

Corporations Act 2001
Proprietary Company Limited by Shares

(Company)
ACN

COMPANY CONSTITUTION

COMPANY CONSTITUTION

Company Details

Name:

ACN:

Registration:

Corporations Act 2001

Type:

Proprietary company limited by shares

Constitution Creation

Adoption:

Adopted on registration of the Company by written agreement to the provisions of the Constitution of each person specified in the registration application as a person consenting to become a member prior to lodgment of that registration application

Contents

CONSTITUTIONAL RULES	1
1 INTERPRETATION	1
1.1 Capitalised Definitions	1
1.2 Dictionary Definitions	2
1.3 Interpretational Rules	2
1.4 Corporate Reference	2
1.5 Discretionary Decisions	2
2 CORPORATE REGULATION	3
2.1 Constitutional Rules	3
2.2 Legal Compliance	3
2.3 Statutory Powers	3
2.4 Shareholder Agreement	3
3 CORPORATE TYPE	3
3.1 Proprietary Company	3
3.2 Shareholder Restriction	4
3.3 Fundraising Restriction	4
4 SHARE CAPITAL	4
4.1 Share Issue	4
4.2 Share Rights	4
4.3 Rights Variation	4
4.4 Brokerage	5
5 SHAREHOLDER RIGHTS	5
5.1 Share Certificates	5
5.2 Replacement Certificates	5
5.3 Beneficial Rights	6
6 SHARE TRANSFER	6
6.1 Transfer	6
6.2 Registration Effect	6
6.3 Registration Procedure	6
6.4 Registration Refusal	7
6.5 Registration Suspension	7
7 SHARE TRANSMISSION	7
7.1 Shareholder Death	7
7.2 Shareholder Disability	7
8 SHARE CALLS	8
8.1 Call Liability	8
8.2 Joint Liability	8
8.3 Fixed Payments	8
8.4 Differential Liability	8
8.5 Prepayment	9
9 SHARE LIEN	9

9.1	Security Lien	9
9.2	Secured Liability	9
9.3	Tax Indemnity	10
9.4	Default Interest	10
9.5	Rights Suspension	11
9.6	Dividend Proceeds	11
9.7	Lien Transfer	11
9.8	Transfer Completion	11
9.9	Transfer Proceeds	11
10	SHARE FORFEITURE	12
10.1	Forfeiture Notice	12
10.2	Forfeiture Decision	12
10.3	Share Surrender	12
10.4	Forfeiture Powers	13
10.5	Shareholder Cessation	13
10.6	Forfeiture Certification	13
10.7	Transferee Protection	13
11	SHAREHOLDER ACTION	14
11.1	Shareholder Meetings	14
11.2	Meeting Notification	14
11.3	Notification Procedure	14
11.4	Notice Contents	14
11.5	Meeting Quorum	15
11.6	Quorum Deficiency	15
11.7	Meeting Participation	15
11.8	Meeting Chair	15
11.9	Meeting Adjournment	16
11.10	Circulating Resolutions	16
11.11	Single Shareholder Resolutions	16
12	SHAREHOLDER VOTING	17
12.1	Voting Method	17
12.2	Poll Demand	17
12.3	Poll Procedure	17
12.4	Casting Vote	17
12.5	Voting Rights	17
12.6	Voting Power	18
12.7	Joint Holder Vote	18
12.8	Shareholder Incapacity	18
12.9	Shareholder Guardian	18
12.10	Voting Dispute	18
12.11	Proxy Appointment	18
12.12	Proxy Form	19
12.13	Proxy Lodgment	19
12.14	Proxy Validity	19
12.15	Proxy Incompleteness	20
13	DIRECTOR ENGAGEMENT	20
13.1	Appointment	20
13.2	Share Qualification Exclusion	20
13.3	Removal	20

