

ASX Announcement (ASX: HLS)

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22 October 2020

Amended Healius Limited Constitution

Attached is a copy of the amended Constitution of Healius Limited; passed by special resolution at the Company's Annual General Meeting held earlier today.

Release of this announcement has been authorised by the Company Secretary.

ENDS

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For over 30 years Healius has been one of Australia's leading healthcare companies with a commitment to supporting quality, affordable and accessible healthcare for all Australians. Today Healius has three main businesses – pathology, medical centres and imaging - and three emerging businesses – dental, IVF and day hospitals. Through its unique footprint of centres and over 12,500 employees, Healius provides diagnostic services to consumers and their referring practitioners, as well as enabling a range of independent healthcare professionals to deliver patient care in partnership with Healius' nurses and support staff.

**CONSTITUTION
OF
HEALIUS LIMITED
(ACN 064 530 516)**

Constitution adopted 30/05/2008.

1. Amendments 26/11/2010.
2. Constitution amended to reflect Company name change 03/12/2018.
3. Proportional takeover approval provisions renewed 25/11/2019.
4. Constitution amendments 22/10/2020.

HEALIUS LIMITED

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CONSTITUTION
OF
HEALIUS LIMITED
(ACN 064 530 516)

1. PRELIMINARY

1.1 Definitions

In the construction of this Constitution, unless the contrary intention appears:

“**AGM**” means an annual general meeting of the Company held in accordance with the requirements of section 250N of the Corporations Act.

“**ASTC Settlement Rules**” means the operating rules of ASX Settlement and Transfer Corporation Pty Ltd (ACN 008 504 532).

“**ASX**” means ASX Ltd (ACN 008 624 691).

“**ASX Listing Rules**” means the Listing Rules of ASX which are applicable while the Company is listed, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX.

“**at any time**” means at any time or times and from time to time.

“**business day**” means:

- (a) if the Company is listed, a day which is a business day under ASX Listing Rules; and
- (b) if the Company is not listed, a day on which trading banks are open for banking business in New South Wales (not being a Saturday, Sunday or public holiday).

“**the Common Seal**” means the common seal of the Company as referred to in section 123 of the Corporations Act, and includes any duplicate seal of the Company.

“**the Company**” means the company incorporated in Australia under the Corporations Act and taken to be registered in Victoria and given the Australian Company Number 064 530 516.

“**Company Secretary**” means any individual appointed by the Directors to perform the duties of company secretary of the Company and includes an assistant company secretary or any individual appointed to act as such temporarily.

“**this Constitution**” means the Clauses that comprise the Constitution of the Company in force for the time being.

“corporate representative” means an individual appointed by a member which is a body corporate to be that body’s representative to exercise all or any of the powers the body may exercise at meetings of members of the Company.

“corporate representative certificate” means a certificate evidencing the appointment of a corporate representative, that certificate complying with this Constitution.

“the Corporations Act” means the Corporations Act 2001 (Cth) as it applies to the Company for the time being and the Corporations Regulations.

“the Corporations Regulations” means the Corporations Regulations 2001 (Cth).

“the Directors” means the Directors of the Company in office for the time being, or a quorum of the Directors present at a meeting of the Directors.

“dividend” includes bonus.

“individual” means a natural person.

“listed” means, in relation to the Company, the Company being and remaining admitted to the Official List of ASX.

“market transfer” means:

- (a) any proper ASTC transfer (as defined in the Corporations Act); and
- (b) any other transfer of a share where the transfer is pursuant to, or connected with, a transaction entered into on a stock market operated by ASX,

where, in either case, ASTC Settlement Rules, ASX Listing Rules or the Corporations Act does not allow the Directors to refuse to register the transfer.

“a meeting of members” means a meeting of members, which includes an AGM, duly called and constituted in accordance with this Constitution, and any adjourned holding of it.

“member”, “shareholder”, or “holder” means any person entered in the Register of Members as a member for the time being of the Company.

“a member present” means a member present at any meeting of members, in person or by proxy or attorney or, in the case of a body corporate, by its corporate representative.

“ordinary resolution” means a resolution of a meeting of members where more than one half of the total votes cast on the resolution are in favour of the resolution.

“person” includes an individual, company, other body corporate, partnership or other entity.

“proxy” means an individual duly appointed under a proxy form by a member who is entitled to attend and vote at a meeting of members, to attend and vote instead of the member at the meeting.

“proxy form” means an instrument for appointing a proxy, that instrument complying with this Constitution.

“record date” has the same meaning as it has in the ASX Listing Rules.

“the Register of Members” means the Register of Members maintained by the Company in accordance with section 168(1) of the Corporations Act and, if appropriate, includes any overseas branch Register of Members and any computerised or electronic sub-register established and administered under ASTC Settlement Rules.

“the Registered Office” means the registered office for the time being of the Company, as required by section 142(1) of the Corporations Act.

“Schedule 1 (Preference Shares)” is part of this Constitution.

“Schedule 2 (Proportional Takeovers Approval)” is part of this Constitution.

“Schedule 3 (Small Holdings)” is part of this Constitution.

“Section” means a Clause or group of Clauses in this Constitution identified by a specified heading or by the same initial number.

“shares” means the shares into which the capital of the Company is at any time divided.

“special resolution” means a resolution of a meeting of members:

- (a) of which notice as set out in section 249L(c) of the Corporations Act has been given; and
- (b) where at least 75% of the total votes cast on the resolution are in favour of the resolution.

1.2 Interpretation

In the construction of this Constitution:

- (a) headings are to be disregarded, except for the purpose of identifying a Section;
- (b) singular includes plural, and vice versa, and words importing any gender include all other genders;
- (c) except for the definitions in the preceding Clause, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act;
- (d) all references to statutory provisions are construed as references to any statutory modification or re-enactment for the time being in force.

1.3 Listing Rules

In this Constitution:

- (a) a reference to ASX Listing Rules is to have effect if, and only if, at the relevant time, the Company is listed and otherwise is to be disregarded; and

- (b) if the provisions of the Corporations Act and ASX Listing Rules conflict on the same matter, the provisions of the Corporations Act prevail.

1.4 Exclusion of replaceable rules

All of the replaceable rules contained in the Corporations Act are displaced by this Constitution and do not apply to the Company.

1.5 Validity of acts

Despite anything contained in this Constitution, if it is found that some formality required by this Constitution to be done has been inadvertently omitted or has not been carried out, such omission does not invalidate any resolution, act, matter or thing which, but for such omission, would have been valid unless it is proved to the satisfaction of the Directors, or a majority of them, that such omission has directly prejudiced any member financially. The decision of the Directors is conclusive and final and binds all members.

1.6 Validity of acts of Directors

All acts done at any meeting of the Directors or of a committee of Directors or other persons or by any individual acting as a Director or any person purporting to act as an attorney under power of the Company are, despite the fact that later it is discovered that there was some defect in the appointment or continuance in office of such Director, person or attorney so acting or that they or any of them were disqualified or were not entitled to vote, as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Director or attorney and was entitled to vote.

2. SHARE CAPITAL

2.1 Control of the Directors

Subject to the provisions of this Constitution, ASX Listing Rules and the Corporations Act, and without prejudice to any special rights previously conferred on the holders of any existing shares:

- (a) the shares in the Company are under the control of the Directors; and
- (b) the Directors may allot, grant options over, or otherwise dispose of, the shares to such persons, at such times, on such terms, and having attached to them such preferred, deferred or other rights, and at such issue price, for cash or non-cash consideration, with the issue price paid or part unpaid, as the Directors think fit; and
- (c) in conjunction with their rights under paragraphs (a) and (b) above, the Directors may issue preference shares in accordance with this Constitution.

2.2 Preference shares: rights in Schedule 1, or as approved

The Directors may issue preference shares, and issued shares may be converted into preference shares, provided that the rights of the holders of the preference shares with respect to the 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 are:

- (a) as set out in **Schedule 1**; or
- (b) as approved by a special resolution in accordance with the Corporations Act.

2.3 Preference shares: terms of issue

The rights of holders of preference shares issued by the Company otherwise than pursuant to **Schedule 1**, but in accordance with the Corporations Act, are determined by the terms of issue of the preference shares and the relevant special resolution, and are not determined by or affected by the rights set out in **Schedule 1**.

2.4 Preference shares: redeemable or convertible

Subject to the Corporations Act and the Listing Rules, the Company may issue preference shares which are, or are at the option of the Company to be liable, to be redeemed or to be converted into other shares on such conditions and in such a manner as the Directors decide under the terms of issue of the preference shares.

2.5 Preference shares: payment

Subject to the Corporations Act and the Listing Rules, the Company may issue any combination of fully paid, partly paid or unpaid preference shares.

2.6 Preference shares: Listing Rules

Despite **Clauses 2.2 to 2.5** and **Schedule 1**, the Company may not issue a preference share that confers on the holder rights that are inconsistent with those specified in the Listing Rules, except to the extent of any waiver or modification of the Listing Rules by ASX.

2.7 Variation of rights

If at any time the issued shares are divided into different classes, the rights attached to any class of shares (unless the terms of issue of that class otherwise provide) may only be varied or cancelled with either:

- (a) the sanction of a special resolution passed at a separate meeting of the class of members holding shares in the class; or
- (b) the written consent of members with at least 75% of the votes in the class.

2.8 Class meetings

In relation to any such separate meeting of the holders of shares in a class, the provisions of this Constitution which relate to meetings of members apply, as far as they are capable of application and changed as necessary, except that any member present holding shares of the class may demand a poll.

2.9 Further issues of shares in the same class

The rights attached to a class of shares are not to be considered as varied if further shares of that class are issued on identical terms, except if the terms of issue of that class of shares otherwise provide.

2.10 Reclassification of shares

Subject to this Constitution, ASX Listing Rules and the Corporations Act, the Company may at any time by ordinary resolution convert and reclassify all or any of the issued shares of one class into shares of another class or classes.

2.11 Brokerage and commission

The Company may pay brokerage or commission to a person in respect of that person or another person agreeing to take up shares in the Company. Payments by way of brokerage or commission (in respect of the issue of any shares) may be satisfied by the payment of cash, by the allotment of fully or partly paid shares, or a combination of these.

2.12 Recognition of third party interests

Except as required by law or in this Constitution, the Company must not recognise any person as holding any share upon any trust. The Company is not bound by, or compelled in any way to recognise (even when having notice of it), any equitable, contingent, future or partial interest in any share or unit of a share or (except only as otherwise provided by this Constitution or by law) any other right in respect of any share except an absolute right of ownership of it in the registered holder.

2.13 Conversion of shares into larger or smaller number

The Company may by ordinary resolution convert all or any of its shares into a larger or smaller number of shares. Any amount unpaid on shares being converted is to be divided equally among the shares that replace those shares.

2.14 Adjustments

The Directors may do all things necessary to give effect to any such resolution and in particular, to the extent necessary to adjust the rights of the members among themselves, may determine that fractions or incomplete multiples may be disregarded.

2.15 Company may reduce share capital

The Company may reduce its share capital by any means allowed by the Corporations Act. If the Company is listed it must also comply with ASX Listing Rules.

2.16 Reduction of share capital by asset distribution

Any reduction in share capital under **Clause 2.10** may be made wholly or partly by way of an in specie distribution of specific assets, including paid up shares in, or debentures of, or options over the shares of, the Company or any other body corporate. In relation to that:

- (a) Where a difficulty arises in regard to a distribution of specific assets, the Directors may resolve the difficulty as they see fit.

- (b) The Directors may:
 - (i) fix the value for distribution of the specific assets or any part of those assets; and
 - (ii) determine that cash payments will be made to any members on the basis of the value so fixed in order to adjust the rights of all parties; and
 - (iii) vest any of those specific assets in trustees,as the Directors see fit.

2.17 Agreement to take in specie distributions

If the Company distributes to members (either generally or to specific members) paid up shares or other securities in another body corporate either wholly or as part of:

- (a) a distribution of a dividend; or
- (b) a reduction of share capital of the Company; or
- (c) a distribution on winding up of the Company,

then each of the members appoints the Company or any of the Directors as their agent to do anything needed to give effect to that distribution, including (without limitation):

- (i) agreeing to become a member of that other body corporate; and
- (ii) executing any transfer of shares or other securities, or other document required to give effect to the distribution of shares or other securities to that member.

3. CERTIFICATES

3.1 Uncertificated mode

Despite any other provision of this Constitution:

- (a) the Company need not issue a certificate, and may cancel any certificate without issuing a certificate in substitution, in respect of any marketable security of the Company in any circumstances where the non-issue of that certificate is permitted by law; and
- (b) where paragraph (a) applies, any reference to a certificate in this Constitution is to be disregarded in relation to that marketable security.

3.2 Holding statements

Where the Directors have determined not to issue a certificate or to cancel a certificate in respect of any marketable security of the Company, a member is entitled to receive a statement of the holdings of the member setting out the number of marketable securities and any other matter of which the Company is required to provide particulars under this Constitution, the Corporations Act, ASX Listing Rules or ASTC Settlement Rules.

3.3 If certificates required

To the extent that certificates are required for marketable securities of the Company:

- (a) the Company must issue certificates of title to marketable securities of the Company in accordance with the Corporations Act and, if the Company is listed, ASX Listing Rules; and
- (b) a member is entitled, without charge, to one certificate for the marketable securities of the Company of each class registered in the member's sole name or to several certificates each for a reasonable part of those marketable securities; and
- (c) if any marketable securities of the Company are held by 2 or more persons, the Company is only required to issue the same number of certificates as if those marketable securities were held by one person. Delivery of a certificate so issued to any of those persons is sufficient delivery to all of them; and
- (d) if a certificate is lost, destroyed, worn out or defaced, then upon production of the document (if available) to the Directors they may order it to be cancelled and may issue a new certificate in substitution subject to the conditions prescribed by the Corporations Act, and, if the Company is listed, ASX Listing Rules.

4. LIEN

4.1 Lien for calls

The Company has a first and paramount lien for unpaid calls and instalments, and interest on such sums, and expenses incurred in relation to those items upon the specific shares registered in the name of each member (whether solely or jointly with others) in respect of which such money is due and unpaid. Such lien extends to all dividends at any time paid or distributed in respect of such shares. Unless otherwise agreed, the registration of a transfer of shares operates as a waiver of the Company's lien on any such shares.

