.1 A proxy or attorney may not vote at a general meeting or adjourned meeting unless the instrument appointing the proxy or attorney or on a poll, and the original or a certified copy of the power of attorney or other authority (if any) under which the instrument is signed or authenticated, are received:
- 97.1.1 at the registered office of the Company, the fax number at its registered office or at another place, fax number or electronic address or other means specified for that purpose in the notice convening the meeting; and
- 97.1.2 by:
- (a) the time specified in the notice of meeting (not being less than 48 hours before the time fixed for the meeting); or
- (b) where clause 98A applies, such shorter time period before the time for holding the meeting or adjourned or postponed meeting or taking the poll, as applicable, as the company determines in its discretion.
- 97.2 A notice of meeting of members must specify a place and fax number and may specify an electronic address or other means for the purpose of receipt of proxy appointments.

## **98 Blank proxies**

Any proxy, which although signed by a member, does not include the name of the person or persons in whose favour it is given or other details required to be filled in by the member may be completed by the Secretary on authority from the Directors and where the name of the appointee is blank shall be deemed to be given in favour of the chair of the meeting.

**98A Clarification of forms**

- 98A.1 Where the Company receives an instrument recording a direct vote or appointing a proxy or attorney in accordance with this Constitution or the Corporations Act and within the time period specified in clause 97.1.2(a) or as otherwise determined by the Board, the Company is entitled to:
- 98A.1.1 clarify with the relevant member any instruction to that instrument by written or verbal communication and make any amendments to the instrument required to reflect any clarification; and
  - 98A.1.2 where the Company considers that the instrument has not been duly executed, return the instrument to the appointing member and request that the member duly execute the instrument and return it to the company within the period determined by the Company under clause 97.1.2(b) or otherwise determined by the Board and notified to the member.
- 98A.2 The member is taken to have appointed the Company as its attorney for the purpose of making any amendments to an instrument recording a direct vote or appointing a proxy or attorney in accordance with clause 98A.1.1. An instrument appointing a proxy or attorney which is received by the Company in accordance with clause 98A.1 is taken to have been validly received by the Company.

**99 Validity of proxy vote**

Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes:

- 99.1 the appointing member dies;
- 99.2 the member is mentally incapacitated;
- 99.3 the member revokes the proxy's appointment;
- 99.4 the member revokes the authority under which the proxy was appointed by a third party; or
- 99.5 the member transfers the share in respect of which the proxy was given.

**100 Effect of member's presence on proxy's authority**

The appointment of a proxy or attorney is not revoked by the appointer attending the general meeting, but:

- 100.1 if the appointer votes on a resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on that resolution; and
- 100.2 if the appointer otherwise takes part in the meeting in relation to a resolution the proxy or attorney must not take part in the meeting in relation to that resolution.

**101 If proxy or attorney votes contrary to instructions**

To the maximum extent permissible by law, the validity of any resolution is not affected by the failure of any proxy or attorney to vote in accordance with the instructions (if any) of the appointing member.

**102 Chair to determine voting disputes**

In the case of any dispute as to the admission or rejection of a vote on a show of hands and on a poll the chair of the meeting may determine the dispute and such determination made in good faith is final and conclusive.

**PART 6 BOARD OF DIRECTORS****PART 6.1 Directors****103 Number of Directors**

There must be such number of Directors, not less than three nor more than ten, as the Board may determine from time to time, provided however that the Board must not determine the number of Directors to be less than the number of Directors in office at the time of such determination.

**104 Power of Directors to appoint additional Directors and fill vacancies**

The Directors have power to appoint any other person as a Director either to fill a casual vacancy or as an addition to the Board provided that the total number of Directors does not exceed any maximum number fixed or determined by or pursuant to clause 103. Any Director so appointed holds office only until the conclusion of the next following annual general meeting of the Company and is eligible for re-election at such meeting.

**105 Directors may act notwithstanding vacancy**

The continuing Directors may act notwithstanding any vacancy in their body but so that if the number falls below the minimum fixed or determined by clause 103, the Directors must not, except in emergencies, or for the purpose of filling up vacancies or convening a general meeting of the Company, act so long as the number is below the minimum.

**106 Partner of auditor not eligible**

No partner, employer or employee of an auditor or auditors of the Company is capable of being appointed or elected a Director or alternate Director of the Company.

**107 No share qualification**

Until otherwise determined by the Company in general meeting, a Director need not hold any shares in the Company as a qualification for office.

**108 When office of Director to be vacated**

The office of Director immediately becomes vacant:

- 108.1 if they become of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- 108.2 if they cease to hold the number of shares (if any) required to qualify for office;
- 108.3 if they absent themselves from the meetings of the Directors for a three consecutive meetings of the Directors without special leave of absence from the Directors, unless the Directors resolve that their office be not vacated;
- 108.4 if by notice in writing to the Company they resign from office; or



108.5 if they become prohibited from being or ceases to be a Director by virtue of the Corporations Act or any order made under that act.

## **109 Interest of Directors**

109.1 Subject to clauses 109.2, 109.3, 109.4 and 109.5, a Director who has a material personal interest in a matter that is being considered at a meeting of the Board, or at a meeting of any committee of the Directors:

109.1.1 must not vote on the matter (or in relation to a proposed resolution of the Board of the kind referred to in clause 109.3, whether in relation to him or a different Director);

109.1.2 must not be present while the matter (or a proposed resolution of that kind) is being considered at the meeting; and

109.1.3 must not be counted in a quorum in relation to that matter (or a proposed resolution of that kind).