13.4	Vacation	20
13.5	Remuneration	21
13.6	Retiring Allowance	21
14	DIRECTOR FUNCTIONS	22
14.1	Management Powers	22
14.2	Borrowing Powers	22
14.3	Attorneys	22
14.4	Negotiable Instruments	22
14.5	Wholly Owned Subsidiaries	23
15	DIRECTOR ACTION	23
15.1	Director Meetings	23
15.2	Meeting Technology	23
15.3	Meeting Quorum	24
15.4	Meeting Chair	24
15.5	Voting	24
15.6	Personal Interests	24
15.7	Alternate Directors	25
15.8	Committees	26
15.9	Written Resolutions	26
15.10	Defective Appointment	27
16	MANAGING DIRECTOR	27
16.1	Appointment	27
16.2	Remuneration	27
16.3	Powers	27
17	CORPORATE OFFICERS	28
17.1	Secretaries	28
17.2	Executive Officers	28
18	CORPORATE ACTION	28
18.1	Corporate Seal	28
18.2	Records	29
19	CORPORATE PROFITS	29
19.1	Dividend Declaration	29
19.2	Dividend Credit	29
19.3	Reserves	29
19.4	Asset Distribution	30
19.5	Dividend Payment	30
19.6	Capitalisation	30
19.7	Dividend Reinvestment	31
20	CORPORATE LIQUIDATION	32
20.1	Asset Deficiency	32
20.2	Asset Surplus	32
20.3	Liquidation Powers	33
21	CORPORATE INDEMNITY	33
22	CORPORATE NOTICES	34
22.1	Notification Methods	34
22.2	Notification Receipt	34

22.3	Legal Representatives	34
22.4	Joint Holders	35
23	DICTIONARY	35

CONSTITUTIONAL RULES

PROVISIONS

1 INTERPRETATION

1.1 Capitalised Definitions

Meanings apply to capitalised terms used in this Constitution as specified in this provision, unless the context otherwise requires:

“**Company**” means the company specified in this Constitution;

“**Constitution**” means this Constitution, or any provision of this Constitution, as amended at any time;

“**Corporate Group**” means each Group Company separately and all Group Companies collectively;

“**Group Company**” means each of:

- (a) the Company; and
- (b) each subsidiary of the Company;

“**Incapacitated Shareholder**” means any shareholder being:

- (a) a minor;
- (b) an incapacitated person; or
- (c) an insolvent person;

“**Reference Rate**” in relation to the bank with which the Company has its principal relationship as banker and customer at any time, means:

- (a) the rate % per annum decided by that bank as its rate for the purposes of charging interest on credit advances by that bank as publicly notified;
- (b) that rate as changed by that bank, effective as at the day of first public notification of the change or as otherwise specified in the notification; and
- (c) any rate decided by that bank in substitution or replacement for that rate within any previous meaning,

as at that time;

“**Shareholder Agreement**” in relation to any present or future shareholder and the Company at any time, means any agreement created by, or acceded or adopted in any legally binding or enforceable manner to or by, that shareholder and the Company as at that time, including at the time of adoption of this Constitution the agreement comprising ; and

“**Specified Rate**” means interest at any rate decided by the directors at any time for the purpose of this Constitution or, in the absence of any decision [the aggregate of] % per annum [and the Reference Rate].

1.2 Dictionary Definitions

Meanings apply to words and expressions used in this Constitution as specified in **rule 23** (Dictionary), unless the context otherwise requires.

1.3 Interpretational Rules

Rules of interpretation apply to this Constitution as specified in this provision, unless the context otherwise requires:

- (a) **(headings)**: headings and subheadings are for convenience only and do not affect interpretation;
- (b) **(plurality)**: words denoting the singular number include the plural, and the converse also applies;
- (c) **(gender)**: words denoting any gender include all genders;
- (d) **(variants)**: a defined word or expression has a corresponding effect in relation to its other grammatical forms;
- (e) **(parties)**: any reference to a party to any agreement or document includes its executors, administrators, legal personal representatives, successors and permitted assigns and substitutes by way of assignment or novation;
- (f) **(amendments)**: any reference to any agreement or document includes that agreement or document as amended, ratified, supplemented, novated or replaced at any time;
- (g) **(provisions)**: any reference to a provision comprises a rule, clause, recital, schedule, annexure, exhibit, appendix, and is a reference to to a provision of this Constitution, including each rule, clause, subclause, paragraph and subparagraph of that provision;
- (h) **(inclusions)**: the words “**include**”, “**including**”, “**for example**”, and similar expressions are used without limitation;
- (i) **(time)**: the expression “**at any time**” includes reference to past, present and future time and the performance of any action from time to time and any liability at all times during any specified period; and
- (j) **(liability)**: any liability, representation or warranty undertaken by, or right conferred on, 2 or more persons binds or benefits all of those persons jointly and each of them severally

1.4 Corporate Reference

Any reference in this Constitution to any rule, share, marketable security, member, shareholder, register, director, secretary, officer, employee, auditor, meeting, registered office, property or asset means a reference to that item or person of or in relation to the Company, unless the context otherwise requires.