4.2 Lien on payments required to be made by the Company

If any law for the time being of any place imposes or purports to impose any immediate, 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 the Register of Members as held either jointly or solely by any member, or in respect of any dividends or other money 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 such shares, or for or on account of or in respect of any member and whether in consequence of:

- (a) the death of such member; or
- (b) the liability for income tax or other tax by such member; or
- (c) the liability for any estate, probate, succession, death, stamp or other duty by the executor or administrator of such member or by or out of the member's estate; or

- (d) any other act or thing;

in every such case the Company:

- (i) must be fully indemnified by such member or the member's executor or administrator from all liability; and
- (ii) has a first and paramount lien upon all shares registered in the Register of Members as held either jointly or solely by such member and upon all dividends and other money payable in respect of such shares for any liability arising under or in consequence of any such law and for any amount paid in complete or partial satisfaction of such liability and for interest on any amount so paid at the rate per cent per annum set by the Directors from the date of payment to the date of repayment and may deduct from or set off against any such dividend or other money so payable any money so paid or payable by the Company together with that interest; and
- (iii) may recover as a debt due from such member or the member's executor or administrator wherever constituted any money paid by the Company under or in consequence of any such law and interest on such money at the rate and for that period in excess of any dividend or other such money then due or payable by the Company to such member; and
- (iv) if such shares are not CHESSE approved securities under ASTC Settlement Rules, may, if any such money is paid or payable by the Company under any such law, refuse to register a transfer of any such shares by any such member or the member's executor or administrator until such money with that interest is set off or deducted or in case the same exceeds the amount of any such dividend or other money then due or payable by the Company to such member until such excess is paid to the Company; and
- (v) if such shares are CHESSE approved securities under ASTC Settlement Rules, and, if any such money is paid or payable by the Company under any such law, may if ASX has authorised the Company in writing to do so, request the securities clearing house to apply a holding lock to such shares.

4.3 Other remedies of the Company

Nothing in this Constitution 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, the member's executor, administrator and estate, wherever constituted or situated, any right or remedy which such law confers or purports to confer on the Company is enforceable by the Company.

4.4 Sale under lien

The Company may sell in such manner as the Directors think fit any shares on which the Company has a lien if:

- (a) a sum in respect of which the lien exists is presently payable; and
- (b) a notice in writing stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable has been given to the registered holder for the time being of the share or the person entitled to it by reason of death or bankruptcy; and

(c) that notice remains unsatisfied 14 days after it was given.

4.5 Transfer

To give effect to any such sale the Directors may authorise some person to transfer the shares sold to the purchaser of the shares. The purchaser must be registered as the holder of the shares comprised in any such transfer and the purchaser is not bound to see to the application of the purchase money nor is the purchaser's title to the shares affected by any irregularity or invalidity in connection with the sale.

4.6 Application of proceeds

The proceeds of the sale must be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable and the residue, if any, must (subject to a like lien for sums not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares immediately prior to the time of the sale.

4.7 Effect of forfeiture

Any member whose shares have been forfeited is, despite that fact, liable to pay and must immediately pay to the Company all calls, instalments, interest and expenses owing upon or in respect of such shares at the time of the forfeiture together with interest on such items from the time of forfeiture until payment at such rate as the Directors may determine. The Directors may enforce the payment of such money, or any part of it if they think fit, but they are not under any obligation to do so.

5. CALLS ON SHARES

5.1 Calls made by the Directors

Subject to the terms of issue of any shares, the Directors may at any time make such calls as they think fit upon the members in respect of any money unpaid on the shares held by them respectively. A call may be made payable by instalments. Subject to ASX Listing Rules, a call may be revoked, postponed or extended as the Directors determine.

5.2 Time of call

A call is deemed to be made at the time when the resolution of the Directors authorising such call was passed.

5.3 Payment of call

Each member must pay to the Company, by the time and at the place specified by the Directors, the amount called on the member's shares. The non-receipt of a notice of a call by, or the accidental omission to give notice of a call to, any of the members does not invalidate the call.

5.4 Fixed payments

If by the terms of issue of any shares or otherwise any amount is made payable at any fixed time or by instalments at fixed times, every such amount or instalment is payable as if it were a call duly made by the Directors and of which due notice had been given. In case of non-payment, the provisions of this Constitution as to payment

of interest, expenses, and forfeiture or otherwise apply as if such sum had become payable by virtue of a call duly made and notified.

5.5 Interest on unpaid call

If a sum called is not paid on or before the date for payment of it the person from whom the sum is due must pay interest on the sum (or on so much as remains unpaid from time to time) at such rate as the Directors may determine calculated from the day appointed for the payment of it until the time of actual payment. The Directors may waive such interest in whole or in part.

5.6 Joint holders' liability

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

5.7 Differences in terms of issue

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

5.8 Recovery action

If a call is not paid the Company may proceed to recover it with interest and expenses (if any) by action, suit or otherwise. The right of action, suit or otherwise is without prejudice to the right to forfeit the share of any member so in arrears and either or both of such rights may be exercised by the Directors.

5.9 Proof of call

On the trial of any action for the recovery of any call or of any interest or expenses upon or in respect of any call it is sufficient to prove that:

- (a) the name of the member sued is entered in the Register of Members as the holder, or one of the holders, of the shares in respect of which such debt accrued; and
- (b) the resolution making the call is duly recorded in the minute book; and
- (c) notice of such call was duly given to the registered holder of the shares or, in the case of calls or instalments payable at fixed times, by the terms of issue of any share or otherwise to prove such terms; and
- (d) such sum or call has not been paid.

It is not necessary to prove the appointment of the Directors who made the allotment or call or the passing of the resolution nor any other matters whatever. Proof of the matters in paragraphs (a) to (d) is conclusive evidence of the debt.

5.10 Prepayment of calls

Subject to the terms of issue of any shares, the Directors may at any time receive from any member all or any part of the amount unpaid on a share although no part of that amount has been called up. The Directors may at any time pay interest upon the whole or any part of the money so paid in advance until the amount becomes payable at such a rate as the member paying such sum and the Directors agree upon.

Any amount being paid in advance of calls is not included or taken into account in ascertaining the amount of dividend payable upon the shares in respect of which such advance has been made. The Directors may at any time repay the amount so advanced upon giving to such member one month's notice in writing.

5.11 Listing Rules

None of the powers conferred by this Section may be exercised otherwise than in accordance with such timetable as may at the relevant time be prescribed by ASX Listing Rules.

6. TRANSFER OF SHARES

6.1 Securities clearing house authorisation

The Directors may do anything permitted by the Corporations Act and ASX Listing Rules which the Directors consider necessary or desirable in connection with the participation of the Company in any computerised or electronic system established or recognised by the Corporations Act or ASX Listing Rules for the purposes of facilitating dealings in shares including, without limitation, electronic registration of transfers of shares.

6.2 Market transfer

Subject to this Constitution, a member may transfer all or any of the member's shares by a market transfer in accordance with any computerised or electronic system established or recognised by ASX Listing Rules or the Corporations Act for the purpose of facilitating transfers in shares, including a transfer that takes effect pursuant to ASTC Settlement Rules or some other computerised or electronic transfer process. The Company must comply with any obligations which are imposed on it by ASX Listing Rules or ASTC Settlement Rules in connection with that transfer of shares.

6.3 Non-interference with market transfers

Despite any other provision of this Constitution, the Directors may not prevent, delay or interfere with, the registration of a market transfer where to do so would be contrary to any provision of ASX Listing Rules or ASTC Settlement Rules.

6.4 Instrument of transfer

If not done by a market transfer then, subject to this Constitution, a member may transfer all or any of the member's shares by instrument in writing which is:

- (a) a sufficient instrument of transfer of securities under the Corporations Act; or
- (b) in a form approved by ASX; or
- (c) in any other usual or common form; or
- (d) in any other form approved by the Directors.

6.5 Proper instrument

If a member seeks to transfer all or any of the member's shares in accordance with the preceding Clause, the Company may only register a transfer of shares where an instrument satisfying the preceding Clause is delivered to the Company (including, for this purpose, a person authorised by the Company to receive instruments, such as a share registrar of the Company) and the instrument:

- (a) is duly stamped, if necessary; and
- (b) is executed by the transferor and (unless the Directors otherwise determine in a particular case, relating only to fully paid shares) the transferee, except where execution by either transferor or transferee is not required by law or is deemed by law to be present; and
- (c) except where otherwise permitted by law, is accompanied by the certificate for the shares the subject of the transfer where a certificate has been issued, unless the Directors waive production of the certificate on receiving satisfactory evidence of the loss or destruction of the certificate; and
- (d) is accompanied by such other evidence as the Directors may require to prove the title of the transferor or the transferor's right to transfer the shares; and
- (e) relates only to shares of one class.

6.6 Free registration

Except as provided in:

- (a) **Clause 6.7** (restrictions on transfer); or
- (b) **Clause 32** (restricted securities); or
- (d) the terms of issue of the shares concerned,

the Directors must register each transfer of shares which complies with the 2 preceding Clauses, and do so without charging a fee.

6.7 Restrictions on transfer

The Directors:

- (a) may decline to register a transfer of shares where to do so would not contravene ASX Listing Rules; and
- (b) must decline to register a transfer of shares:
 - (i) when required by law; or
 - (ii) when required by ASX Listing Rules; or
 - (iii) when required by ASTC Settlement Rules; or
 - (iv) in the case of acceptances of offers made under a proportional takeover bid, when required by **Clause 2 of Schedule 2**.

6.8 Transferor remains member

The transferor of a share remains the holder of that share until the transfer is registered and the name of the transferee is entered in the Register of Members in respect of that share.

6.9 Retention of instruments

If an instrument of transfer or a purported instrument of transfer is delivered to the Company, property to and title in that instrument (but not the shares the subject of it) passes to the Company which is entitled, as against all persons, to the possession of the instrument.

6.10 Notification of refusal to register

If the Directors refuse to register a transfer of shares they must give written notice of the refusal to the transferee and the reasons for the refusal:

- (a) if the Company is listed, within 5 business days after the date on which the transfer was lodged with the Company; and
- (b) otherwise, within 2 months after the date on which the transfer was lodged with the Company.

6.11 Powers of attorney

All powers of attorney granted by members for the purpose, among other things, of transferring shares which may be lodged, produced or exhibited to the Company are, as between the Company and the grantor of such powers, treated as remaining in full force and effect and they may be acted upon until such time as express notice in writing of the revocation of them or of death of the grantor has been lodged at the Registered Office.

6.12 Small holdings

If the Company is listed, the Company is permitted to sell the securities of a holder who is a Small Holder or a New Small Holder as determined by, and in accordance with, the provisions in **Schedule 3 (Small Holdings)**.

7. TRANSMISSION OF SHARES

7.1 Entitlement to shares on death

If a member dies:

- (a) the survivor or survivors where the deceased was a joint holder; and
- (b) the legal personal representative where the deceased was a sole holder,

is, upon producing satisfactory proof of death, the only person recognised by the Company as having any title to the deceased's interest in the share. Nothing in this Constitution releases the estate of a deceased joint holder from any liability in respect of any share which has been jointly held by the deceased.

7.2 Registration of persons entitled

If a person becomes entitled to a share in consequence of the death or bankruptcy of a member or to a share of a mentally incapable member then:

- (a) that person may, upon such information being produced as is properly required by the Directors, and subject to paragraphs (b) and (c), elect either to be registered as the holder of the share or to have some other person (nominated by the person becoming entitled) registered as the transferee of the share; and
- (b) if the person so becoming entitled elects to be registered, that person must deliver or send to the Company a notice in writing signed by that person stating that election; and
- (c) if the person so becoming entitled elects to have another person registered, the person becoming entitled must execute a transfer of the share to that other person; and
- (d) all the provisions of this Constitution relating to the right to transfer and the registration of transfers apply to any such notice or transfer as if the notice or transfer were a transfer executed by that member.

7.3 Dividends and other rights

A person entitled to be registered as a member in respect of a share by virtue of the 2 preceding Clauses in this Section is, upon the production of such evidence as may at any time be properly required by the Directors, entitled to the same dividends and other advantages, and to the same rights (whether in relation to meetings of the Company, or to voting, or otherwise), as the registered holder would have been. If 2 or more persons are jointly entitled to any share in consequence of the death of the registered holder they are, for the purposes of this Constitution, treated as joint holders of the share.

8. FORFEITURE AND SURRENDER OF SHARES

8.1 Payment required

If any member fails to pay the whole or any part of any call or instalment on or before the day appointed for payment of the call or instalment, the Directors may, at any time while the same remains unpaid, serve a notice on the member requiring the member to pay the same together with any interest that may have accrued thereon and interest up to the date of payment and any expense that may have been incurred by the Company by reason of such non-payment.

8.2 Forfeiture notice

The notice must:

- (a) name a further day (not earlier than the expiry of 14 days from the date of service of the notice) on or before which the payment required by the notice is to be made; and
- (b) identify the place where payment is to be made; and

- (c) state that if payment is not made by the due date and at the place appointed, the shares in respect of which such payment is due are liable to be forfeited.

8.3 Forfeiture

If the requirements of any such notice are not complied with, any share in respect of which such notice has been given may at any time thereafter, while payment required by the notice has still not been made, be forfeited by a resolution of the Directors to that effect. Such forfeiture includes all dividends to be paid in respect of the forfeited shares and not actually paid before the forfeiture. The right to forfeit the shares does not affect the right of the Company to sue for any allotment money, calls, instalments, interest and expenses due in respect of such shares.

8.4 Cancellation of forfeiture

Subject to ASX Listing Rules, the Directors may, at any time before the forfeited shares have been sold or otherwise disposed of, annul the forfeiture of them upon such conditions as they think fit.

8.5 Directors may sell

A forfeited share becomes the property of the Company. Subject to ASX Listing Rules, any forfeited share may be sold or otherwise disposed of upon such terms and in such manner as the Directors think fit.

8.6 Effect of forfeiture

A person whose shares have been forfeited ceases to be a member in respect of the forfeited shares. However, that person remains liable to pay, and must immediately pay, to the Company all money payable by such person in respect of such shares at the time of forfeiture, together with interest thereon from the time of forfeiture, until payment at such rate as the Directors may determine. The Company may enforce the payment of such money, but is not under any obligation to do so.

8.7 Evidence of forfeiture

A statement in writing by a Director or a Company Secretary of the Company that a share in the Company has been duly forfeited on a date stated in the statement is conclusive evidence of the facts so stated as against all persons claiming to be entitled to the share.

8.8 Transfer of forfeited shares

The Company may receive the consideration, if any, given for a forfeited share on any sale or disposition of the share and may appoint some person to execute a transfer of the share in favour of the person to whom the share is sold or disposed of. The transferee must then be registered as the holder of the share and is not bound to see to the application of the purchase money, if any. The transferee's title to the share is not affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

8.9 Surrender as forfeiture

The Directors may accept the surrender of any fully paid share by way of compromise of any question as to the holder being properly registered in respect of it. Any share so surrendered may be disposed of in the same manner as a forfeited share.

8.10 Fixed amounts taken to be calls

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

9. MEETINGS OF MEMBERS

9.1 AGM must be held

The Company must hold an AGM at least once in each calendar year and within 5 months after the end of its financial year (or such later deadline arising from that period being extended under section 250P of the Corporations Act). An AGM must be held in addition to any other meetings of members held by the Company in the calendar year.

9.2 Calling of meetings

A meeting of members may be called by:

- (a) the Directors; or
- (b) if the Company is listed, a single Director.

9.3 Requisition of meetings

Except as provided in section 249E or section 249F of the Corporations Act, no member or members may call a meeting of members.

9.4 Period of notice

Subject to the next Clause, at least 21 clear days' (or if the Company is listed, 28 clear days') notice must be given of a meeting of members. This means that both the day the notice was deemed to be given and the day of the meeting of members itself are excluded.