109.2 Clause 109.1 does not apply to an interest:

109.2.1 that the Director has as a member in common with the other members;  
or

109.2.2 that the Corporations Act provides is not to be regarded as an interest for the purposes of section 191 of the Corporations Act.

109.3 Clause 109.1 does not apply if the Board has passed a resolution that:

109.3.1 specifies the Director, the nature and extent of the Director's in the matter and its relation to the affairs of the Company; and

109.3.2 states that the Directors voting for the resolution are satisfied that the interest should not disqualify the Director from considering or voting on the matter or being present.

109.4 The quorum of the Board for the consideration of a matter in which one or more Directors have a material personal interest, and for the consideration of a resolution of the kind referred to in clause 109.3, is two Directors who are entitled to vote on any motion that may be moved at the meeting in relation to either of those matters.

109.5 Nothing contained in this clause 109 prohibits or in any way restricts a Director from voting, being present at, or being counted in a quorum at any meeting of Directors in circumstances where it is not unlawful or is permissible to do so under the Corporations Act and the Listing Rules.

109.6 No act of the Board or the Company (including any contract, agreement or arrangement entered into by the Company) is void or voidable by reason only of a failure of a Director to comply with:

109.6.1 clause 109.1; or

109.6.2 section 191 of the Corporations Act.

109.7 Without in any way detracting from the obligations of the Directors to comply with the provisions of this clause 109, no Director is disqualified by their office from holding any office or place of profit (except that of auditor) under the Company or

under any company in which the Company is a shareholder or otherwise interested or from contracting with the Company either as vendor purchaser or otherwise in any manner howsoever, nor is any such contract or any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way directly or indirectly materially interested be avoided nor is any Director liable to account to the Company for any profit arising from any such office or place of profit or realised by any such contract or arrangement by reason only of such Director holding that office or of the fiduciary relations thereby established.

- 109.8 A Director who is in any way directly or indirectly materially interested in any existing or proposed contract or arrangement with the Company must declare the nature of their interest at the meeting of the Directors at which the contract or arrangement is first taken into consideration, if their interest then exists, or in any other case at the first meeting of the Directors held after the acquisition of their interest, provided that a general notice by a Director to the effect that he is an officer or member of any specified company or firm and is to be regarded as interested in any contract which may after the date of such notice be made with that company or firm is deemed to be sufficient declaration of interest in relation to any contract so made. A Director's failure to make a declaration as required by this clause 109.8 does not render void or voidable any contract or arrangement in which the Director has an interest.
- 109.9 It is the duty of a Director who holds any office or possesses any property the holding of which office or the possession of which property might whether directly or indirectly create duties or interest in conflict with their duties or interests as a Director of the Company to declare at the first meeting of the Directors held after he becomes a Director or (if he is already a Director) at the first meeting of the Directors held after he commenced to hold any office or possess any property the fact of their holding such office or their possession of such property and the nature character and extent of the conflict.
- 109.10 It is the duty of the Secretary to record in the minutes of Directors meetings any declarations made or notices given by a Director.
- 109.11 A Director who is interested in any existing or proposed contract or arrangement may notwithstanding such interest participate in the execution of any document evidencing or otherwise connected with such contract or arrangement.

## **110 Directors may act as promoters**

Without derogating from the provisions of clause 109, a Director may be or become a promoter or director of any company promoted by the Company or in which it may be or become interested as a vendor shareholder or otherwise. No Director is accountable for any profits received as promoter, director or member of such company.

## **111 Exercise of voting power in another company**

Subject to clause 109, the Directors may exercise the voting power conferred by the shares in any company held or owned by the Company in such manner in all respects as the Directors think fit (including the exercise of that power in favour of any resolution appointing a Director to be director of such company, or voting or providing for the payment of remuneration to the directors of such company). Any such Director may vote in favour of the exercise of such voting rights in that manner notwithstanding that he may be appointed a director of such other company.

**112 Company may remove Director and appoint another Director in their place**

Subject to the Corporations Act, the Company may by resolution remove any Director from office and may appoint another person in their place. The person so appointed holds office during such time only as the Director in whose place he is appointed would have held office if he had not been removed.

**PART 6.2 Election of Directors****113 Retirement of Directors**

113.1 At each annual general meeting, each Director who cannot remain in office under clause 114 must (subject to clause 117) retire from office.

113.2 A retiring Director who was previously elected is eligible for re-election. A retiring Director may act as a Director throughout the meeting at which he retires.

**114 Directors' maximum term**

Notwithstanding anything in this Constitution, a Director must not hold office (without re-election) past the third annual general meeting following the Director's appointment or 3 years, whichever is longer. However, a Director appointed to fill a casual vacancy or as an addition to the Board must not hold office (without re-election) past the next annual general meeting of the Company. This clause does not apply to the Managing Director (but if there is more than one Managing Director, only one is entitled not to be subject to re-election).

**115 Company to fill up vacancies**

The Company at any general meeting at which any Directors retire under clause 113 may fill up the vacated offices by electing the same number of persons to be Directors and may fill up any other vacancies.

**116 When candidate for office must give notice**

116.1 No person other than a Director holding office immediately prior to the commencement of an annual general meeting and who is recommended for re-appointment by the Board is eligible for election to the office of Director at that annual general meeting unless that person complies with clause 116.2.

116.2 At least thirty (30) business days before the general meeting at which a person stands for election (nominee) the nominee must leave at the office of the Company a notice in writing signed by:

116.2.1 the nominee consenting to the nomination and signifying their candidature for office; and

116.2.2 a member entitled to attend and vote at the annual general meeting signifying their intention to propose the nominee (which may be the proposing member himself) for election.