1.5 Discretionary Decisions

Any provision in this Constitution that any person, including any group of persons acting collectively, is entitled to exercise any power or make any decision for any purpose means that that power or decision may be made or exercised by that person:

- (a) **(absolute discretion)**: at any time in the absolute and uncontrolled discretion of that person, without necessity for the consent of any other person or court of competent jurisdiction and without that person being under any liability, or being legally required or compelled by any other person, to consider any particular facts or to exercise that power or make that decision; and
- (b) **(subjective exercise)**: without that person being legally required or compelled to provide or communicate any reason to any other person for exercising that power or making that decision,

except where there is an express provision of this Constitution or any mandatory provision of the *Corporations Act 2001* to contrary effect.

2 CORPORATE REGULATION

2.1 Constitutional Rules

The rules of the Company specified in the provisions of this Constitution apply to the Company and displace any replaceable rule specified in any provision of the *Corporations Act 2001*.

2.2 Legal Compliance

- (a) **(Compliance)**: The rules of the Company specified in the provisions of this Constitution apply subject to and in compliance with any mandatory provision of the *Corporations Act 2001*.
- (b) **(Conflict)**: Any mandatory provision of the *Corporations Act 2001* is incorporated into, and applies instead of any provision of, this Constitution in the event of any conflict.

2.3 Statutory Powers

The Company has power under this provision to perform any action in any case where the *Corporations Act 2001* confers that power on any company, if that power is comprised in its constitution documents, despite any other provision of this Constitution.

2.4 Shareholder Agreement

The provisions of this Constitution relating to any right or liability of any shareholder or the Company apply at any time subject to, and in compliance with, the provisions of any Shareholder Agreement effective and binding at that time on that shareholder and the Company, to the fullest extent permitted by law.

3 CORPORATE TYPE

3.1 Proprietary Company

The Company at the time of adoption of this Constitution is registered under the *Corporations Act 2001* as a proprietary company limited by shares.

3.2 Shareholder Restriction

- (a) **(Maximum limit):** The Company must not at any time have more than 50 shareholders, subject to this provision.
- (b) **(Employee exclusion):** This provision does not apply in relation to any shareholder, who:
 - (i) is an employee of the Corporate Group; or
 - (ii) was an employee of the Corporate Group at the time when that shareholder became a shareholder of the Corporate Group.
- (c) **(Joint holdings):** Any 2 or more joint holders of any share count as 1 shareholder in relation to the holding of that share for the purposes of this provision.

3.3 Fundraising Restriction

- (a) **(Securities issue restriction):** The Company must not at any time perform any action in relation to any marketable security that would require disclosure to investors by way of any prospectus or product or other disclosure document under the *Corporations Act 2001*.
- (b) **(Shareholder/employee exemption):** This provision does not apply to any share offer by the Company to any existing shareholder or employee of the Corporate Group.

4 SHARE CAPITAL

4.1 Share Issue

The directors may issue shares of any class or share options or share options relating to shares of any class, subject to the provisions of this Constitution.

4.2 Share Rights

- (a) **(Special rights):** Any share may be issued with any preferred, deferred or other special right or restriction, whether in relation to dividend, voting, return of capital, payment of share calls or otherwise, as the directors decide.
- (b) **(Application):** This provision applies:
 - (i) without prejudice to any special right previously conferred on any holder of any existing share or in relation to any share class; and
 - (ii) subject to any ordinary resolution in general meeting.

4.3 Rights Variation

- (a) **(Application):** This provision applies, if at any time the share capital of the Company is divided into different share classes.
- (b) **(Procedure):** The rights attached to any share class may be varied or cancelled, whether or not the Company is in liquidation, with:
 - (i) the written consent of 75% of shareholders of that share class; or
 - (ii) the consent of a special resolution passed at a separate general meeting of the shareholders of that share class,

except where the issue terms of shares of that share class specify otherwise.

- (c) **(Meetings)**: The provisions of **rule 11** (Shareholder Action) and **rule 12** (Shareholder Voting) apply to any separate meeting, as applicable and with any necessary amendment.
- (d) **(New issues)**: The rights attaching to shares of any share class issued with preferred or other special rights must not be treated as varied or cancelled by the creation or issue of new shares ranking equally with those shares, except where this Constitution or the issue terms of those shares specify otherwise.
- (e) **(Preferential issues)**: The issue of any shares, or any conversion of existing shares to shares, ranking in priority to an existing class of preference shares constitutes a variation or cancellation of rights attaching to that existing preference share class.