9.5 Consent to short notice

Except where the Company is listed, with the consent of the requisite number of members, any meeting of members (except a meeting referred to in the next Clause) may be called on short notice and in any manner they think fit and all provisions of this Constitution are modified accordingly. The required number is:

- (a) in the case of an AGM, all the members entitled to attend and vote at the AGM;
- (b) in the case of other meetings of members, those members entitled to attend and vote at that meeting who, between them, hold at least 95% of the votes that may be cast at the meeting.

9.6 Shorter notice not allowed

At least 21 clear days' (or, as **Clause 9.5** is not applicable to a listed company, if the Company is listed, 28 clear days') notice must be given of a meeting of members at which a resolution will be moved to:

- (a) remove a Director under section 203D of the Corporations Act; or
- (b) appoint a Director in place of a Director removed under section 203D of the Corporations Act; or
- (c) remove an auditor under section 329 of the Corporations Act.

9.7 Notice of meeting

Every notice of a meeting of members must:

- (a) set out the place, date and time of meeting (and the technology that will be used to facilitate the meeting if it is held pursuant to **Clause 9.13**); and
- (b) in the case of special business, state the general nature of the business; and
- (c) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution; and
- (d) in the case of an election of Directors, give the names of the candidates for election; and
- (e) in the case of an AGM, inform members that an advisory resolution, which does not bind the Directors or the Company, will be put to the AGM that the remuneration report referred to in section 300A(1) of the Corporations Act be adopted; and
- (f) contain a statement of the right to appoint a proxy, being to the effect that:
 - (i) a member entitled to attend and vote has a right to appoint a proxy;
 - (ii) a proxy need not be a member;
 - (iii) a member who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise. If there is no such specification, each proxy may exercise half of the votes; and
- (g) specify a place (and may specify a fax number, an electronic address or other electronic means) for the purpose of receipt of proxy forms; and
- (h) where the Directors have determined to allow direct voting pursuant to **Clause 12.14**, a summary of the rules determined by the Directors to apply to such direct voting, including the methods by which members may vote directly; and
- (i) contain a statement, in accordance with Corporations Regulation 7.11.37, that the Directors have determined that a person's entitlement to vote at the meeting of members will be the entitlement of that person set out in the Register of Members as at the time and date so determined by the Directors.

9.8 Business of AGM

The business of an AGM may include any of the following, even if not referred to in the notice of meeting:

- (a) the consideration of the annual financial report, Directors' report and auditor's report;
- (b) the election of Directors;
- (c) an advisory resolution that the remuneration report referred to in section 300A(1) of the Corporations Act be adopted;
- (d) the appointment of the auditor;
- (e) the fixing of the auditor's remuneration.

All other business transacted at an AGM, and all business transacted at other meetings of members, is deemed special (as to which, see **Clause 11.3**).

9.9 Entitlement to notice

Written notice of a meeting of members must be given individually to:

- (a) each member (apart from any member who under this Constitution or by the terms of issue of any share is not entitled either to the notice or to vote at the meeting); and
- (b) the auditor; and
- (c) each Director.

9.10 Entitlement to proxy form

A proxy form (in a form determined by the Directors) must be given to each member entitled to attend and vote at the meeting of members.

9.11 Omission to give notice

The accidental omission to give notice of a meeting of members (or proxy form) to, or the non-receipt of any such notice (or proxy form) by, a person entitled to receive it, or the accidental omission to advertise (if necessary) such meeting, does not invalidate the proceedings at, or any resolution passed at, any such meeting.

9.12 Cancellation or postponement of meeting

The Directors may cancel or postpone the holding of any meeting of members. If the meeting was called by requisitioning members, or in response to a requisition by members, the Directors may only cancel or postpone for 30 days or more the holding of it with the consent of a majority of the requisitioning members. The Directors may notify the members of such cancellation or postponement by such means as they see fit. If any meeting is postponed for 30 days or more then no less than 5 days' notice must be sent to the members of the postponed meeting but it is not necessary to specify in such notice the nature of the business to be transacted at the postponed meeting.

9.13 Use of technology

- (a) A meeting may be held by means of such telephone, electronic or other communications facilities as permit all persons in the meeting to communicate with each other simultaneously and instantaneously. In these circumstances:
 - (i) participation in such a meeting via technology shall constitute presence in person at such meeting for all purposes (including for the purposes of establishing quorum under **Clause 11.1**); and
 - (ii) all the provisions in this Constitution relating to a meeting apply, so far as they can and with such changes as are necessary, to a meeting using that technology.
- (b) If the technology used in holding the meeting encounters a technical difficulty, whether before or during the meeting, which results in a member not being able to participate in the meeting, subject to the Corporations Act, the chair may allow the meeting to continue or may adjourn the meeting either for such reasonable period as may be required to fix the technology or to such other time and location as the chair considers appropriate.

10. REPRESENTATION AT MEETINGS

10.1 Persons entitled to attend

The right to attend a meeting of members is as follows:

- (a) each member may attend, apart from any member who under this Constitution or by the terms of issue of any share is not entitled to attend;
- (b) each Director and Company Secretary may attend;
- (c) the auditor, or a person authorised in writing as their representative, may attend;
- (d) each person, whether a member or not, who is a proxy, corporate representative or attorney of a member may attend;
- (e) other persons may attend only with leave of the meeting or its chair and then only while the leave is on foot and in accordance with the terms of the leave.

The right to attend is subject to the powers of the chair of the meeting both at law and under this Constitution.

10.2 Proxy eligibility

A proxy need not be a member.

10.3 Proxy recognition

A proxy is recognised as having been duly appointed by a member and entitled to act as a proxy for that member if, and only if, the proxy form complies with the requirements of this Constitution in relation to form, execution and lodgment.

10.4 Proxy form

The proxy form:

- (a) must contain the member's name and address;
- (b) must contain the proxy's name or the office held by the proxy;
- (c) may make provision for the chair of the meeting of members to act as the proxy either in the absence of any other appointment or if the proxy primarily appointed fails to attend the meeting of members;
- (d) must contain the statements required by ASX Listing Rules if both paragraph (c) applies and a Listing Rule requires the notice of meeting to include a voting exclusion statement;
- (e) must contain the Company's name and either identify the meetings of members at which the proxy form may be used or be identified as a standing one;
- (f) must enable the member to at least instruct the proxy to vote for or against each notified resolution.

10.5 Chair as fall-back proxy

If a proxy form is otherwise effective except that it does not specify the proxy, the member is treated as validly appointing the chair of the meeting of members as the proxy in respect of all shares of that member.

10.6 Proxy execution by individuals

In the case of members who are individuals, the proxy form must be either:

- (a) signed:
 - (i) if the shares are held by one individual, by that member;
 - (ii) if the shares are held in joint names, by any one of them; or
- (b) authenticated in a manner prescribed by the Corporations Regulations.

10.7 Proxy execution by companies

In the case of members which are companies registered under the Corporations Act, the proxy form must be either:

- (a) signed:
 - (i) if it has a sole director who is also sole company secretary, by that director (and stating that fact next to or under the signature on the proxy form);
 - (ii) in the case of any other company, by either 2 directors or a director and a company secretary.

The use of the common seal of the company (if any), in addition to those required signatures, is optional; or

- (b) authenticated in a manner prescribed by the Corporations Regulations.

In the case of members which are either foreign companies or other bodies corporate not incorporated under the Corporations Act, the proxy form must be executed in accordance with the laws governing execution of documents by such foreign companies or other bodies corporate.

10.8 Proxy execution by other authorised persons

If the person signing, or otherwise authenticating in a manner prescribed by the Corporations Regulations, the proxy form is doing so under power of attorney, or is an officer of a company outside of the preceding Clause but authorised to sign the proxy form, the power of attorney or other authorisation (or a certified copy of it), as well as the proxy form, must be received by the Company by the time and at the place required for lodgment of the proxy form.

10.9 Proxy lodgment deadline

A proxy form must be lodged not less than 48 hours before:

- (a) in the case of a meeting or an adjourned meeting, the time appointed for the start of the meeting or adjourned meeting at which the proxy proposes to vote; or
- (b) in the case of a poll, the time appointed for the start of the taking of the poll.

10.10 Proxy lodgment place and method

A proxy form must be lodged:

- (a) as an original, at the Registered Office (or at such other place as is specified for that purpose in the notice calling the meeting of members); or
- (b) as a facsimile transmission, at a fax number at the Registered Office (or at such other place as is, at the election of the Directors, specified for that purpose in the notice calling the meeting of members); or
- (c) as some other form of electronic transmission, at such electronic address as is, at the election of the Directors, specified for that purpose in the notice calling the meeting of members; or
- (d) by such other electronic means (and as prescribed by the Corporations Regulations) as is, at the election of the Directors, specified for that purpose in the notice calling the meeting of members.

10.11 Corporate representative recognition

A corporate representative is recognised as having been appointed by a member (which is a body corporate) and entitled to act as a corporate representative of that member if, and only if:

- (a) the appointment is evidenced by a corporate representative certificate which complies with the requirements of this Constitution in relation to form, execution and lodgment; or
- (b) the appointment is evidenced by some other form of documentation satisfactory to the chair of the meeting, whether or not it is lodged at the place, and by the deadline, required for corporate representative certificates.

10.12 Form of corporate representative certificate

The corporate representative certificate:

- (a) must contain the member's name;
- (b) must specify at least one individual, by name or by reference to a position held, to act as the body's corporate representative (but if more than one individual is appointed only one may exercise the body's powers at any one time);
- (c) may specify another individual, by name or by reference to a position held, to act as the body's corporate representative if the individual primarily nominated fails to attend;
- (d) must contain the Company's name and either identify the meetings of members at which the representative may act, or be identified as a standing one;
- (e) may set out restrictions on the corporate representative's powers.

10.13 Execution of corporate representative certificate

A corporate representative certificate must be executed:

- (a) in any case, under the common seal of the body corporate; or
- (b) where the body corporate is a company registered under the Corporations Act, in any manner identified in **Section 25** (Common Seal) or **Section 26** (Execution of Document Without a Common Seal) as may be appropriate to that body.

10.14 Corporate representative certificate lodgment

The corporate representative certificate (or a photocopy of it or a facsimile of it) must be lodged:

- (a) at the Registered Office (or at such other place as is specified for that purpose in the notice calling the meeting of members), by 4.00 pm (Sydney time) on the day before the meeting; or
- (b) as a facsimile transmission, at a fax number at the Registered Office (or at such other place as is, at the election of the Directors, specified for that purpose in the notice calling the meeting of members), by 4.00 pm (Sydney time) on the day before the meeting; or
- (c) as some other form of electronic transmission, at such electronic address as is, at the election of the Directors, specified for that purpose in the notice

calling the meeting of members, by 4.00 pm (Sydney time) on the day before the meeting.

10.15 Power of attorney lodgment

An attorney is recognised as entitled to act as attorney for a member at a meeting of members if, and only if, the relevant power of attorney (or a photocopy of it or a facsimile of it) is lodged at the place, and by the deadline, required for proxy forms.

11. PROCEEDINGS AT MEETINGS OF MEMBERS

11.1 Quorum

No business may be transacted at any meeting of members unless a quorum of members is present at the time when the meeting proceeds to business. Except as provided in the next Clause:

- (a) if the Company is listed, 5 members present are a quorum;
- (b) if the Company is not listed, 2 members present are a quorum.

11.2 Failure of quorum

If a quorum is not present within 30 minutes from the time appointed for a meeting of members:

- (a) where the meeting was called by, or in response to, the requisition of members made under the Corporations Act, the meeting is dissolved; or
- (b) in any other case the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the second week following at the same time and place. If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, 2 members constitute a quorum, or where 2 members are not present, the meeting is dissolved.

11.3 Special business

No special business may be transacted at any meeting of members other than that stated in the notice calling the meeting unless it is a matter that is required by this Constitution or the Corporations Act to be transacted at such meeting.

11.4 Chair of meeting

The chair of the Directors, or in that individual's absence the deputy chair of the Directors (if any), is entitled to take the chair at each meeting of members. If neither of those individuals is present at any meeting of members within 15 minutes after the time appointed for holding such meeting, or neither of them is willing to take the chair, the Directors present may choose one of their number as a chair and if no Director present is willing to take the chair the Directors may choose an individual, whether a member or not, as chair of the meeting, failing which the members present must elect an individual, whether a member or not, to be chair of the meeting.

11.5 Passing the chair

If the chair of a meeting of members is unwilling or unable to be the chair for any part of the business of the meeting:

- (a) that chair may withdraw as chair for that part of the business and may nominate any individual who would be entitled under the preceding Clause to chair the meeting for that part of the business; and
- (b) after that part of the business is completed, the individual so nominated must cease to chair the meeting upon the request of the prior chair and the prior chair is entitled to resume as the chair of the meeting.

11.6 Responsibilities of chair

The chair of a meeting of members is responsible for the general conduct of the meeting and to ascertain the sense of the meeting in relation to the business transacted at it. For these purposes the chair of the meeting may, without limitation:

- (a) delay the commencement of the meeting if that individual determines it is desirable for the better conduct of the meeting; and
- (b) move any motion, and do so even if the chair is not a member; and
- (c) make, vary or rescind binding rulings (that is, rulings from which there may be no dissent); and
- (d) prescribe, vary or revoke procedures; and
- (e) in addition to other powers to adjourn, adjourn the meeting, or any item of business of the meeting, without the concurrence of the meeting if the chair determines it is desirable for the orderly conduct of the meeting or the conduct of a poll; and
- (f) determine conclusively any dispute concerning the admission, validity or rejection of a vote.

11.7 Admission to meetings

The chair of a meeting of members may refuse any person admission to, or require any person to leave and remain out of, the meeting where that person:

- (a) fails to comply with searches, restrictions or other security arrangements the chair considers appropriate; or
- (b) is in possession of a pictorial-recording device, a sound-recording device, or a broadcasting device; or
- (c) is in possession of a placard or banner; or
- (d) is in possession of an article considered by the chair to be dangerous, offensive or liable to cause disruption; or
- (e) refuses to produce, or to permit examination of, any article, or the contents of any article, in the possession of that individual; or

- (f) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
- (g) is not entitled under this Constitution to attend the meeting.

This power may be exercised:

- (i) in respect of a person regardless of whether that person is a member or otherwise would have been entitled to attend the meeting or not; and
- (ii) by either the chair personally or by an individual acting with the authority of the chair of the meeting.

11.8 Adjournment of meeting

The chair of a meeting of members at which a quorum is present may, and must if so directed by vote of the meeting, adjourn the meeting from time to time and from place to place as the chair determines.

11.9 Business at adjourned meeting

No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice need be given of an adjournment, or of the business to be transacted at an adjourned meeting, unless it is adjourned for 30 days or more, in which event notice of the adjourned meeting must be given.

12. VOTING AT MEETINGS OF MEMBERS

12.1 Entitlement to vote

Subject to this Constitution any rules prescribed by the Directors pursuant to **Clause 12.14**, and the terms of issue of any shares, each person who is present at a meeting of members may vote if they are a member or a recognised proxy, attorney or corporate representative of a member.