**117 Retiring directors to remain in office until successors appointed**

If at any annual general meeting at which an election of Directors ought to take place the place of any Director retiring under clause 113 is not filled up, that Director if willing may continue in office until the next annual meeting.

## **PART 6.3 Remuneration of Directors**

### **118 Remuneration of directors**

- 118.1 The Directors (other than any Managing Director and any Executive Director in the full time employment of the Company or any of its subsidiaries) may be paid out of the funds of the Company by way of remuneration for their services as follows:
- 118.1.1 Total remuneration not exceeding \$1,000,000 (one million dollars) per annum or any other maximum recommended by the Directors and fixed by the Company in general meeting, from time to time.
  - 118.1.2 Such remuneration must be divided among such of the relevant Directors and in such proportions and manner as the Directors may determine and in default of determination equally.
  - 118.1.3 After any fixing of the maximum remuneration of the relevant Directors that maximum continues to apply unless and until the Company in general meeting otherwise determines and it must not be increased unless notice of the proposed increase and the maximum sum that may be paid is given in the notice convening the meeting.
- 118.2 The Directors are entitled to be reimbursed for reasonable travelling and other expenses incurred by them when engaged on the business of the Company or in attending meetings of the Company or of the Directors or of any committees.
- 118.3 The remuneration payable to Executive Directors must not include a commission on or a percentage of profits of operating revenue.
- 118.4 Fees payable to non-executive Directors must be a fixed sum, and not a commission on or a percentage of profits or operating revenue.

### **119 Special remuneration**

- 119.1 The Company must pay or reimburse a Director for all extraordinary travelling and other expenses properly and necessarily incurred by a Director in discharging duties to the Company.
- 119.2 If any Director serves on any committee or is called upon to perform any extra services, which in the opinion of the Directors, are outside the scope of the ordinary duties of a Director or to make any special exertions in going or residing abroad or otherwise for any of the purposes of the Company, the Company may remunerate such Director in such manner as may be determined by the Directors.
- 119.3 Remuneration under this clause 119 may be in addition to or in substitution for a share of remuneration referred to in clause 118 or any remuneration as a Managing Director or other Executive Director as the case may be.

## **PART 6.4 Managing Director**

### **120 Appointment of Managing Director**

- 120.1 The Directors may appoint one or more of their own to be Managing Director of the Company upon such terms and conditions in all respects as the Directors think fit.
- 120.2 The Directors may remove from office any Managing Director if he becomes of unsound mind or bankrupt and may (subject to any contract between him and the Company) remove or dismiss him from office and appoint another person in their place.
- 120.3 A Managing Director whose period of appointment as such has expired may be reappointed but no such re-appointment may be for life.

### **121 Managing Directors not subject to retirement**

- 121.1 A Managing Director is not, while he continues to hold that office, subject to retirement under clause 113.
- 121.2 Subject to the provisions of any contract between him and the Company, a Managing Director is subject to the same provisions as to resignation and removal as the other Directors of the Company.
- 121.3 If a Managing Director ceases to hold the office of Director for any reason he immediately ceases to be Managing Director.

### **122 Remuneration of Managing Director**

The remuneration of every Managing Director may (subject to any contract with the Company) be fixed by the Directors and may be by way of salary or commission on or participation in profits or by any of those modes but must not include a commission on or a percentage of operating revenue.

### **123 Powers and duties of Managing Directors**

A Managing Director is subject to the control of the Board which may delegate to him such of the powers exercisable under this Constitution by the Directors as they think fit.

### **124 Retiring allowances to Directors**

- 124.1 Subject to the Corporations Act and the Listing Rules, the Company may make a contract or arrangement with any Director or proposed Director whereby on or after their ceasing to hold office there is paid to him, or after their death, to anyone or more of their widow, their dependants and their legal personal representative a pension or lump sum payment or other allowance (including, without limitation, any superannuation or retiring allowance superannuation gratuity).
- 124.2 The Directors on behalf of the Company may make or procure to be made a payment or payments pursuant to any such contract or arrangement and may make contributions to any fund and pay premiums for the provision or purchase of any such pension, lump sum payment or allowance.
- 124.3 A Director who is interested in any such contract or arrangement may notwithstanding such interest participate in the execution of any document evidencing or otherwise connected with such contract or arrangement.

## **PART 6.5 Procedure for Director meetings**

### **125 Meetings of directors and quorum**

- 125.1 The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. The Directors may also determine the quorum necessary for the transaction of business. Until otherwise determined, three Directors is a quorum, except in the circumstances referred to in clause 109.4.
- 125.2 It is not necessary to give notice of a meeting of the Directors to a Director who is on leave of absence approved by the Board, or who has waived notice of a meeting of the Board by giving notice to that effect in person, by post, by telephone or other electronic means.
- 125.3 Subject to the Corporations Act, the Listing Rules and clause 109, a Director interested in any way in any contract, arrangement or other transaction whatsoever, which may be brought before or in any way considered or dealt with at a meeting of Directors, is to be counted in a quorum notwithstanding their interest.

### **126 Convening of meetings and determination of questions**

A Director may, and the Secretary, upon the request of a Director, must convene a meeting of Directors. Questions arising at any meeting must be decided by a majority of votes and in case of an equality of votes the chair (except when only two Directors are present or only two Directors are competent to vote on the question at issue) does not have a second or casting vote.

### **127 Chair**

The Directors may elect a chair of their meetings and determine the period for which he holds office. If no chair is elected or if at any meeting the chair is not present at the time appointed for holding the meeting, the Directors present may choose one of their number to be chair of such meeting.