4.4 Brokerage

- (a) **(Power)**: The Company may pay brokerage or commission to any person in connection with any agreement by that or any other person to accept the issue of shares.
- (b) **(Payment methods)**: Brokerage or commission may be paid by:
 - (i) cash;
 - (ii) issue of fully or partly paid shares; or
 - (iii) any combination of any previously specified method.

5 SHAREHOLDER RIGHTS

5.1 Share Certificates

- (a) **(Right)**: The Company must issue to any shareholder whose name is entered as a holder in the register of members a certificate in relation to any share of that shareholder, upon request and without payment by that shareholder, in compliance with the *Corporations Act 2001*.
- (b) **(Form)**: The directors may at any time decide the form of any share certificate.
- (c) **(Joint holders)**: The Company is not liable to issue more than 1 share certificate in relation to any share held jointly by 2 or more persons.
- (d) **(Delivery)**: Delivery of any share certificate to one of 2 or more joint holders is sufficient delivery to all those joint holders.

5.2 Replacement Certificates

- (a) **(Replacement)**: The Company must issue to any shareholder a replacement certificate for any share certificate previously issued to that shareholder, where that share certificate:
 - (i) is defective through becoming worn out or defaced; or
 - (ii) has been lost,

in compliance with this provision.

- (b) **(Conditions):** The Company is entitled before issue of any replacement certificate:
 - (i) to receive any defective certificate for cancellation and cancel that certificate; and
 - (ii) to receive payment of any reasonable amount decided by the directors in connection with the issue of that replacement certificate.
- (c) **(Compliance):** The Company must in relation to the issue of any replacement certificate comply with, and is entitled to perform or require the performance by the shareholder of, any action specified in any provision of the *Corporations Act 2001* relating to the loss or destruction of certificates to marketable securities.

5.3 Beneficial Rights

- (a) **(Trusts):** The Company must not recognise any person as holding any share upon any trust, except where compelled by law.
- (b) **(Equitable interests):** The Company is not liable in any manner to recognise any equitable, contingent, future, partial or any other right in relation to any share, despite actual notice or other notice of that right, except:
 - (i) an absolute and entire legal right, title and interest of the registered holder; or
 - (ii) where compelled by law.

6 SHARE TRANSFER

6.1 Transfer

Any shareholder may transfer any shares of that shareholder by written document in any form permitted by law decided by the directors, subject to this Constitution and the *Corporations Act 2001*.

6.2 Registration Effect

Any transferor of any shares remains the holder of those transferred shares until the transfer is registered in relation to the shares.

6.3 Registration Procedure

- (a) **(Transfer lodgment):** The transfer document in relation to any transferred shares must be lodged for registration at the registered office or location of the relevant register of members, together with:
 - (i) any share certificate to the shares, except where the directors waive lodgment following sufficient proof of the loss or destruction of that share certificate; and
 - (ii) any other information decided by the directors as necessary to prove the legal, right, title and interest of the transferor to or in the transferred shares.

- (b) **(Transfer registration)**: The Company must register the transferee as a shareholder following lodgment in compliance with this provision, subject to **clause 6.4** (Registration Refusal).

6.4 Registration Refusal

- (a) **(Refusal)**: The directors may refuse to register any transfer of any shares, whether voluntary or by operation of law.
- (b) **(Notification)**: The directors must notify the transferee of any refusal of registration within 2 months following lodgment of any share transfer.

6.5 Registration Suspension

The directors may at any time suspend the registration of share transfers for any period not exceeding in aggregate 30 days in any calendar year.

7 SHARE TRANSMISSION

7.1 Shareholder Death

- (a) **(Recognition)**: The Company must recognise following the death of any shareholder only:
 - (i) the legal representative of a sole shareholder; or
 - (ii) the survivor or survivors of a joint holder,as the person holding the legal right, title and interest to or in any share held by that deceased shareholder and register upon application any legal representative in its register of members as the holder of that share, despite any other provision of this Constitution.
- (b) **(Joint liability)**: This provision does not release the estate of any deceased joint holder from any liability in relation to any share jointly held with any other person.
- (c) **(Proof)**: The directors may require sufficient evidence of the death of any shareholder or the entitlement of any legal representative of a sole shareholder, as decided by the directors.