12.2 Number of votes

Each person who is, under the preceding Clause, entitled to vote has:

- (a) on a show of hands (or on the voices) only one vote, regardless of how many members the person may represent; and
- (b) on a poll:
 - (i) in respect of a fully paid share - one vote for each share held by the person or held by members for whom the person is the recognised proxy, attorney or corporate representative; and
 - (ii) in respect of a partly paid share – a fraction of a vote for each share held by the person or held by members for whom the person is the recognised proxy, attorney or corporate representative equivalent to the proportion which the amount paid (not credited) is of the total amounts paid and payable (excluding amounts credited), ignoring amounts paid in advance of a call; and

- (iii) if the person has duly lodged a valid direct vote in respect of the relevant resolution under **Clause 12.14** – one vote for each fully paid share held by the person.

12.3 Voting restrictions

If the Company is listed and either:

- (a) in accordance with the requirements of ASX Listing Rules; or
- (b) to ensure that a resolution on which the Corporations Act requires that particular persons do not cast a vote so that the resolution has a specified effect under the Corporations Act,

the notice of a meeting of members specifies that, in relation to particular business to be considered at that meeting, votes cast by particular persons (whether specified by name or by description of particular classes of persons) are to be disregarded by the Company, the Company must take no account, in determining the votes cast on a resolution relating to that business (whether a special resolution or an ordinary resolution) or for any other purpose, of any vote cast or purported to be cast by or on behalf of any of those persons (whether on a show of hands or on a poll) in relation to that resolution. However, a person who is not entitled to vote on a resolution as a member, may vote as a recognised proxy for another member who can vote if the proxy form specifies the way the recognised proxy is to vote on the resolution and the recognised proxy votes that way.

12.4 Calls unpaid

A person is not entitled to vote in respect of particular shares at a meeting of members unless all calls and other sums presently payable by the member in respect of those shares have been paid.

12.5 Attendance of member suspends the proxy

If a member is present at any meeting of members in person (or in the case of a body corporate, by its corporate representative) the proxy or attorney of that member may not exercise the voting rights of the member while the member is present.

12.6 Revocation of proxies

A vote given or act done in accordance with the terms of a proxy form or power of attorney is valid despite the previous death or mental incapacity of the principal, or revocation of the proxy or power of attorney, or transfer of the share in respect of which the vote is given, or act done, provided no intimation in writing of the death or mental incapacity, revocation or transfer has been received at the Registered Office or by the chair of the meeting before the vote is given or act done. Any proxy may be revoked at any time. A later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting. The decision of the chair as to whether a proxy has been revoked is final and conclusive.

12.7 Proxy must vote on a poll as directed

A proxy form may specify the way the proxy is to vote on a particular resolution. If it does:

- (a) the proxy need not vote on a show of hands (or on the voices), but if the proxy does so, the proxy must vote that way; and
- (b) if the proxy is the chair, the proxy must vote on a poll (if a poll is taken), and must vote that way; and
- (c) if the proxy is not the chair, the proxy need not vote on a poll (if a poll is taken), but if the proxy does so, the proxy must vote that way.

Nothing in this Clause affects the way that the individual who is a proxy can cast any votes they hold as a member.

12.8 Proxy must abstain if directed

A proxy form may specify that the proxy is to abstain from voting on a particular resolution. If it does the proxy must not vote on that resolution.

12.9 Method of voting

The chair of the meeting may determine that any question to be submitted to a meeting of members be determined by a poll without first submitting the question to the meeting to be decided by the voices or a show of hands. Unless the chair of the meeting makes such a determination, and subject to any rules prescribed by the Directors under **Clause 12.14**, each question put to a vote at a meeting of members (except where there is an election of Directors by ballot) must be determined by the voices or a show of hands (as determined by the chair of the meeting) unless a poll is properly demanded.

12.10 Who may demand a poll

At a meeting of members a demand for a poll may be made by:

- (a) the chair of the meeting; or
- (b) at least 5 persons present having the right to vote on the resolution; or
- (c) any one or more persons present who between them have the right to vote at least 5% of the votes that may be cast on the resolution on a poll.

12.11 When poll may be demanded

The poll may be demanded:

- (a) before a vote is taken; or
- (b) before the voting results on a show of hands are declared; or
- (c) immediately after the voting results on a show of hands are declared.

12.12 Declaring result of vote on show of hands

At any meeting of members (unless a poll is so demanded) a declaration by the chair of the meeting that a resolution has been carried, or carried by a particular majority, or lost, or has not been carried by a particular majority and an entry in the book containing the minutes of proceedings of the Company is conclusive evidence of the

fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

12.13 Conduct of poll

The demand for a poll may be withdrawn. If a poll is duly demanded (and the demand not withdrawn) it must be taken in such manner and at such time (either at once or after an interval or adjournment or otherwise) as the chair of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded. A poll demanded on any question of adjournment must be taken at the meeting and without an adjournment. The demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which a poll has been demanded.

12.14 Direct voting

The Directors may determine that at any general meeting or class meeting, a member who is entitled to attend and vote on a resolution at that meeting 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 electronic means approved by Directors. The Directors may prescribe rules to govern direct voting including specifications as to the form, method and timing of giving the direct vote in order for the vote to be valid, and the treatment of direct votes.

12.15 No casting vote for chair

If, on a show of hands or on a poll, the votes are equal:

- (a) the chair of the meeting does not have a casting vote in addition to the vote, if any, of the chair as a member; and
- (b) the motion is defeated.

12.16 Joint holders' vote

In the case of joint holders, any one of them may vote. If on a particular occasion more than one of the joint holders votes, only the first to vote is counted. If it is not practical to determine which was first, the earliest named in the Register of Members to exercise such right (to the exclusion of those named later) prevails. Any such determination (by the chair or returning officer as the case may be) is final and conclusive. Several executors or administrators of a deceased member are, for the purposes of this Clause, treated as joint holders of the share.

12.17 Objections

No objection may be made to the validity of any vote except at the meeting or adjourned meeting or poll at which such vote is tendered and every vote not disallowed at any such meeting or poll is treated as valid.

12.18 Ruling on votes

The chair of the meeting is the sole judge of the validity of every vote tendered at the meeting and the determination of the chair is final and conclusive.

13. APPOINTMENT AND REMOVAL OF DIRECTORS

13.1 Number of Directors

The number of Directors must be not less than 3 nor more than such number as the Directors at any time determine.

13.2 No share qualification

There is no share qualification for Directors.

13.3 Initial Directors

The Directors holding office at the date of adoption of this Clause continue in office subject to this Constitution, with their retirement determined under **Clauses 13.6 to 13.8** (or **Clause 13.5** if a Director is a casual appointee).

13.4 Casual appointment

The Directors may at any time appoint any individual as a Director, either to fill a casual vacancy or as an addition to the Directors. Until that individual is re-elected at a meeting of members, that Director is a “**casual appointee**”.

13.5 Retirement of casual appointee

A casual appointee holds office only until the conclusion of the AGM following his or her appointment by the Directors and is then eligible for re-election. A casual appointee is not taken into account in determining the number of Directors, if any, who are to retire by rotation at such AGM.

13.6 Retirement by rotation

At the conclusion of every AGM, one-third of the eligible Directors (as determined by the next 2 Clauses) must retire from office. No Director (except the continuing Managing Director) may retain office for more than 3 years (or until the conclusion of the third AGM following his or her last election, whichever is the longer) without submitting himself or herself for re-election even though such submission results in more than one-third retiring from office.

13.7 Those who retire

For the purposes of both the preceding Clause and the next Clause:

- (a) The “**eligible Directors**” are all Directors for the time being, but excluding:
 - (i) all alternate Directors;
 - (ii) the continuing Managing Director;
 - (iii) all casual appointees.
- (b) If the number of eligible Directors is not a multiple of 3, then the whole number nearest to but not exceeding one-third must retire (that is, you round down, if required).

- (c) If, as a result of rounding down under paragraph (b), there would be no eligible Director due to retire from office at the conclusion of an AGM and no casual appointee is due to so retire, then one eligible Director must retire by rotation at the conclusion of that AGM and is eligible for re-election.
- (d) The Directors to retire on each occasion (both as to number and identity) is determined by the composition of the board of Directors at the time of close of nominations. No Director is required to retire, or is relieved from retiring, by reason of any change in the number or identify of the Directors in the period from the time of close of nominations until the conclusion of next meeting of members.

13.8 Selection of rotating Directors

In every year the eligible Director or Directors to retire are the one-third or other nearest whole number (rounding down, if required) who have been longest in office since their last election at a meeting of members. If a choice has to be made between a number of eligible Directors who have been in office an equal length of time since their last election, the Director or Directors to retire must, in default of agreement between the Directors in question, be decided by a Company Secretary by lot. Such agreement or decision, when confirmed in writing by a Company Secretary to the Directors in question, may not be varied or revoked unless all the Directors in question agree. A retiring Director is eligible for re-election.

13.9 Appointment at AGM

Unless the Directors decide to reduce the number of Directors in office (such reduction to be effective from the conclusion of the next AGM), the AGM at which any Director retires may fill the vacated office by either re-electing the same individual or electing some other individual.

13.10 Deemed re-appointment

If at any AGM the vacated office is not filled, the retiring Director, if willing and not disqualified, is treated as having been re-elected unless an ordinary resolution for the re-election of that Director is put and lost.

13.11 Other appointments and removals

The members may at any time elect or remove any Director by ordinary resolution. Subject to the limit on the number of Directors determined by the Directors, the members may at any time elect any individual as a Director by ordinary resolution.

13.12 Candidates requiring nomination

No individual, except, first, a Director retiring by rotation, second, a casual appointee or, third, an individual recommended by the Directors for election, is eligible for election to the office of Director at any meeting of members (whether an AGM or otherwise) unless duly nominated.

13.13 Valid nominations

Nominations must be made to a Company Secretary at the Registered Office. Nominations close at 5.00 pm (Sydney time) on the day which is 35 business days (or in the case of a meeting that members have requested Directors to call,

30 business days) before the date for the holding of the meeting of members. For a nomination to be valid:

- (a) The nomination must name the candidate and be signed by not less than 5 members who are members at the time of close of nominations; and
- (b) The individual nominated must consent to act if elected. The consent is sufficient if the individual signs a form of consent on the nomination paper but a Company Secretary may accept any other form of consent, whether accompanying the nomination paper or not, that a Company Secretary deems satisfactory, and such acceptance is final; and
- (c) The nomination and consent must be received before the close of nominations.

13.14 Written resignation of Director

Any Director may retire from office by giving notice in writing to the Company of the Director's intention to do so. Such resignation takes effect immediately unless the resignation is stated in the notice to take effect at some future time in which event the resignation takes effect upon the expiration of such time or the date 3 months from the giving of the notice, whichever is the earlier. A written resignation which has not yet taken effect may be withdrawn by the Director, by written notice to the Company, at any time prior to the resignation taking effect.

13.15 Oral resignation of Director

Any Director may retire from office by giving oral notice, either at a meeting of the Directors or to the chair of Directors, of the Director's intention to do so. Such oral resignation takes effect only if the Directors, by resolution, accept the resignation. The Director may not withdraw the oral resignation within one month after it was given unless the Directors, by resolution, consent to its withdrawal. The oral resignation takes effect from the date of the Directors' resolution of acceptance, rather than the earlier date when the oral resignation was made.

13.16 Vacation of office

In addition to the circumstances in which the office of Director becomes vacant by virtue of the Corporations Act or other provisions of this Constitution, the office of Director is vacated by the very fact of any of the following events:

- (a) if the Director is absent from 3 consecutive meetings of the Directors, but one or more of any such absences is not counted if the Directors resolve to grant that Director leave of absence either:
 - (i) prospectively; or
 - (ii) retrospectively at any time providing it is so resolved by no later than the end of such third consecutive meeting of the Directors; or
- (b) if the Director is removed from office by an ordinary resolution; or
- (c) if the Director fails to pay any call due on any shares held by that Director for the space of one month, or such further time as the Directors allow, after the time when the call has been made; or

- (d) if the Director becomes an insolvent under administration; or
- (e) if the Director cannot manage the Company because of their mental incapacity and is an individual whose estate or property has had a personal representative or trustee appointed to administer it.

13.17 Filling of vacancies

The continuing Directors may act despite any vacancy in their body, subject only to the limit in **Clause 13.18**.

13.18 Less than minimum number of Directors

If the number of Directors falls below the minimum number of 3, the continuing Directors may act only:

- (a) to appoint at any time one or more individuals as Directors so as to reach that minimum number of 3; or
- (b) to call a meeting of members; or
- (c) in emergencies.

14. ALTERNATE DIRECTORS

14.1 Power to appoint alternate Director

Each Director may at any time appoint any individual approved for that purpose by a majority of the Directors to act as an alternate Director in the appointor's place.

14.2 Suspension of appointment

The appointor may vary, suspend, or terminate the appointment of any alternate.

14.3 Notice of appointment

Notice of each such appointment, suspension or termination must be made in writing to the alternate, signed by the appointor, and a copy served on the Company.

14.4 Electronic notifications

Any notice under the preceding Clause or the next Clause may be served by electronic transmission and any such transmission purporting to be signed by a Director is treated as being in writing signed by such Director.

14.5 Role of alternate

An alternate Director, in that capacity:

- (a) is not entitled to receive notice of meetings of the Directors unless the appointor has, by notice in writing to the Company, required it do so either generally or in particular circumstances; and
- (b) may attend and vote at a meeting of the Directors if the appointor is not present at that meeting; and

- (c) may sign a circulating resolution under **Clause 18.1** unless the appointor has, by notice in writing to the Company, suspended that right either generally or in particular circumstances; and
- (d) is not entitled to sign a document to witness the fixing of the Common Seal to a document under **Clause 25.3** or section 127 of the Corporations Act; and
- (e) is not entitled to sign a document under **Clause 26.2** or section 127 of the Corporations Act; and
- (f) when acting in the appointor's place at any time, is an officer of the Company and not an agent of the appointor and, in those circumstances, is subject to the duties and has all the powers and rights of a Director (subject to this Clause); and
- (g) does not have a conflict of interest solely by reason of the fact that the appointor has (or vice versa); and
- (h) is not taken into account in determining either the number of Directors or rotation of Directors.

14.6 Remuneration of alternate

An alternate's only rights (if any) as to remuneration for ordinary service as a Director are against the appointor and not the Company.

14.7 Multiple votes

A Director or any other individual may act as alternate Director to represent more than one Director, and have as many votes accordingly, but for the purpose of forming a quorum counts as only one Director.

14.8 Termination of appointment

The appointment of an alternate Director is terminated by the very fact of any of the following events:

- (a) if, by writing under the hand of the alternate, left at the Registered Office, the alternate resigns such appointment; or
- (b) if the appointment of the alternate is terminated by the appointor; or
- (c) if a majority of the co-Directors of the appointor withdraw the approval of the individual to act as an alternate; or
- (d) if the appointment is to act as alternate for one or more Directors and all of those named Directors have vacated office as Directors; or
- (e) on the happening of any event which, if the alternate were a Director, would cause the alternate to vacate the office of Director.