### **128 Delegation of power**

The Directors may delegate any of their powers to committees consisting one or more Directors and may revoke all or any of the powers so delegated. Any committee so formed must in the exercise of powers so delegated conform to any regulations that may be imposed on it by the Directors.

### **129 Chair of committee**

A Committee may elect a chair of its meetings. If no such chair is elected or if he is not present at the time appointed for holding any meeting, the members present must choose one of their number to be chair of such meeting.

### **130 Proceedings of committee**

The meetings and proceedings of any committee are governed by the provisions of this Constitution that regulate the meetings and proceedings of Directors to the extent not superseded by any regulation made by the Directors under clause 128.

## **131 Power to appoint alternate Directors**

- 131.1 Any Director may from time to time appoint any person approved by a majority of the other Directors to act as an alternate Director in their place whether for a stated period or periods or until the happening of a specified event or from time to time whenever by absence or illness or otherwise he is unable to attend to their duties as a Director.
- 131.2 An alternate Director is entitled to notice of meetings of the Directors and to attend and vote as a Director and to exercise all the powers (except the power to appoint an alternate Director) and perform all the duties of a Director.
- 131.3 An alternate Director is not required to hold the qualification (if any) of a Director and is not entitled to be remunerated otherwise than out of the remuneration of the Director appointing him, except remuneration paid pursuant to clause 119.
- 131.4 If an alternate Director is already a Director of the Company, he is entitled to vote at meetings of Directors both on behalf of their appointor and separately as a Director in their own right and for the purpose of determining whether a quorum is present he must be counted both as a Director and as an alternate Director.
- 131.5 Any appointment of an alternate Director may be revoked by the appointor or by resolution of the Directors provided that not less than seven days' notice of intention to propose such resolution is given to the appointor by letter addressed to their registered place of address. An alternate Director automatically vacates their office if their appointor ceases for any reason to be a Director. Any appointment or revocation under this clause is effected by notice in writing delivered to the Secretary.
- 131.6 Every person acting as an alternate Director is responsible to the Company for their own acts and defaults (if any) and must not be or be deemed to be the agent of the Director by whom he was appointed.

## **PART 6.6 Powers of Directors**

### **132 Powers of quorum**

A meeting of the Directors at which a quorum is present may exercise all the powers of the Company vested in the Directors.

### **133 Effect of resolution signed by Directors**

- 133.1 A resolution in writing signed by all the Directors entitled to receive notice of meetings of Directors is as valid and effectual as if it had been passed at a meeting of the Directors convened and held provided that the Directors signing the resolution would constitute a quorum and would have power to pass such resolution at a meeting of Directors. Any such resolution may consist of several documents in similar form each signed by one or more Directors. A statement sent by a Director by facsimile transmission, e-mail or other means of communication approved by the Directors to an agreed address, signifying assent to the resolution and either setting out its terms or otherwise clearly identifying those terms, is deemed to be a document signed by such Director at the time it was received at the agreed address and to suffice for the purpose of this clause.
- 133.2 Subject to the Corporations Act, the contemporaneous linking together by any communication technology of a number of the Directors not less than a quorum is deemed to constitute a meeting of the Directors. All the provisions that apply to

meetings of the Directors apply to such meetings so long as the following conditions are met:

- 133.2.1 all the Directors entitled to receive notice of a meeting of the Directors are entitled to notice of such meeting and to be linked by the relevant technology for the purposes of such meeting;
  - 133.2.2 notice of any such meeting may be given by telephone, facsimile, e-mail or other form of technology;
  - 133.2.3 each of the Directors taking part in such meeting must be able to communicate with each of the other Directors taking part in the meeting; and
  - 133.2.4 at the commencement of such meeting each Director must acknowledge their presence for the purpose of the meeting to all the other Directors taking part.
- 133.3 A meeting of Directors held in accordance with clause 133.2 is deemed to have been held at the place determined by the chair of that meeting, provided that at least one of the Directors who took part in the meeting was at that place for the duration of the meeting.

#### **134 Acts of Directors or committee valid notwithstanding defective appointment**

All acts done at any meeting of the Directors or of a committee of Directors or by any person acting as a Director are, notwithstanding that it shall afterwards be discovered that there was some defect in any appointment of such persons or that any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

#### **135 General powers of Company vested in Directors**

The management of the business of the Company is vested in the Directors and the Directors may exercise all such powers and do all such acts and things as the Company is by this Constitution or otherwise authorised to exercise and do and are not or by statute directed or required to be exercised or done by the Company in general meeting but subject nevertheless to the Corporations Act and this Constitution and to any regulations not being inconsistent with this Constitution from time to time made by the Company in general meeting provided that:

- 135.1 no such regulation invalidates any prior act of the Directors which would have been valid if such regulation had not been made; and
- 135.2 the Directors must not sell or otherwise dispose of the main undertaking of the Company unless such sale or disposal is subject to ratification by the members in general meeting.

#### **136 Signing of cheques**

All cheques, bills of exchange and promissory notes must be signed drawn accepted made or endorsed as the case may be for and on behalf of the Company in such manner as the Directors may determine.



## **PART 7 MANAGEMENT OF THE COMPANY**

### **PART 7.1 Secretary**

#### **137 137.1 Appointment and removal of Secretary**

One or more Secretaries may be appointed by the Directors in accordance with the Corporations Act for such term, at such remuneration and on such conditions as the Directors think fit. Any Secretary may be removed by the Directors.

#### **137.2 Acting Secretary**

The Directors may also appoint a person as an acting Secretary or as a temporary substitute for a Secretary, who for the purpose of this Constitution will be deemed to be a Secretary.

### **PART 7.2 Local management**

#### **138 Management abroad**

138.1 The Directors may provide for the management and transaction of the affairs of the Company in any specified locality whether in Victoria, Australia or elsewhere in such manner as they think fit.

138.2 Subject to the Corporations Act, the Listing Rules and the ASX Settlement Operating Rules, the Company may keep a branch register of members at a place outside Australia.

### **PART 7.3 Signing of certificates**

**139 NOT USED**

**140 NOT USED**

**141 NOT USED**

#### **142 Signing of certificates**

The Directors may determine either generally or in a particular case that the signature of any director, secretary or other person is to be printed on or affixed to any certificates for securities in the Company or any other document by some mechanical or other means.

### **PART 7.4 Reserves, profits and dividend**

#### **143 Reserve fund**

143.1 The Directors may, before declaring any dividend, set aside out of the profits of the Company such sums as they think proper as a reserve fund to meet contingencies, or for equalising dividends, or for special dividends, or for repairing improving and maintaining any of the property of the Company, or for such other purposes as the Directors, in their absolute discretion, think conducive to the interests of the Company.

143.2 The Directors may invest any reserve funds upon such investments as they may think fit and deal with and vary such investments and dispose of any part of those investments for the benefit of the Company and may divide the reserve fund into such special funds as they think fit and employ the reserve fund or any part of the

fund in the business of the Company without being bound to keep the same separate from the other assets.

#### **144 Dividend entitlements**

144.1 Subject to the rights of the holders of shares issued with any special or deferred rights as to dividends:

144.1.1 all dividends in respect of shares must be paid in proportion to the number of shares held by a member, but where shares are partly paid the dividend to be paid to the holder of a partly paid share must be that proportion of the dividend payable to the holder of a fully paid share that the amount paid on the partly paid share bears to the total amounts paid and payable on the partly paid share; and

144.1.2 all dividends must be apportioned and paid proportionately to any amount paid during any portion or portions of the period in respect of which the dividend is paid.

144.2 For the purposes of clauses 144.1.1 and 144.1.2, any amount paid on a partly paid share in advance of a call and any amount credited as paid on a partly paid share is to be ignored.

#### **145 No dividend on capital paid up in advance and carrying interest**

Where capital is paid up on any shares in advance of calls upon the footing that the same carry interest, such capital does not whilst carrying interest confer a right to participate in profits.

#### **146 Declaration or determination of dividend**

146.1 The Directors may declare or determine dividends (whether interim or otherwise), and may fix the time for payment of any dividend as, in their opinion, the financial position of the Company justifies.

146.2 The Directors may rescind a decision to pay a dividend before payment is made.

146.3 Subject to the Listing Rules and the ASX Settlement Operating Rules, the Directors may fix a record date in respect of a dividend.

#### **147 Dividends not to carry interest**

147.1 No dividend is payable except as permitted by the Corporations Act and no dividend carries interest as against the Company.

147.2 Subject to the Corporations Act, all dividends received by the Company are profits available for dividend, irrespective of the source.

#### **148 What to be deemed net profits**

The declaration of the Directors as to the amount of net profits of the Company is conclusive.

#### **149 Debts may be deducted**

The Directors may retain any dividends on which the Company has a lien and may apply the same in or towards satisfaction of the debts, liabilities or engagements in respect of which the lien exists.

**150 Effect of transfer**

Subject to the Corporations Act, the Listing Rules and the ASX Settlement Operating Rules, a transfer of shares registered after the record date notified to the ASX for determining entitlements to a dividend (whether interim or otherwise) paid or payable in respect of the transferred shares does not pass the right to that dividend.

**151 Notice of dividends**

Notice of the declaration of any dividend, whether interim or otherwise, may be given to members in any manner authorised for giving notices.

**152 Dividend and call together**

The Directors when resolving to pay a dividend may make a call on the members of such amount as the Directors determine but so that the call on each member does not exceed the dividend payable to him and so that the calls be made payable at the same time as the dividend and the dividend may if so arranged between the Company and the member be set off against the call.

**153 Dividend in specie**

The Directors when resolving to pay a dividend may resolve that such dividend be paid wholly or in part by the distribution of specific assets and in particular of paid up shares debentures or debenture stock of the Company or paid up shares debentures or debenture stock of any other company or in anyone or more of such ways.

**154 Capitalisation of reserves**

Subject to the Corporations Act, the Directors may resolve that any moneys, investments or other assets forming part of the undivided profits of the Company standing to the credit of the reserve fund or any capital redemption reserve fund or in the hands of the Company and available for dividend or arising on any revaluation of any assets of the Company and standing to the credit of an assets revaluation reserve be capitalised and distributed amongst such of the members as would be entitled to receive the same if distributed by way of dividend and in the same proportions on the footing that they become entitled as capital and that any part of such capitalised fund be applied on behalf of such members in paying up in full any unissued shares or debentures or debenture stock of the Company which shall be distributed accordingly or in or towards payment of the uncalled liability on any issued shares or debentures or debenture stock and that such distribution or payment shall be accepted by such members in full satisfaction of their interest in the said capitalised sum.

**155 Fractional certificates**

For the purpose of giving effect to any resolution under clauses 153 and 154, the Directors may settle any difficulty which may arise in regard to the distribution as they think expedient and in particular may issue fractional certificates or sell shares not divisible by reason of fractions and may fix the value for distribution of any specific assets and may determine that cash payments are made to any members upon the footing of the value so fixed or that fractions may be disregarded in order to adjust the rights of all parties and may vest any such cash or specific assets in trustees upon such trusts for the persons entitled to the dividend or capitalised fund as may seem expedient to the Directors. Where required, a proper contract must be delivered to the Australian Securities and Investments Commission for registration in accordance with the Corporations Act and the Directors may appoint any person to sign such contract on behalf of the persons entitled to the dividend or capitalised fund and such appointment shall be effective.