15. MANAGING DIRECTOR

15.1 Appointment of Managing Directors

The Directors may at any time:

- (a) appoint one or more of their body to be Managing Director (or Managing Directors) or to some other executive office of the Company; and
- (b) define, limit and restrict that individual's powers; and
- (c) fix that individual's remuneration and duties; and
- (d) vary any of the powers so conferred; and
- (e) remove that individual from that office (but not as a Director) and appoint another (or others) in that individual's place or places.

The powers in this Clause may be exercised by the Directors despite anything in an agreement between the Company and the individual. Nothing in this Clause takes away from the individual their right, if any, to sue the Company for damages if the exercise by the Directors of the powers in this Clause causes the Company to be in breach of that agreement.

15.2 Continuing Managing Directors

If the Directors appoint more than one Managing Director, then the Directors must nominate one of the Managing Directors as "the continuing Managing Director". The Directors may terminate or change the nomination of the continuing Managing Director at any time. If there is one Managing Director, then he or she is regarded as the continuing Managing Director.

15.3 Application of other Clauses to Managing Director

A continuing Managing Director is not, while that individual continues to hold that office, subject to retirement by rotation and that individual is not taken into account in determining the retirement by rotation of other Directors. A Managing Director other than a continuing Managing Director, subject to the provisions of any contract between that individual and the Company and subject to this Constitution, is subject to the same provisions as to retirement, resignation, disqualification and removal as the other Directors and if that individual ceases to hold the office of Director from any cause that individual, by the very fact, immediately ceases to be a Managing Director.

15.4 Acting Managing Director

If a Managing Director becomes at any time in any way incapable of acting as such, the Directors may appoint any other Director to act temporarily as Managing Director.

15.5 Remuneration of Executive Directors

Subject to the provisions of any agreement entered into in a particular case, the remuneration of a Managing Director or other Director appointed to an executive office, may at any time be fixed by the Directors. Such remuneration may be by way of fixed salary, participation in profits of the Company or of any other company in which the Company is interested, or by any or all of those modes but, while the

Company is listed, must not be by way of commission on, or percentage of, the operating revenue of the Company.

16. REMUNERATION OF DIRECTORS

16.1 Directors' fees for ordinary services

A meeting of members may at any time, by ordinary resolution, approve a fixed sum that may be paid in each financial year of the Company as the total amount of the remuneration of all individuals who are Directors of the Company for their ordinary services as Directors (whether or not executive or other paid work is undertaken) of either the Company or any of its child entities ("**the non-executive Directors' fees approval limit**").

16.2 Proposal to increase fees for ordinary services

If there is a proposal to increase the non-executive Directors' fees approval limit, the notice calling the meeting of members at which such increase is to be proposed must state the amount of the proposed increase and the maximum sum (the new limit) that may be paid if the increase is approved.

16.3 Fees for ordinary services of Directors of the Company

In each financial year of the Company the Directors must be paid out of the funds of the Company as remuneration, for their ordinary services as Directors of the Company, such sum as the Directors determine, but it must not exceed the non-executive Directors' fees approval limit last approved by ordinary resolution. The sum so determined by the Directors must be divided among the Directors in such proportion and manner as they may at any time determine or, in default of determination, equally.

16.4 Fees from other group companies

The Company must ensure, through its control of its child entities, that in each financial year of the Company, the combination of:

- (a) the total sum actually paid by the Company under the preceding Clause; and
- (b) the total sum actually paid by child entities of the Company to Directors of the Company for their ordinary services as directors of child entities,

does not exceed the non-executive Directors' approval limit last approved by ordinary resolution.

16.5 Expenses of Directors

Each Director is entitled to be paid all travelling and other expenses incurred, or to be incurred, by him or her in connection with his or her attendance at board meetings and meetings of members or otherwise in connection with the business of the Company.

16.6 Additional remuneration for extra services

Any Director who, being willing, is called upon to perform extra services, or to make any special exertions, or to undertake any executive or other work for the Company beyond the Director's ordinary duties, or to go or reside abroad or otherwise for any of the purposes of the Company, is entitled to be remunerated either by a fixed sum or a salary as may be determined by the Directors. Such remuneration may be either in addition to, or in substitution for, that Director's share in the remuneration referred to in **Clause 16.3**.

16.7 Daily accrual

The remuneration of each Director for ordinary services as Directors accrues from day to day and is apportionable accordingly. A resolution of Directors cancelling, suspending, reducing or postponing payment of such remuneration, or any part of it, binds all the Directors for the time being.

16.8 Payment of retirement benefit

Upon a Director ceasing, or at any time after his or her ceasing whether by retirement or otherwise, to hold that office, the Directors may pay to the former Director, or in the case of death to the former Director's legal personal representatives, or to the Director's dependants or any of them, a lump sum payment in respect of past services of such Director (either in that capacity or as an officer of a related body corporate of the Company) of an amount not exceeding the amount permitted by the Corporations Act and ASX Listing Rules. The Company may contract with any Director to secure payment of any such sum to him or her, to the Director's legal personal representatives, dependants or any of them.

16.9 Contributions to a superannuation fund

The Directors may at any time make contributions to a superannuation or similar fund for the benefit of any Director. Any such contribution is in addition to, and not regarded as part of, the remuneration approved by members under this Constitution.

17. PROCEEDINGS OF DIRECTORS

17.1 Mode of meeting

The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they see fit. The Directors may conduct their meetings by telephone or other form of technology without a Director being in the physical presence of another Director or other Directors providing the Directors have a reasonable opportunity to communicate by some means with each other.

17.2 Quorum

A quorum for a meeting of the Directors is 2 Directors and the quorum must be present at all times during the meeting. For this purpose a temporary absence of a Director, through either disconnection of technology or leaving the room, is disregarded.

17.3 Chair calling a meeting

The chair of the Directors may at any time call a meeting of the Directors to be held at such time and place as the chair chooses and such meeting is not invalidated by reason only of lack of convenience if a quorum of Directors forms.

17.4 Other Director calling a meeting

Any other Director may at any time call a meeting of the Directors to be held at such time and place as is convenient to the Directors.

17.5 Notice of meeting

Notice of each meeting of the Directors:

- (a) may be given by such means as is convenient, including by telephone or electronic transmission; and
- (b) must be given to:
 - (i) all eligible Directors; and
 - (ii) all eligible alternate Directors.

17.6 Recipients of notice

For the purposes of the preceding Clause:

- (a) The “**eligible Directors**” are all Directors for the time being, but excluding:
 - (i) all alternate Directors; and
 - (ii) those Directors given leave of absence; and
 - (iii) those Directors who, in the belief of the individual calling the meeting, are absent from Australia.
- (b) The “**eligible alternate Directors**” are those alternate Directors in respect of whom an appointor has, under **Clause 14.5(a)**, required the Company to give such a notice to the alternate, but excluding those alternate Directors who, in the belief of the individual calling the meeting, are absent from Australia.
- (c) The accidental omission to give notice of any meeting of the Directors to, or the non-receipt of any such notice by, an individual entitled to receive that notice does not invalidate the calling of the meeting or any resolution passed at any such meeting.

17.7 Appointment of chair

The Directors may elect one of their number to be chair of their meetings and may determine the period for which that individual is to hold that office. Such individual is entitled to use the title “Chairman”, “Chairperson” or “Chair”. The Directors may at any time remove an individual from the office of chair of the Directors (despite the fact that the period for which he or she was to hold that office had not yet expired) and may elect another of their number to be chair of their meetings. If no chair is elected or if at any meeting of the Directors the chair is not present within 15 minutes

of the time appointed for holding the meeting, subject to the next Clause, the Directors present must choose one of their number to be chair of such meeting.

17.8 Appointment of deputy chair

The Directors may elect one of their number to be the deputy chair of their meetings and may determine the period for which that individual is to hold that office. Such individual is entitled to use the title “Deputy Chairman”, “Deputy Chairperson” or “Deputy Chair”. The Directors may at any time remove an individual from the office of deputy chair of the Directors (despite the fact that the period for which he or she was to hold that office had not yet expired) and may elect another of their number to be the deputy chair of the meeting. In the absence of the chair at a meeting of the Directors, the deputy chair may exercise all the powers and authorities of the chair.

17.9 Votes of Directors

At any meeting of the Directors:

- (a) any question arising must be decided by a majority of votes cast;
- (b) each Director entitled to vote on the question has one vote;
- (c) an individual who is an alternate Director is entitled (in addition to his or her own vote if a Director) to one vote on behalf of each Director whom the alternate represents (as an alternate Director at the meeting) and who is not personally present;
- (d) if there is an equality of votes the chair has a second or casting vote.

18. CIRCULATING RESOLUTION OF DIRECTORS

18.1 Written resolution signed by a majority of eligible Directors

If a majority in number of the eligible Directors have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document, a resolution in those terms is treated as having been passed at a meeting of the Directors held on the day on which the document was signed or, if the Directors sign the documents on different days, on the day on which the document was last signed by a Director thereby constituting a majority in number of the eligible Directors unless the document, by its terms, is said to take effect from an earlier date.

18.2 Signing of circulating resolution

For the purposes of the preceding Clause:

- (a) The “**eligible Directors**” are all Directors for the time being, but excluding:
 - (i) all alternate Directors; and
 - (ii) those Directors who, at a meeting of Directors, would not be entitled to vote on the resolution; and
 - (iii) those Directors then outside Australia.

- (b) Each Director, other than one not entitled to vote on the resolution, may sign the document.
- (c) If an individual who is not entitled to vote on the resolution signs the document, it does not invalidate the resolution if it is otherwise valid.
- (d) Unless the right has been suspended by the appointor under **Clause 14.5(c)**, each alternate Director may sign the document in the appointor's place if the alternate Director reasonably believes that the appointor is unavailable to sign the document. An alternate may sign even if the available appointor could not have voted on the resolution. An alternate Director who represents more than one Director may sign as many times accordingly.
- (e) If there is only one eligible Director, he or she may sign the document and it then takes effect under the preceding Clause.
- (f) An electronic transmission purporting to be signed by a Director or alternate Director is treated as being in writing signed by such individual.
- (g) Two or more separate documents containing statements in identical terms each of which is signed by one or more Directors are together treated as constituting one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents.

18.3 Deemed minute

The document or documents referred to in the 2 preceding Clauses are treated as constituting a minute of that meeting and must be entered in books kept for that purpose.

19. MATERIAL PERSONAL INTERESTS OF DIRECTORS

19.1 Requirement to leave the meeting

A Director who has a material personal interest in a matter that is being considered at a meeting of Directors must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter.

19.2 Exemptions from having to leave

The preceding Clause does not apply if:

- (a) the interest does not need to be disclosed under section 191 of the Corporations Act (whose terms are reflected in **Clause 19.3**) by reason of an exemption under section 191(2) (whose terms are reflected in **Clause 19.4**); or
- (b) the Director is permitted to do so by a declaration or order made by the Australian Securities and Investments Commission under section 196 of the Corporations Act; or

- (c) if there are not enough Directors to form a quorum for a Directors' meeting because of **Clause 19.1**, one or more of the Directors (including those who have a material personal interest in the matter) may call a general meeting to consider a proposed resolution to deal with the matter; or
- (d) if Directors who do not have a material personal interest in the matter have passed a resolution that:
 - (i) identifies the Director, the nature and extent of the Director's interest in the matter and its relation to the affairs of the company; and
 - (ii) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present.

19.3 Director's duty to notify

A Director who has a material personal interest in a matter that relates to the affairs of the Company must give the other Directors notice of the interest unless the next Clause says otherwise.

19.4 Exemptions from having to give notice

The Director does not need to give notice of an interest under the preceding Clause if:

- (a) the interest:
 - (i) arises because the Director is a member of the Company and is held in common with the other members of the Company; or
 - (ii) arises in relation to the Director's remuneration as a Director of the Company; or
 - (iii) relates to a contract the Company is proposing to enter into that is subject to approval by the members and will not impose any obligation on the Company if it is not approved by the members; or
 - (iv) arises merely because the Director is a guarantor or has given an indemnity or security for all or part of a loan (or proposed loan) to the Company; or
 - (v) arises merely because the Director has a right of subrogation in relation to a guarantee or indemnity referred to in paragraph (iv); or
 - (vi) relates to a contract that insures, or would insure, the Director against liabilities the Director incurs as an officer of the Company (but only if the contract does not make the Company or a related body corporate the insurer); or
 - (vii) relates to any payment by the Company or a related body corporate in respect of an indemnity permitted under section 199A of the Corporations Act or any contract relating to such an indemnity; or
 - (viii) is in a contract, or proposed contract, with, or for the benefit of, or on behalf of, a related body corporate and arises merely because the Director is a Director of the related body corporate; or

- (b) all the followings conditions are satisfied:
 - (i) the Director has already given notice of the nature and extent of the interest and its relation to the affairs of the Company under **Clause 19.3**; and
 - (ii) if an individual who was not a Director of the Company at the time when the notice under **Clause 19.3** was given is appointed as a Director of the Company, the notice is given (by someone) to that individual; and
 - (iii) the nature or extent of the interest has not materially increased above that disclosed in the notice; or
- (c) the Director has given a standing notice of the nature and extent of the interest under **Clause 19.6** and the standing notice is still effective in relation to the interest (as to which see **Clauses 19.10 and 19.11**).

19.5 Notice of material personal interest

The notice required by **Clause 19.3** must:

- (a) give details of:
 - (i) the nature and extent of the interest; and
 - (ii) the relation of the interest to the affairs of the Company; and
- (b) be given at a meeting of the Directors as soon as practicable after the Director becomes aware of their interest in the matter.

The details must be recorded in the minutes of the meeting.

19.6 Standing notice about an interest

A Director who has an interest in a matter may give the other Directors standing notice of the nature and extent of the interest in the matter in accordance with the next Clause. The notice may be given at any time and whether or not the matter relates to the affairs of the Company at the time the notice is given. The standing notice may be given to the other Directors before the interest becomes a material personal interest.

19.7 Form of standing notice

The notice under the preceding Clause must:

- (a) give details of the nature and extent of the interest; and
- (b) be given:
 - (i) at a meeting of the Directors (either orally or in writing); or
 - (ii) to the other Directors individually in writing.

The standing notice is given under paragraph (b)(ii) when it has been given to every Director.

19.8 Standing notice must be tabled if given to Directors individually

If the standing notice is given to the other Directors individually in writing, it must be tabled at the next meeting of the Directors after it is given.

19.9 Nature and extent of interest must be recorded in minutes

The Director must ensure that the nature and extent of the interest disclosed in the standing notice is recorded in the minutes of the meeting at which the standing notice is given or tabled.

19.10 Dates of effect and expiry of standing notice

The standing notice:

- (a) takes effect as soon as it is given; and
- (b) ceases to have effect if an individual who was not a Director of the Company at the time when the notice was given is appointed as a Director of the Company.

A standing notice that ceases to have effect under the paragraph (b) commences to have effect again if it is given (by someone) to the individual referred to in that paragraph.

19.11 Effect of material increase in nature or extent of interest

The standing notice ceases to have effect in relation to a particular interest if the nature or extent of the interest materially increases above that disclosed in the standing notice.

19.12 Effect of contravention

A contravention of any of the Clauses in this Section by a Director does not affect the validity of any act, transaction, agreement, instrument, resolution or other thing.

20. POWERS AND DUTIES OF DIRECTORS

20.1 Powers generally

Subject to the Corporations Act and to any other provisions of this Constitution, the management and control of the Company and of the business and affairs of the Company is vested in the Directors. The Directors may exercise all such powers of the Company and do all such acts or things as are not by this Constitution or by the Corporations Act expressly required to be exercised or done by a meeting of members. No ordinary resolution, special resolution, or change in this Constitution, invalidates any prior act of the Directors which would have been valid if that resolution or change had not been adopted or passed.

20.2 Sale of main undertaking

If the Company is listed, any sale or disposal of the Company's main undertaking is conditional upon approval or ratification by ordinary resolution at a meeting of members held in accordance with ASX Listing Rules.

20.3 Borrowing

The Directors have the power to raise or borrow any sum or sums of money and to secure the payment or repayment of such money and any other obligation or liability of the Company in such manner and on such terms in all respects as they think fit. This includes upon the security of any mortgage or by the issue of debentures or debenture stock of the Company charged upon all or any of the property of the Company (both present and future) including its goodwill, undertaking and uncalled capital for the time being or upon bills of exchange, promissory notes or other obligations or otherwise.

20.4 Security

Without limiting the generality of the preceding Clause, the Directors have the power to make such loans to, and to provide such guarantees and security for obligations undertaken by, Directors of the Company as may be permitted by the Corporations Act or by resolution of the Company in accordance with the Corporations Act.

20.5 Execution of negotiable instruments

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company may be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such manner as the Directors at any time determine.

21. DELEGATION

21.1 Delegates of powers

The Directors may delegate any of their powers to:

- (a) a committee (as to which see **Section 22**); or
- (b) a Director; or
- (c) an employee of the Company; or
- (d) any other individual.

21.2 Exercise of powers

The delegate must exercise the powers delegated in accordance with any directions of the Directors.

21.3 Effect of exercise of powers

The exercise of the power by the delegate is as effective as if the Directors had exercised it.

21.4 Concurrent power

The Directors may still act in exercise of the same power so delegated.

21.5 Revocation of power

The Directors may at any time, and without having to give a reason, alter or revoke any delegation of power.

21.6 Appointment of attorney

The Directors may at any time, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for such period and subject to such conditions as they may think fit. Any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit and may also authorise any such attorney to delegate all or any of the powers authorities and discretions vested in the attorney.

22. COMMITTEES

22.1 Delegation to committee

The Directors may:

- (a) delegate any of their powers to committees consisting of such one or more individuals, whether Directors or not, as they think fit; and
- (b) establish advisory committees (or other committees not having delegated power of Directors) consisting of such one or more individuals as they think fit.

22.2 Committee powers

Any committee so formed must, in the exercise of the powers so delegated, or functions entrusted, conform to any directions that may at any time be given or imposed by the Directors.

22.3 Committee meetings

The meetings and proceedings of any committee consisting of 2 or more individuals are governed by the provisions in this Constitution for regulating the meetings and proceedings of the Directors so far as they are capable of application and not affected by any resolution made, or direction given, by the Directors under the preceding Clause.

22.4 Committee members as officers

Each individual appointed to a committee under paragraph (a) of **Clause 22.1**, if not otherwise an officer of the Company, is when exercising the powers so delegated or functions entrusted, an officer of the Company.

22.5 Other constraints

In addition to the matters in **Clauses 21.2 to 21.5**, a committee is governed by the following:

- (a) unless expressly authorised by the Directors, a committee to which the Directors have delegated power cannot, in turn, sub-delegate that power;
- (b) the Directors may at any time remove any individual from a committee and need not give a reason for doing so.

23. COMPANY SECRETARY

23.1 Appointment of Company Secretary

The Company must have at least one Company Secretary. Each Company Secretary must be appointed by the Directors and holds office until removed from that office by the Directors.

23.2 Duties of Company Secretary

Each Company Secretary must perform the following duties:

- (a) such duties as are required of a company secretary by the Corporations Act, including the lodgment of notices and forms required of the Company under the Corporations Act and, so far as it is within his or her power, securing compliance by the Company with its obligations to have the Registered Office open to the public for at least the minimum hours each business day; and
- (b) those duties required of that individual by this Constitution; and
- (c) other such duties as may at any time be directed by the Directors.

23.3 Assistant Company Secretary

The Directors may also appoint an assistant Company Secretary or assistant Company Secretaries and temporary substitutes for the Company Secretary. Any such assistant Company Secretary or temporary substitute is, for the purposes of this Constitution, treated as and may fulfil the duty of the Company Secretary subject to any limitation prescribed by the Directors.

23.4 Resignation of Company Secretary

Any Company Secretary may retire from that particular office by giving notice in writing to the Company of the Company Secretary's intention to do so. Such resignation takes effect immediately unless the resignation is stated in the notice to take effect at some future time in which event the resignation takes effect upon the expiration of such time or the date 3 months from the giving of the notice, whichever is the earlier. A written resignation which has not yet taken effect may be withdrawn by the Company Secretary at any time prior to it taking effect.

24. MINUTES

Any minutes of a meeting of members or of the Directors, if purporting to be signed by any individual purporting to be either the chair of such meeting, or the chair of the next succeeding meeting of that type, must be treated, without any further proof, as sufficient evidence that, first, the matters and things recorded by or appearing in such minutes actually took place or happened as recorded or appearing, second, of the regularity of those things in all respects, and third, that the same took place at a meeting duly called and held.

25. COMMON SEAL

25.1 Optional

The Company may at any time have a Common Seal.

25.2 Use of Common Seal

The Common Seal must not be affixed to any document unless it is done by the authority of the Directors or of a committee of them.

25.3 Mode of execution by Common Seal

While the Company is not a Single Director Company, every document to which the Common Seal is fixed must (except where **Clause 25.5** applies) be signed by 2 individuals to witness the fixing of the Common Seal. One must be a Director. The other individual must be a Company Secretary, a second Director, or such other individual as the Directors may appoint for that purpose. No individual may sign in more than one capacity.

25.4 Presence during execution

It is not necessary for an individual signing under the preceding Clause to be present either when the Common Seal is fixed or when another individual signs the document under the preceding Clause.

25.5 Delegation of authority to use Common Seal

The Directors may at any time delegate to the Managing Director or any other Director power and authority to fix the Common Seal to such documents as the Directors may at any time by resolution determine. When the Common Seal is so fixed and the document signed by the Managing Director or such other Director, the document is binding on the Company in all respects as if it were duly signed by 2 Directors in accordance with **Clause 25.3**.

25.6 Certificate seal

The Company may at any time have a duplicate Common Seal to be known as the certificate seal which must be a facsimile of the seal with the addition on its face of the words "share seal" or "certificate seal". Any certificate may be issued under such a duplicate seal and if so issued is treated as being sealed with the seal of the Company.

25.7 Fixing the certificate seal

The certificate seal and the signature of any Director, Company Secretary or other individual authorising the same may be reproduced and fixed by some mechanical means on to certificates which have first been approved for sealing by an individual appointed for that purpose by the Company and bear evidence of such approval.

25.8 Certificates

For the purpose of the 2 preceding Clauses, "**certificate**" means a certificate in respect of shares, debentures, certificates of debenture or any certificate or other

document evidencing any options or rights to take up shares or other interests in the Company.

26. EXECUTION OF DOCUMENT WITHOUT A COMMON SEAL

26.1 Use of Common Seal optional

The Clauses in this Section operate regardless of whether the Company has a Common Seal.

26.2 Mode of execution

While the Company is not a Single Director Company, the Company may execute a document (including a deed if it is expressed to be executed as a deed) without using a Common Seal if the document is signed by 2 individuals. One must be a Director. The other individual must be a Company Secretary or a second Director. No individual may sign in more than one capacity.

26.3 Presence during execution

It is not necessary for an individual signing under the preceding Clause to be present when another individual signs the document under the preceding Clause.

26.4 Delegation of authority to execute documents

The Directors may at any time delegate to the Managing Director, or any other Director, a Company Secretary, or any other employee of the Company power and authority to execute such documents as the Directors may at any time by resolution determine. When the document is so executed it is binding on the Company in all respects as if it were duly signed by 2 Directors in accordance with **Clause 26.2**.

27. DIVIDENDS AND RESERVES

27.1 Directors pay dividends

Subject to the Corporations Act, this Constitution and the rights of any person entitled to shares with special rights to dividend, the Directors may at any time determine that a dividend is payable or declare a dividend. The Directors must fix the amount, record date and the date for payment. The Directors must authorise the payment or crediting by the Company to, or at the direction of, each member entitled to that dividend.

27.2 [Deleted 26/11/2010]

27.3 No interest on dividends

A dividend does not bear interest against the Company.

27.4 Accumulation of reserves

The Directors may before paying any dividend set aside such sums as they think proper as reserves which shall, at the discretion of the Directors, be applicable for any purpose to which the sums may be properly applied and pending any such application may at the like discretion either be employed in the business of the Company or be invested in such investments as the Directors may at any time think fit. The Directors may also without placing the same to reserve carry forward any

profits that are not included in the sums set aside which they may think prudent not to divide.

27.5 Apportionment

Subject to the rights of persons, if any, entitled to shares with special rights as to dividend, all dividends must be paid according to the amounts paid (not credited) on the shares in respect of which the dividend is paid. No amount paid on a share in advance of calls may be treated for the purpose of this Clause as paid on the share. All dividends must be apportioned and paid pro rata to the proportion of the total amount paid and payable (excluding amounts credited) on the shares during any portion or portions of the period in respect of which the dividend is paid. If any share is issued on terms providing that it ranks for dividend as from a particular date, that share ranks for dividend accordingly.

27.6 Deductions from dividends

The Directors may deduct from any dividend payable to, or at the direction of, any member any sums presently payable by the member to the Company on account of calls or otherwise in relation to the shares of the Company.

27.7 Payment of dividend in specie

The Directors, when resolving to pay a dividend, may direct payment of such dividend wholly or partly by the distribution of specific assets to some or all of the persons entitled to the dividend. This may include paid up shares, debentures or debenture stock of either the Company or any other body corporate or in any one or more of such ways. Where any difficulty arises in regard to such distribution the Directors may settle the same as they think expedient and fix the value for distribution of such specific assets or any part of those assets and may determine that cash payments be made to, or at the direction of, any members upon the footing of the value so fixed in order to adjust the rights of all parties and may vest any such specific assets in trustees as may seem expedient to the Directors.

27.8 Dispatch and payment of dividends

A dividend due to a member may, if that member elects under a plan or arrangement offered at any time by the Company, be credited directly to a bank account. Any dividend, interest or other money payable in cash in respect of shares may be paid by cheque, sent through the post directed to the registered address of the holder or in the case of joint holders to the registered address of that one of the joint holders who is first named on the Register of Members or to such person and to such address as the holder or joint holders may in writing direct. Every such cheque must be made payable to the person to whom it is sent and may be made payable to bearer. Any one of 2 or more joint holders may give effectual receipts for any dividends or other money payable in respect of the shares held by them as joint holders.

27.9 Call satisfied by dividend

The Directors, when paying a dividend, may make a call on the members of such amount as they may fix but so that the call on each member must not exceed the dividend payable to the member and so that the call is 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.

27.10 Unclaimed dividend

Unclaimed dividends may:

- (a) in the case of dividends not to be distributed as money, be realised into money; and
- (b) in any case, be invested for the benefit of the Company until claimed or until required to be dealt with under any applicable law dealing with unclaimed money.

27.11 Dividends to those on the Register of Members at declared record date

All dividends belong and must be paid (subject to any lien of the Company) to those members whose names are on the Register of Members at the record date fixed by the Directors, despite any subsequent transfer or transmission of shares.

27.12 Share plans

The Directors may at any time adopt and implement any number of plans on terms they determine, by which a member may elect to receive shares as, or instead of, dividends. Such plans may include:

- (a) a plan under which a member who elects to participate in respect of a share held by the member is entitled to an issue of bonus shares instead of a dividend distributed as money in respect of that share; and
- (b) a plan under which a dividend to be distributed as money to a member in respect of a share is, if the member elects that the share participate in the plan, retained by the Company and applied in subscription for fully paid shares.

27.13 Powers concerning share plans

The Directors have all powers necessary or desirable to implement and carry out fully any plan adopted under the preceding Clause and may (without limitation) at any time:

- (a) amend the terms of any plan as they consider desirable; and
- (b) suspend for any period or terminate the operation of any plan as they consider desirable.

28. CAPITALISATION OF PROFITS

28.1 Capitalisation of profits or reserves

The Directors may at any time resolve that it is desirable to capitalise any sum being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to members and that such sum may, but need not be, be applied for the benefit of members in proportion to the number of shares (being shares which entitle the holder to participate in the type of distribution being made under this Clause) held by them in any of the ways mentioned in the following Clause.

28.2 Application

The ways in which a sum may be applied under the preceding Clause are:

- (a) in paying up any amounts unpaid on the issue price of shares; or
- (b) in paying up in full the issue price of unissued shares or debentures; or
- (c) partly as mentioned in paragraph (a) and partly as mentioned in paragraph (b).

28.3 Settlement of difficulties

The Directors may do all things necessary to give effect to the resolution and in particular to the extent necessary to adjust the rights of the members among themselves, may:

- (a) issue fractional certificates or make cash payments in cases where shares or debentures become issuable in fractions; and
- (b) fix the value for distribution of any specific assets or any part of them; and
- (c) determine that cash payments be made to any members upon the footing of the value so fixed or that fractions of less value than 50 cents may be disregarded in order to adjust rights of all parties; and
- (d) vest any such cash or specific assets in trustees upon trusts for the persons entitled to the dividend or capitalised fund; and
- (e) authorise any person to make, on behalf of the members entitled to any further shares or debentures upon the capitalisation, an agreement with the Company providing for the issue to them, credited as fully paid up, of any such further shares or debentures or for the payment up by the Company on their behalf of the amounts remaining unpaid of the issue price on their existing shares by the application of their respective proportions of the sum resolved to be capitalised,

and any agreement made under an authority referred to in paragraph (e) is effective and binding on all the members concerned.

29. NOTICES

29.1 Service of notices

Where this Constitution, the Corporations Act or other legislation requires or permits a document to be served on, given, sent or dispatched to, any person, whether any such expression or any other expression is used (in this Section referred to as “**served**”), the document may be served on the person:

- (a) by delivering it to the person personally; or
- (b) by sending it, whether by post, contractor, agent, electronic means or otherwise, to the address of the place of residence or business of the person last known to the person serving the document or, in the case of a member,

to the address of the member entered in the Register of Members, and the document, by such sending, is regarded as left at that address; or

- (c) in the case of a member, by sending it to the fax number or electronic address (if any) nominated by the member; or
- (d) in the case of a member, by sending it to the member by other electronic means (if any) nominated by the member; or
- (e) in the case of a member, by notifying the member in accordance with section 249J(3A) of the Corporations Act; or
- (f) subject to the Corporations Act, by publication in a newspaper circulating generally in the State in which the Registered Office is located.