**156 Retention in certain cases**

The Directors may retain the dividends payable upon shares in respect of which any person is under clause 53 entitled to become a member or which any person under that clause is entitled to transfer until such person becomes a member in respect of such shares or transfers the same.

**157 Unclaimed dividends**

Unless otherwise required by law, all dividends unclaimed may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed.

**158 Payment by cheque or bank transfer**

158.1 Payment of any dividend may be made in any manner and by any means or combination of means as determined by the Directors, including, without prejudice to any other method of payment which the Directors, by cheque mailed to the address of the member as shown in the register of members or transfer to a nominated bank account. Different methods of payment may apply to different members or groups of members.

158.2 If the Board decides that payments will be made by electronic funds transfer into a bank account nominated by a member, the Company may credit the amount payable to an account of the Company to be held until the member nominates a valid account.

158.3 Where a member does not have a registered address or the Company believes that a member is not known at the member's registered address, the company may credit the amount payable in respect of the member's shares to an account of the Company to be held until the member claims the amount payable or nominates a valid account.

158.4 An amount credited to an account under clauses 158.2 or 158.3 is to be treated as having been paid to the member at the time it is credited to that account. The Company will not be a trustee of the money and no interest will accrue on the money. The money may be used for the benefit of the Company and treated in accordance with clause 157.

**PART 8 SHARE PLANS****159 Dividend reinvestment plans**

159.1 Subject to this Constitution, the Corporations Act and the Listing Rules, the Directors may by resolution establish, vary, suspend or terminate one or more plans whereby a member may elect (subject to the terms of the relevant plan, including terms as to the rounding of entitlements) to reinvest, either in whole or in part, dividends paid or payable by the Company to the member, by subscribing for ordinary shares in the capital of the Company (or such class of shares as the Directors may determine).

159.2 The Directors may do all things they consider necessary or desirable for the purpose of implementing every such plan including allotting shares, rounding fractional entitlements to a whole number and making all necessary appropriations and applications of funds.

**160 Bonus share plans**

- 160.1 Subject to this Constitution, the Corporations Act and the Listing Rules, the Directors may by resolution establish, vary, suspend or terminate one or more plans whereby a member may elect (subject to the terms of the relevant plan, including terms as to the rounding of entitlements) that dividends are not declared or determined in respect of some or all of the shares held by the member but that the member is entitled to receive in place of such dividends the allotment of such additional fully paid shares (whether paid up out of a reserve or other account or source) in the Company as the Directors may determine in accordance with the terms of the relevant plan.
- 160.2 The Directors may do all things they consider necessary or desirable for the purpose of implementing every such plan including allotting shares, rounding fractional entitlements to a whole number and making all necessary capitalisations and applications of funds standing to the credit of any reserve or other account or source.

**161 Share purchase or share top-up plans**

Subject to this Constitution, the Corporations Act and the Listing Rules, the Directors may establish, vary, suspend or terminate one or more share purchase or share top-up plans for the benefit of the members.

**PART 9 OTHER PROVISIONS****PART 9.1 Accounts, audit and inspection****162 Company to keep accounts**

The Company must keep such accounting and other records of the business of the Company, and such registers as it is required to keep by the Corporations Act and the Listing Rules.

**163 Accounts to be laid before Annual General Meeting**

At the annual general meeting in each year the financial reports required by the accounting standards, together with such other accounts, reports and statements as are required by the Corporations Act and the Listing Rules must be laid before the Company.

**164 Auditors**

The Company must observe the provisions of the Corporations Act relating to auditors.

**165 Inspection by members**

- 165.1 The Directors may from time to time (subject to the Corporations Act and this Constitution) determine whether to allow, and the conditions for inspection of the registers, accounts and books of the Company by the members.
- 165.2 No member (not being a Director or the auditor of the Company) has any right of inspecting any register, account, book or document of the Company except as conferred by statute or this Constitution or authorised by the Directors.
- 165.3 Unless and except as conferred by statute, no member, not being a Director, is entitled to require or receive any information concerning the business, trading or

customers of the Company or any trade secret or secret process of or used by the Company.

## **PART 9.2 Officers - indemnity insurance and access**

- 166**      166.1      In this clause 166:
- 166.1.1      **“Officer”** means every person who at any time is or has at any time been a “director”, “secretary” or “officer” of the Company within the meaning of those expressions as defined in the Corporations Act;
- 166.1.2      **“duties of the Officer”** includes, in any particular case where the Directors consider it appropriate, duties arising by reason of the appointment, nomination or secondment (in any capacity) of an officer by the Company or, where applicable, a subsidiary of the Company, to any other corporation;
- 166.1.3      **“to the relevant extent”** means:
- (a) to the extent the Company is not precluded by law from doing so;
  - (b) to the extent and for the amount that the Officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, in particular, an insurer under any insurance policy); and
  - (c) where the liability is incurred in or arising out of the conduct of the business of another corporation, or in the discharge of the duties of the Officer in relation to another corporation, to the extent and for the amount that the Officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation; and
- 166.1.4      **“liability”** means all liabilities, losses, damages, costs, charges, expenses, and penalties of any kind including, but not limited to, liability for negligence, also for legal costs incurred in defending any proceedings (whether civil, criminal, judicial or administrative) or appearing before any court, tribunal, government authority or otherwise.
- 166.2      The Company must indemnify each Officer out of the assets of the Company to the relevant extent against any liability incurred by the Officer in or arising out of the conduct of the business of the Company, or in or arising out of the discharge of the duties of the Officer.
- 166.3      Where the Directors consider it appropriate, and to the extent to which the Company is not precluded by law from doing so, the Company may execute a deed of indemnity in such terms as the Directors consider appropriate, in favour of any Officer.
- 166.4      Where the Directors consider it appropriate, and to the extent to which the Company is not precluded by law from doing so, the Company may:
- 166.4.1      make payments of amounts by way of premium in respect of any contract effecting insurance on behalf, or in respect of, an Officer against any liability incurred by the Officer in, or arising out of, the conduct of the business of the Company, or in or arising out of, the discharge of the duties of the Officer; and