29.2 Date of deemed service

A document served under the preceding Clause is treated as having been duly served, irrespective of whether it is actually received:

- (a) where paragraphs (b), (c) or (d) of that Clause applies - on the day following the day it is sent; and
- (b) where paragraph (e) of that Clause applies – on the day following the day on which the member is notified that the document is available; and
- (c) where paragraph (f) of that Clause applies - on the day the newspaper is first published.

29.3 Overseas members

Where the Company proposes to send a document to a member outside Australia, the Company must send the document by air or by fax, or in another way that ensures it will be received quickly.

29.4 Notices to joint holders

A notice may be given by the Company to the joint holders of a share by giving the notice to the joint holder first named in the Register of Members in respect of the share.

29.5 Counting of days

Subject to the Corporations Act, where a specified number of days' notice or notice extending over any period is required to be given, both the day of service and the day upon which such notice will expire are included in such number of days or other period.

29.6 Binding on others

Every person who by operation of law, transfer or other means whatever becomes entitled to any shares is bound by every notice in respect of such shares which, previous to that person's name and address being entered on the Register of Members, has been duly given to the person from whom that person derives that person's title and to every previous holder of such shares.

29.7 Service on Company or its officers

Every document required to be served upon the Company or upon any officer of the Company may be served by leaving it at the Registered Office.

29.8 Signature

The signature to any document to be given by the Company may be written, printed or stamped.

30. INDEMNITY, INSURANCE AND ACCESS

30.1 Indemnity for officers

Each officer of the Company must be indemnified by the Company against any liability incurred by that person in that capacity. However, the Company must not indemnify that person if to do so would be prohibited by:

- (a) section 199A of the Corporations Act; or
- (b) any other statutory provision; or
- (c) judge-made law.

30.2 Insurance premiums

The Company (by resolution of the Directors) may at any time pay premiums in respect of a contract insuring an individual (whether with others or not) who is an officer of the Company against a liability incurred by the individual as such an officer. The liability insured against must not include that which section 199B of the Corporations Act prohibits. Any such premium in relation to a Director is in addition to, and not regarded as part of, the remuneration approved by members under this Constitution.

30.3 Access

The Company (by resolution of the Directors) may at any time give an officer or former officer of the Company access to certain papers, including documents provided or available to the Directors and other papers referred to in those documents.

30.4 Contract

The Company may contract with any officer in relation to the matters referred to in the 3 preceding Clauses, not only while that individual is an officer but also after that individual has ceased to be an officer of the Company.

31. WINDING UP

31.1 Distribution of property

Subject to, first, the Corporations Act and, second, the terms of issue of any shares, if the Company is wound up and, after the liabilities of the Company have been satisfied, there remains property of the Company, that property must be distributed among the members in proportion to the number of shares held by them, irrespective of the amount paid up, or credited as paid up, on the shares.

31.2 Distribution in specie

If the Company is wound up and a special resolution is passed authorising that it be done, the liquidator may distribute to the members all or any part of the assets to be distributed to them in specie (whether they are property of the same kind or not). For that purpose the liquidator may, if so authorised by the special resolution:

- (a) set the value of each asset to be distributed that the liquidator considers fair; and
- (b) determine how the distribution is to be carried out (including by allocating the assets) as between the members of different classes of members,

but so that no member must accept any shares or other property in respect of which there is any liability.

32. RESTRICTED SECURITIES

If the Company is listed and has on issue any securities which are classified under ASX Listing Rules or by ASX as restricted securities, then despite any other provisions of this Constitution:

- (a) the restricted securities cannot be disposed of during the escrow period, except as permitted by ASX Listing Rules or ASX; and
- (b) the Company must refuse to acknowledge a disposal (including registering a transfer) of the restricted securities during the escrow period, except as permitted by ASX Listing Rules or ASX; and
- (c) during a breach of ASX Listing Rules relating to restricted securities, or a breach of a restriction agreement, the holder of the restricted securities is not entitled to any dividend or distribution, or voting rights, in respect of the restricted securities.

33. COMPLIANCE WITH LISTING RULES

If the Company is listed, the following paragraphs apply:

- (a) notwithstanding anything contained in this Constitution, if ASX Listing Rules prohibit an act being done, the act shall not be done;
- (b) nothing contained in this Constitution prevents an act being done that ASX Listing Rules require to be done;
- (c) if ASX 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);
- (d) if ASX 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;
- (e) if ASX 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;

- (f) if any provision of this Constitution is or becomes inconsistent with ASX Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

SCHEDULE 1 (PREFERENCE SHARES)

(Clause 2.2(a))

1. Preference shares

Subject to the Corporations Act, the Directors may issue preference shares:

- (a) including preference shares which are, or at the option of the Company are to be, liable to be redeemed by the Company on such terms and conditions and in such manner as the Directors determined before the issue of the preference shares; and
- (b) whether the preference shares are redeemable or non-redeemable, with any of the rights set out in this Schedule and with such other rights, not inconsistent with this Schedule, as are conferred by the terms of issue of the preference shares.

2. Terms of issue

Prior to the allotment of any preference shares the Directors must determine with respect to such preference shares the following matters, or the manner in which such matters are to be determined:

- (a) where the preference shares are redeemable:
 - (i) the amount payable on redemption; and
 - (ii) the redemption date; and
 - (iii) the time, place and manner of redemption; and
 - (iv) the conditions for exercise of the rights of redemption by the holder or by the Company;
- (b) in any case:
 - (i) the rate or amount of dividends (including any additional dividends) at any time or from time to time, the basis (if any) upon which the amount of a dividend will be increased to take account of tax or other fiscal impost and the basis (if any) upon which the amount of any dividend otherwise payable in respect of the shares reduces by reference to other amounts paid to the holder of the preference shares; and
 - (ii) the times or circumstances for payment of dividends on the preference shares; and
 - (iii) the periods in respect of which the dividends are payable; and
 - (iv) the funds out of which the dividends or capital or both are to be paid; and
 - (v) the premium (if any) payable;
 - (vi) the currency in which dividends or capital or both are to be paid; and

- (vii) whether or not the issue of further shares ranking equally with the preference shares in any respect or in any stated respect is permitted; and
- (viii) whether the preference shares are convertible into shares of another class and, if so in what circumstances; and
- (ix) if required under **Clause 7.3(b)** of this Schedule, the market value of an ordinary share at the date of allotment of the preference share; and
- (x) if the preference share has the rights set out in **Clause 3.1(d)** of this Schedule, any right of the holder of the preference share on redemption or in a winding up to payment of an amount equal to a dividend of the type described in **Clause 4(d)** of this Schedule; and
- (xi) if the preference shares have the rights set out in **Clause 6.2(c)** of this Schedule, the sum or the mechanism for determining the sum to which the holder of the preference share has the right to payment in winding up; and
- (xii) if applicable, any reference rate for the purposes of **Clause 8** of this Schedule; and
- (xiii) such other matters as the Directors may determine.

3. Dividend rights

3.1 The Directors may issue preference shares with such rights to dividends as set out below:

- (a) a right to cumulative dividends with or without any further right to participate in sums available for distribution to members;
- (b) a right to non-cumulative dividends with or without any further right to participate in sums available for distribution to members;
- (c) a right to non-cumulative dividends and a right to additional preference shares in accordance with **Clause 5** of this Schedule but with no further right to participate in sums available for distribution to members;
- (d) a right to non-cumulative dividends and, to the extent (if any) specified in the terms of issue, to additional dividends in connection with the conversion of a preference share into an ordinary share and/or additional dividends in circumstances where a dividend contemplated by the terms of issue has not been paid in full on the preference shares, and:
 - (i) a dividend has been, or is sought to be, paid on shares ranking pari passu with or junior to the preference share, or a sum is, or is sought to be, set aside for the payment thereof; or
 - (ii) shares in the Company have been, or are sought to be, repurchased, redeemed or beneficially acquired by the Company, or a sum is, or is sought to be, set aside or a sinking fund is, or is sought to be, established for such a purpose, but with no further right to participate in sums available for distribution to members; or

- (iii) the Company has, or has sought to, effect a reduction of capital; or
- (e) no right to dividends.

3.2 The terms of issue of preference shares may provide that to the extent that an amount is paid to a holder of preference shares other than by way of dividend paid by the Company, the amount of any dividend otherwise payable to the holder in respect of the preference shares reduces in a manner specified in the terms of issue.

4. Entitlement and priority as to payment of dividends

The holders of preference shares rank for payment of dividends to which they are entitled in accordance with the provisions of **Clause 4** of this Schedule:

- (a) Holders of preference shares rank for payment of dividends and in priority to all holders of other classes of shares.
- (b) Where the holder of a preference share has a right to cumulative dividends, the holder has the right on redemption or in a winding up to payment of an amount equal to all arrears of or accrued dividends down to the date of redemption or of commencement of the winding up (as the case may be), whether earned or paid or not, with the same priority in relation to other shares or other classes of preference shares determined pursuant to **Clause 4(a)** of this Schedule.
- (c) Where the holder of a preference share has a right to non-cumulative dividends under **Clauses 3.1(b) or (c)** of this Schedule the holder has the right on redemption or in a winding up to payment of an amount equal to the dividend entitlement for any dividend date which has then most recently occurred (and which has not been paid by the Company) prior to the date of redemption or of commencement of the winding up (as the case may be), only if a dividend has been paid by the Directors, and with the same priority in relation to other shares or other classes of preference shares as determined pursuant to **Clause 4(a)** of this Schedule.
- (d) The holder of a preference share which has the right to a non-cumulative dividend set out in **Clause 3.1(d)** of this Schedule has, to the extent (if any) determined by the Directors prior to allotment of the preference share, the right on redemption or in a winding up to payment of an amount equal to a dividend (whether earned or paid or not) which, pursuant to the terms of issue of the preference share, the Company was required to pay to the holder or, if there had been sufficient sums available for distribution to members, would have been required to pay to the holder, prior to the redemption or the commencement of the winding up (as the case may be), with the same priority in relation to other shares or other classes of preference shares as determined pursuant to **Clause 4(a)** of this Schedule. Except to the extent provided pursuant to **Clause 4(d)** of this Schedule, the holder of such preference share does not have a right on redemption or in a winding up to payment of an amount equal to or in respect of arrears of, or accrued but unpaid, dividends.

5. Right to additional preference shares

If:

- (a) a preference share is issued with the rights set out in **Clause 3.1(c)** of this Schedule; and
- (b) all or any part of a dividend otherwise payable to the holders of those preference shares on a particular dividend date has become not payable because, under the terms of issue applicable to those preference shares a dividend is not payable or is payable only in part, where in the opinion of the Directors the sums available for distribution to members of the Company are insufficient to permit the payment in full of the dividends stated to be payable on that dividend date and also the payment in full of dividends stated to be payable on that dividend date on other preference shares ranking *pari passu* therewith; and
- (c) at the relevant dividend date the amount (if any) standing to the credit of the Company's profit or loss account and the amount of the reserves of the Company available for the purpose are in aggregate sufficient to be applied and capable of being applied in paying up in full at such price determined by the Directors in the terms of issue of additional preference shares of that class on the basis provided below,

then on the relevant dividend date the Directors must, subject to any applicable law and to ASX Listing Rules, allot and issue credited as fully paid to each holder of those preference shares such additional nominal amount of preference shares of that class (rounded to the nearest whole number of preference shares) as equals the cash amount of the dividend which would have been payable to the holder but for the operation of the terms described in **Clause 5(b)** of this Schedule, multiplied by a factor determined by the Directors in the terms of issue of the preference shares or, if there was no such determination, by a factor of one, divided in each case by the issue price of those additional shares determined by the Directors.

6. Repayment of capital and priority as to payment

- 6.1 Subject to this Constitution, where any preference shares are or may be redeemable by the Company, such preference shares must be redeemed by the Company in accordance with the terms of issue determined by the Directors pursuant to **Clause 2** of this Schedule.
- 6.2 The Company may issue preference shares with any one or combination of the rights with respect to payment of capital in a winding up set out below:
 - (a) a right to payment in cash of the capital paid thereon;
 - (b) a right to payment in the applicable currency for those preference shares (as specified in the terms of issue pursuant to **Clause 2(b)(vi)**) of this Schedule of an amount equal to the amount in that applicable currency received by the Company as the subscription money for those preference shares;
 - (c) a right in respect of a preference share to payment in cash of a sum fixed by the Directors prior to allotment or capable of determination pursuant to a mechanism adopted by the Directors prior to allotment but no further or other right to participate in the assets of the Company or a return of capital. (Without limitation, the mechanism adopted by the Directors may provide for payment in Australian currency of an amount equal to a sum denominated in a currency other than Australian currency calculated by applying a reference rate (as specified by the Directors in the terms of issue) on the date of

payment of the purchase of the relevant foreign currency with Australian currency plus an amount estimated by the liquidator in his discretion to be equal to the charges and expense likely to be incurred in purchasing the relevant foreign currency with Australian currency).

- 6.3 Holders of preference shares rank equally for the payment of the amount payable on redemption of the preference shares and in a winding up of the Company.
- 6.4 Holders of preference shares have the right in a winding up of the Company to payment, in priority to all holders of other classes of shares, of the amount payable on redemption of the preference shares and of dividends and any other amount to which the holder is entitled in accordance with the provisions of this Constitution or the terms of issue applying to those preference shares but do not participate in any further or other distribution of profits or assets of the Company.

7. Information rights and voting rights

- 7.1 Holders of preference shares have the same rights as holders of ordinary shares of the Company to receive audited accounts, reports, notices of general meetings of the Company, and to attend any general meetings of the Company.
- 7.2 The holder of a preference share is not entitled to speak or vote at a general meeting of the Company, except in the following circumstances:
- (a) if, at the time of any such general meeting, a dividend on the preference share has been declared but has not been paid in full by the relevant dividend payment date; or
 - (b) on a proposal to reduce the Company's share capital; or
 - (c) on a proposal that affects the rights attached to the preference share; or
 - (d) on a resolution to approve the terms of a buy-back agreement; or
 - (e) on a proposal to wind up the Company; or
 - (f) on a proposal for the disposal of the whole of the Company's property, business and undertaking; or
 - (g) during the winding up of the Company,

in which case the holder of a preference share has the same rights as to the manner of attendance and as to voting in respect of each preference share as those conferred on a holder of ordinary shares in respect of each ordinary share.

- 7.3 Despite any other provision of this Constitution, the holder of a preference share, when entitled to vote under any of the circumstances set out in **Clause 7.2** of this Schedule:
- (a) on a show of hands is entitled to exercise one vote; and
 - (b) on a poll is entitled to one vote for each fully paid preference share or if the Directors so determine in the terms of issue, the number of votes per preference share which equals the sum subscribed for the preference share divided by the market value of an ordinary share (as determined by the

Directors or pursuant to a mechanism adopted by the Directors) on the date of allotment of the preference share (rounded to the nearest number of votes). If a preference share is not fully paid, the holder is entitled to a fraction of a vote for each partly paid preference share equivalent to the proportion which the amount paid is of the total paid and payable.

8. Payments denominated in foreign currency

Where any sum is payable by the Company to the holder of a preference share in a currency other than Australian dollars, and such sum is not paid when due or a winding up of the Company has commenced, the holder may elect by notice in writing to the Company to require instead payment of an amount in Australian dollars equal to that foreign currency amount calculated by applying the relevant reference rate (being such rate applicable in such market at such time as determined by the Directors prior to allotment of those preference shares) on the date of payment for the sale of the relevant currency for Australian dollars.

9. Conversion

A preference share which, in accordance with its terms of issue may be converted into an ordinary share, at and from the time of conversion and without any further act, has (subject to the terms of issue of the preference share in relation to entitlement to ordinary dividends paid after conversion) the same rights as a fully paid ordinary share and rank pari passu with all other fully paid ordinary shares then on issue. In addition, the terms of issue may provide for the issue of additional ordinary shares on conversion as determined by the Directors.

10. Variation of rights

- 10.1 Where the Company proposes to issue preference shares or convert issued shares into preference shares if those preference shares are to rank equally or in priority to preference shares already issued unless that is expressly permitted by the conditions of issue of the preference shares already issued, the issue or conversion is deemed to be a variation of the rights attached to the preference shares already issued and **Clause 2.2** (variation of rights) applies.
- 10.2 If the most recent dividend entitlement as set out in the terms of issue of any preference shares has been paid or provided for in full, the consent of any holders of preference shares, or any class of preference shares is not required for the reduction, redemption or buy back of share capital of the Company ranking as regards dividends and as to rights on winding up equally with or after the preference shares or class of preference shares, except where such consent is required by the Corporations Act.

11. No limit on number of classes of preference shares

- 11.1 The Directors may issue more than one class of preference shares.
- 11.2 Each class of preference shares may have the same or different terms to any other class of preference shares.

12. Listing Rules

Despite this Schedule, the Company may not issue preference shares which confer upon the holders rights which are inconsistent with those specified in ASX Listing Rules, except to the extent of any express written waiver of ASX Listing Rules by ASX.

SCHEDULE 2 (PROPORTIONAL TAKEOVER APPROVAL)

(Clause 6.7(b)(iv))

1. Definitions

In the construction of this Schedule, unless the contrary intention appears:

“**approving resolution**” in relation to a proportional takeover bid, means a resolution to approve the proportional takeover bid passed in accordance with **Clauses 3 and 6** of this Schedule.

“**approving resolution deadline**”, in relation to a proportional takeover bid, means the day that is 14 days before the last day of the bid period, during which the offers under the proportional takeover bid remain open or a later day allowed by the Australian Securities and Investments Commission.

“**proportional takeover bid**” means a takeover bid that is made or purports to be made under section 618(1)(b) of the Corporations Act in respect of securities included in a class of securities in the Company.

“**relevant class**”, in relation to a proportional takeover bid, means the class of securities in the Company in respect of which offers are made under the proportional takeover bid.

2. Transfers not to be registered

Despite anything to the contrary in this Constitution, a transfer giving effect to a contract resulting from the acceptance of an offer made under a proportional takeover bid must not be registered unless an approving resolution to approve the proportional takeover bid either has been passed in accordance with **Clauses 3 and 6** of this Schedule, or is taken to have been passed in accordance with **Clause 8** of this Schedule.

3. Approval resolution to be voted on before the deadline

Where offers have been made under a proportional takeover bid, the Directors:

- (a) must determine whether the approving resolution is to be voted on:
 - (i) at a meeting of the persons entitled to vote on the approving resolution, such meeting convened and conducted by the Company; or
 - (ii) by means of a postal ballot, conducted by the Company in accordance with the procedure set out in **Clause 5** of this Schedule; and
- (b) must ensure that the approving resolution is voted on before the approving resolution deadline.

4. Meeting procedures

The provisions of this Constitution relating to meetings of members apply, with such modification as the circumstances require, to a meeting that is convened under **Clause 3(a)(i)** of this Schedule, as if that meeting were a meeting of members of the

Company.

5. Postal ballot procedure

The procedure for a postal ballot under **Clause 3(a)(ii)** of this Schedule is as follows:

- (a) a notice of postal ballot and ballot paper must be sent to all persons entitled to vote on the approving resolution not less than 14 days before the date specified in the notice for closing of the postal ballot, or such lesser period as the Directors determine the circumstances require;
- (b) the non-receipt of a notice of postal ballot or ballot paper by, or the accidental omission to give a notice of postal ballot or ballot paper to, a person entitled to receive them does not invalidate the postal ballot or any approving resolution passed under the postal ballot;
- (c) the notice of postal ballot must contain the text of the approving resolution and the time and the date for closing of the ballot and may contain any other information the Directors consider appropriate;
- (d) each ballot paper must specify the name of the person entitled to vote;
- (e) a postal ballot is only valid if the ballot paper is duly completed and:
 - (i) if the person entitled to vote is an individual, signed by the individual or a duly authorised attorney; or
 - (ii) if the person entitled to vote is a corporation, executed under seal or as permitted by the Corporations Act or under the hand of a duly authorised officer or duly authorised attorney;
- (f) a ballot paper is only valid if the ballot paper and the power of attorney or other authority, if any, under which the ballot paper is signed or a copy of that power or authority certified as a true copy by statutory declaration is or are received by the Company before the time appointed for the closing of the postal ballot (as specified in the notice of postal ballot) at the Registered Office or share registry of the Company or at such other place as is specified for that purpose in the notice of postal ballot; and
- (g) a person may revoke a postal ballot vote by notice in writing which to be effective must be received by the Company before the time appointed for closing of the postal ballot.

6. Voting on the approving resolution

In relation to either the meeting convened by the Directors under **Clause 3(a)(i)** of this Schedule or the postal ballot conducted by the Directors under **Clause 3(a)(ii)** of this Schedule:

- (a) The bidder under a proportional takeover bid and any associates of the bidder are not entitled to vote on the approving resolution and if they do vote, their votes must not be counted.
- (b) Subject to **paragraph (a)** of this Clause, a person who, as at the end of the

day on which the first offer under the proportional takeover bid was made, held securities of the relevant class, is entitled to vote on the approving resolution relating to the proportional takeover bid. Each person who is entitled to vote on the approving resolution is entitled to one vote for each security of the relevant class held by that person at that time.

- (c) An approving resolution that has been voted on is taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than 50%, and otherwise is taken to have been rejected.

7. Notice of result of vote

If an approving resolution to approve the proportional takeover bid is voted on in accordance with **Clauses 3 and 6** of this Schedule before the approving resolution deadline, the Company must, on or before the approving resolution deadline, give ASX (if the Company is listed) and the bidder a written notice stating that an approving resolution to approve the proportional takeover bid has been voted on and whether it was passed or rejected.

8. Approving resolution deemed passed, if no vote by deadline

If an approving resolution has not been voted on in accordance with **Clauses 3 and 6** of this Schedule as at the end of the day before the approving resolution deadline, an approving resolution will be taken to have been passed in accordance with **Clauses 3 and 6** of this Schedule on the approving resolution deadline.

9. Sunset

Clauses 2, 3, 4, 5 and 6 of this Schedule cease to have effect at the end of 3 years beginning:

- (a) where those Clauses have not been renewed in accordance with the Corporations Act, on the date that those Clauses were adopted by the Company; or
- (b) where those Clauses have been renewed in accordance with the Corporations Act, on the date those Clauses were last renewed.

SCHEDULE 3 (SMALL HOLDINGS)

(Clause 6.12)

1. Definitions

In the construction of this Schedule, unless the contrary intention appears:

“**Divestment Notice**” means a notice given under **Clause 2** of this Schedule to a Small Holder or a New Small Holder.

“**Market Value**” in relation to a Share means the closing price on SEATS of the Share.

“**New Small Holder**” is a member who is the holder or a joint holder of a New Small Holding.

“**New Small Holding**” means a holding of Shares created after the date on which this Schedule came into effect by the transfer of a parcel of Shares the aggregate Market Value of which at the time a proper transfer was initiated or a paper based transfer was lodged, was less than a marketable parcel of Shares as provided under the Listing Rules.

“**Relevant Period**” means the period specified in a Divestment Notice under **Clause 3** of this Schedule.

“**Relevant Shares**” are the Shares specified in a Divestment Notice.

“**Shares**” for the purposes of this Schedule are shares in the Company all of the same class.

“**Small Holder**” is a member who is the holder or a joint holder of a Small Holding.

“**Small Holding**” means a holding of Shares the aggregate Market Value of which at the relevant date is less than a marketable parcel of Shares as provided under the Listing Rules.

2. Divestment Notice

If the Directors determine that a member is a Small Holder or a New Small Holder the Company may give the member a Divestment Notice to notify the member:

- (a) that the member is a Small Holder or a New Small Holder, the number of Shares making up and the aggregate Market Value of the Small Holding or New Small Holding, and the date on which the aggregate Market Value was determined; and
- (b) that the Company intends to sell the Relevant Shares in accordance with this Schedule after the end of the Relevant Period specified in the Divestment Notice; and
- (c) if the member is a Small Holder, that the member may at any time before the end of the Relevant Period notify the Company in writing that the member desires to retain the Relevant Shares and that if the member does so the Company will not be entitled to sell the Relevant Shares under that Divestment Notice; and

- (d) after the end of the Relevant Period the Company may for the purpose of selling the Relevant Shares that are in a CS Facility holding initiate a holding adjustment to move those Relevant Shares from that CS Facility holding to an Issuer Sponsored Holding or certificated holding.

If the Operating Rules of a CS Facility apply to the Relevant Shares, the Divestment Notice must comply with those Operating Rules.

3. Changes in Market Value after the relevant date

A Small Holding or New Small Holding at the date specified in the notice under **Clause 2(a)** of this Schedule does not cease to be a Small Holding or New Small Holding for the purpose of this Schedule by reason of any increase in its aggregate Market Value that occurs after the specified date.

4. Relevant Period

For a Divestment Notice given to a Small Holder, the Relevant Period must be at least 6 weeks from the date the Divestment Notice was given. For a Divestment Notice given to a New Small Holder, the Relevant Period must be at least 7 days from the date the Divestment Notice was given.

5. Company can sell Relevant Shares

At the end of the Relevant Period the Company is entitled to sell on-market or in any other way determined by the Directors:

- (a) the Relevant Shares of a member who is a Small Holder, unless that member has notified the Company in writing before the end of the Relevant Period that the member desires to retain the Relevant Shares, in which event the Company must not sell those Relevant Shares under that Divestment Notice; and
- (b) the Relevant Shares of a member who is a New Small Holder.

6. No obligation to sell

The Company is not bound to sell any Relevant Shares which it is entitled to sell under this Schedule. If the Relevant Shares are not sold within 6 weeks after the end of the Relevant Period the Company's right to sell the Relevant Shares under the Divestment Notice relating to those Shares lapses and it must notify the member to whom the Divestment Notice was given accordingly.

7. Company as member's attorney

To effect the sale and transfer by the Company of Relevant Shares of a member, the member appoints the Company and each Director and Secretary jointly and severally as the member's attorney in the member's name and on the member's behalf to do all acts and things which the Company considers necessary or appropriate to effect the sale or transfer of the Relevant Shares and, in particular:

- (a) to initiate a holding adjustment to move the Relevant Shares from a CS Facility holding to an Issuer Sponsored Holding or a certificated holding; and

- (b) to execute on behalf of the member all deeds instruments or other documents necessary to transfer the Relevant Shares and to deliver any such deeds, instruments or other documents to the purchaser.

8. Conclusive evidence

A statement in writing by or on behalf of the Company under this Schedule is (in the absence of manifest error) binding on and conclusive against a member. In particular, a statement that the Relevant Shares specified in the statement have been sold in accordance with this Schedule is conclusive against all persons claiming to be entitled to the Relevant Shares and discharges the purchaser from all liability in respect of the Relevant Shares.

9. Registering the purchaser

The Company must register the purchaser of Relevant Shares as the holder of the Relevant Shares transferred to the purchaser under this Schedule. The purchaser is not bound to see to the application of any money paid as consideration. The title of the purchaser to the Relevant Shares transferred to the purchaser is not affected by any irregularity or invalidity in connection with the actions of the Company under this Schedule.

10. Payment of proceeds

Subject to **Clause 11** of this Schedule, where:

- (a) Relevant Shares of a Member are sold by the Company on behalf of the member under this Schedule; and
- (b) the certificate for the Relevant Shares (unless the Company is satisfied that the certificate has been lost or destroyed or the Relevant Shares are Uncertificated Securities) has been received by the Company,

the Company must, within 60 days after the completion of the sale, send the proceeds of sale to the member entitled to those proceeds by sending a cheque payable to the member through the post to the address of the member shown in the Register of Members, or in the case of joint holders, to the address shown in the Register of Members as the address of the member whose name first appears in the Register of Members. Payment of any money under this Clause is at the risk of the member to whom it is sent.

11. Costs

In the case of a sale of the Relevant Shares of a New Small Holder in accordance with this Schedule, the Company is entitled to deduct and retain from the proceeds of sale, the costs of the sale as determined by the Company. In any other case, the Company or a purchaser must bear the costs of sale of the Relevant Shares. The costs of sale include all stamp duty, brokerage and government taxes and charges (except for tax on income or capital gains of the member) payable by the Company in connection with the sale and transfer of the Relevant Shares. Any interest earned on the proceeds of sale is for the benefit of the Company.

12. Remedy limited to damages

The remedy of a member to whom this Schedule applies, in respect of the sale of the Relevant Shares of that member is expressly limited to a right of action in damages against the Company to the exclusion of any other right, remedy or relief against any other person.

13. Dividends and voting suspended

Unless the Directors determine otherwise, where a Divestment Notice is given to a New Small Holder in accordance with this Schedule, then despite any other provision in this Constitution, the rights to receive payment of dividends and to vote attached to the Relevant Shares of that member are suspended until the Relevant Shares are transferred to a new holder or that member ceases to be a New Small Holder. Any dividends that would, but for this Clause, have been paid to that member must be held by the Company and paid to that member within 60 days after the earlier of:

- (a) the date the Relevant Shares of that member are transferred; and
- (b) the date that the Relevant Shares of that member cease to be subject to a Divestment Notice.

14. Twelve month limit

If it is a requirement of the Listing Rules, the Company must not give a Small Holder more than one Divestment Notice in any 12 month period (except as contemplated by **Clause 15** of this Schedule).

15. Effect of takeover bid

From the date of the announcement of a takeover bid for the Shares until the close of the offers made under the takeover bid, the Company's powers under this Schedule to sell Relevant Shares of a member cease. After the close of the offers under the takeover bid, the Company may give a Divestment Notice to a member who is a Small Holder or a New Small Holder, despite **Clause 14** of this Schedule and the fact that it may be less than 12 months since the Company gave a Divestment Notice to that member.