- 166.4.2 bind itself in any deed (in such terms as the Directors consider appropriate) with any Officer to make the payments.
- 166.5 Where the Directors consider it appropriate, the Company may:
  - 166.5.1 give a Director or former director access to various Company papers, including documents provided or available to the Directors and other papers referred to in those documents; and
  - 166.5.2 bind itself in a deed (in such terms as the Directors consider appropriate) with a Director or former director to give that access.

## **PART 9.3 Minutes**

### **167 Minutes of proceedings**

- 167.1 Minutes of all proceedings of general meetings and of meetings of directors must be entered, within one month after the relevant meeting is held, in books kept for that purpose and must be signed by the chair of the meeting at which the proceedings took place or by the chair of the next succeeding meeting.
- 167.2 Any minute so entered and signed is prima facie evidence of the proceedings to which it relates.
- 167.3 Where minutes have been so entered and signed then, unless the contrary is proved:
  - 167.3.1 the meeting is deemed to have been duly convened and held;
  - 167.3.2 all proceedings that are recorded in the minutes as having taken place at the meeting are deemed to have taken place; and
  - 167.3.3 all appointments of officers or auditors that are recorded in the minutes as having been made at the meeting are deemed to have been validly made.
- 167.4 The Company must record in the minutes of a meeting of members in respect of each resolution in the notice of meeting, the total number of proxy votes exercisable by all proxies validly appointed, and:
  - 167.4.1 if the resolution is decided by a show of hands - the total number of proxy votes in respect of which the appointments specified that:
    - (a) the proxy is to vote for the resolution;
    - (b) the proxy is to vote against the resolution;
    - (c) the proxy is to abstain on the resolution; and
    - (d) the proxy may vote at the proxy's discretion; and
  - 167.4.2 if the resolution is decided on a poll - the information specified in clause 167.4.1 and the total number of votes cast on the poll:
    - (a) in favour of the resolution;
    - (b) against the resolution; and

(c) abstaining on the resolution.

167.5 If the Company is required to notify the ASX of a resolution passed by members at a meeting of the Company it must, at the same time, give the ASX the information specified in clauses 167.4.1 and 167.4.2.

## **PART 9.4 Notices**

### **168 Service of notices**

168.1 Subject to clause 169 but without limiting any other way in which notice may be given to a member under this Constitution, the Corporations Act or the Listing Rules, all notices and other documents may be given or served by the Company upon any member by:

168.1.1 delivering it personally to the member;

168.1.2 sending it by prepaid post to the member's address as recorded in the register of members or any other address the member supplies to the Company for giving notice;

168.1.3 sending it by fax, e-mail or other electronic means (including providing a link to any document) to the fax number or electronic address the member has provided to the Company for the purpose of giving notice;  
or

168.1.4 posting it on any communications technology platform and providing the member with notification (in any way agreed by the member) of the post.

### **169 Service of notices for members residing outside Australia**

169.1 A notice that is to be sent to a member whose registered place of address is outside Australia must be sent by air or by fax, or in another way that ensures it will be received quickly.

169.2 If a member's registered place of address is not in Australia, the member may notify in writing to the Company an address within Australia, which shall be their registered place of address for the purposes of clause 168.1.2.

### **170 Notice by advertisement**

Any notice required to be given by the Company to the members and not expressly provided for by this Constitution or the Corporations Act is sufficiently given if given by advertisement.

### **171 Publication of advertisement**

Any notice to be given by advertisement must be advertised at least once in a daily newspaper circulating generally in the capital cities of the relevant state, territory or country in which is situated a register or branch register in which shares in the member's name are registered. Notice is conclusively deemed to have been served at the expiration of twenty four hours after the publication of the newspaper containing the advertisement.

### **172 Time of service**

172.1 Any notice or other document referred to in clause 168 sent by post (including air mail to members with no registered address in Australia) is deemed to have been



served on a member at the expiration of three business days after the day that the envelope or wrapper containing the same is posted.

- 172.2 In proving service, it is sufficient to prove that the envelope or wrapper containing the notice or document was addressed and put into the post office or a post office letter box. A certificate in writing signed by the Secretary or other officer of the Company that the envelope or wrapper containing the notice or document was so addressed and posted is conclusive evidence of that fact.
- 172.3 Where a notice is sent by fax, e-mail or other electronic means it is deemed to have been served at the time transmission is completed.
- 172.4 Where a notice is sent by posting it on any communications technology platform, it is deemed to have been served at the time of the posting.
- 172.5 The sending of a notice by fax, e-mail or other electronic means and the time of completion of transmission may be proved conclusively by production of either of the following:
- 172.5.1 a transmission report by the communications technology from which the notice was transmitted which indicates that the notice was sent in its entirety to the electronic address of the addressee.
- 172.5.2 a print out of an acknowledgment of a copy of the notice from the system from which it was sent authorised to be a true copy by a Director or Secretary of the Company.

### **173 How time to be counted**

Where a given number of days' notice or notice extending over any period is required to be given, the day of service is, unless it is otherwise provided, included in such number of days or other period.

### **174 Persons bound by notice**

Every person who by operation of law, transfer or by other means becomes entitled to any share is bound by any and every notice or other document which previous to their name and address being entered upon the register in respect of such share has been given to or served upon or forwarded by post to the address of the person in whose name the same has been previously registered.

### **175 Notice valid though member dead**

Any notice or document sent by post to or left at the registered address of any member or sent by fax, e-mail or other means of electronic transmission or communications technology pursuant to this Constitution is, notwithstanding such member be then deceased and whether or not the Company has notice of their death, be deemed to have been served in respect of any registered shares whether held solely or jointly with other persons by such member until some other person be registered in their place as the holder or joint holder and such service shall for all purposes be deemed a sufficient service of such notice or document on their heirs executors or administrators and all persons (if any) jointly interested with him in any such share.

### **176 How notice to be signed**

The signature to any notice to be given by the Company may be written or printed.

**177 Directors to fix time for notice**

When no time is fixed by the Corporations Act, the Listing Rules or this Constitution for the giving of a notice or the delivery or service of any document such time may be fixed by the Directors.

**PART 9.5 Winding up****178 Distribution of assets**

Without prejudice to the rights of the holders of shares issued upon special terms and conditions:

- 178.1 if the Company is wound up and the assets available for distribution among the members as such are insufficient to repay the whole of the paid up capital, such assets must be distributed so that as nearly as may be the losses are borne by the members in proportion to the capital paid up or which ought to have been paid up at the commencement of the winding up on the shares held by them respectively; and
- 178.2 if in a winding up the assets available for distribution among the members are more than sufficient to repay the whole of the capital paid up at the commencement of the winding up the excess must be distributed amongst the members in proportion to the capital at the commencement of the winding up paid up, or which ought to have been paid up, on the shares held by them respectively.

**179 Distribution of assets in specie**

The liquidator may, with the sanction of a special resolution, vest the whole or any part of any such property in trustees upon such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no member is compelled to accept any shares or other securities in respect of which there is any liability.

**PART 9.6 Taxation**

- 180** 180.1 Whenever any law of any country State or place imposes or purports to impose any immediate or future or possible liability upon the Company to make any payment or empowers any government or taxing authority or government official to require the Company to make any payment in respect of any shares registered in any of the Company's registers held either jointly or solely by any member or in respect of any dividends bonuses or other moneys due or payable or accruing due or which may become due or payable to such member by the Company on or in respect of any shares registered or for or on account or in respect of any member and whether in consequence of:
- 180.1.1 the death of such member;
- 180.1.2 the non-payment of any income tax or other tax by such member;
- 180.1.3 the non-payment of any estate probate or succession death stamp or other duty by the executor or administrators of such member or by or out of their estate;
- 180.1.4 any assessment of income tax against the Company in respect of interest or dividends paid or payable to such member; or
- 180.1.5 any other act or thing.

The Company in every case, subject to the Listing Rules, the ASX Settlement Operating Rules and the Corporations Act:

- 180.1.6 must be fully indemnified by such member or their executor or administrator from all liability;
- 180.1.7 must have a first and paramount lien or charge upon all shares registered in any of the Company's registers as held either jointly or solely by such member and upon all dividends bonuses and other moneys paid or payable for any moneys paid or payable by the Company in respect of those shares or in respect of any dividend bonus or other money or for or on account or in respect of such member, their executor or administrator under or in consequence of any such law together with interest at the rate of fifteen per centum per annum from date of payment to date of repayment and all costs and expenses paid by the Company in respect of or in connection with any such liability or payment and may deduct or set off against any such dividend bonus or other money payable any moneys paid or payable by the Company together with interest costs and expenses;
- 180.1.8 may recover as a debt due from such member or their executor or administrator wherever constituted any moneys paid by the Company under or in consequence of any such law and interest at the rate and for that period and costs and expenses in excess of any dividend bonus or other money then due or payable by the Company to such member; and
- 180.1.9 may, if any such money is paid or payable by the Company under any such law, refuse to register a transmission of any shares or a transfer of any shares or a transfer of any shares by any such member or their executor or administrator until such money interest costs and expenses are set off or deducted or paid to the Company.
- 180.2 The word "**duty**" in clause 180.1 extends to and include any stamp, death, estate, probate, succession and legacy duty and any other amount which the Directors may in their absolute discretion declare to be a duty.
- 180.3 Nothing in this clause 180 prejudices or affects any right or remedy which any such law may confer or purport to confer on the Company and as between the Company and every such member, their executor or administrator and estate wheresoever constituted or situate any right or remedy which such law confers or purports to confer on the Company is enforceable by the Company and any lien or charge may be enforced in the manner in this Constitution provided.

## **PART 9.7 Confidentiality**

- 181** Every Director, manager, auditor, trustee, member of a committee, officer, servant, agent, accountant or other person employed in the business of the Company ("**Personnel**") is bound to observe strict confidentiality respecting all transactions of the Company with its customers and the state of the account of any individual and all matters relating to them. Personnel must (if required by the Directors) sign a declaration pledging not to reveal any of the matters, affairs or concerns which may come to their knowledge as such Personnel except:
  - 181.1 in the course and performance of their duties;
  - 181.2 under compulsion of obligation of law; or
  - 181.3 when officially required so to do by the Directors to the auditor or to a general meeting of members