7.2 Shareholder Disability

- (a) **(Registration election)**: Any legal representative of an Incapacitated Shareholder who becomes entitled to any share as a result of any legal disability of that Incapacitated Shareholder may elect to:
 - (i) be registered personally as the shareholder; or
 - (ii) nominate any other person to be registered as the transferee of that share.
- (b) **(Transfer)**: The provisions of **rule 6** (Share Transfer) and **rule 5** (Shareholder Rights) apply to any transfer under this provision, as if:
 - (i) any legal disability of any Incapacitated Shareholder had not occurred; and
 - (ii) the transfer had been executed by the Incapacitated Shareholder.

- (c) **(Rights):** Any legal representative of an Incapacitated Shareholder is entitled to the same rights attaching to any share held by that Incapacitated Shareholder, including rights relating to dividends and being present and voting at general meetings, as if any legal disability relating to that Incapacitated Shareholder had not occurred.
- (d) **(Status):** The directors may require sufficient information to prove any entitlement of any legal representative in relation to an Incapacitated Shareholder as decided by the directors.
- (e) **(Multiple representatives):** Any 2 or more legal representatives who are jointly entitled to any share resulting from any legal disability of any shareholder must be treated as joint holders of that share.
- (f) **(Compliance):** This provision applies subject to any mandatory provision of any bankruptcy or other applicable legislation.

8 SHARE CALLS

8.1 Call Liability

- (a) **(Decision):** The directors may at any time make share calls on shareholders in relation to any unpaid moneys on the shares of those shareholders, which are not by the issue terms of those shares made payable at fixed times.
- (b) **(Timing):** Any share call must be treated as made at the time that the resolution of directors deciding upon the call was passed.
- (c) **(Instalments):** Any share call may be made payable by instalments.
- (d) **(Revocation):** The directors may revoke or postpone any share call.
- (e) **(Liability preservation):** Any share call is valid, despite any non-receipt of, or accidental failure to give, any call notice by or to any shareholder.
- (f) **(Payment):** Any shareholder must pay any share call to the Company at the time and in the manner specified in the call notice within 12 business days following receipt of the call notice.

8.2 Joint Liability

The joint holders of any share are jointly and severally liable to pay any share call in relation to that share.

8.3 Fixed Payments

Any payment in relation to a share which under the issue terms of that share is payable upon issue of the share or at any fixed date must be treated as a share call, duly made and notified, and payable on the specified payment date.

8.4 Differential Liability

The directors may in the issue terms of any shares decide to differentiate between shareholders as to the amount and time of payment of any share call.

8.5 Prepayment

- (a) **(Acceptance)**: The directors may accept full or part prepayment of any unpaid amount due on any share by any shareholder, despite the absence of any share call or the fact that the amount is not presently payable.
- (b) **(Interest)**: The directors may decide that the Company must pay interest upon the prepayment, until the due date for payment, at the Specified Rate or any other rate agreed between the Company and the shareholder.
- (c) **(Refund)**: The directors may refund any prepayment amount following notice of not less than 20 business days to the shareholder.

9 SHARE LIEN

9.1 Security Lien

- (a) **(Lien)**: The Company has a security interest by way of equitable lien or charge, ranking first in priority, over:
 - (i) any share held by any shareholder; and
 - (ii) any dividend relating to that share,as a continuing security for payment of any liability of that shareholder to the Company as specified in this provision.
- (b) **(Exemption)**: The directors may at any time wholly or partly exempt any share from the application of this provision.
- (c) **(Legal representatives)**: The security lien is enforceable against any share held by any Incapacitated Shareholder, whether or not the legal representative of that Incapacitated Shareholder is registered as a shareholder in the register of members.
- (d) **(Joint holder)**: The security lien is enforceable against any share held jointly by any 2 or more joint holders, whether any moneys due or payable by any joint holder are due jointly with any other joint holder or person or solely, separately and severally by that joint holder.

9.2 Secured Liability

Specified liabilities secured by the security lien comprise all liabilities due or payable from or by any shareholder to the Company, incurred or arising in connection with:

- (a) **(calls)**: any share or share call;
- (b) **(legal liabilities)**: any amount that the Company is required or compelled to pay in relation to any share under any law;
- (c) **(tax indemnity)**: any liability under **rule 9.3** (Tax Indemnity);
- (d) **(all moneys)**: any moneys on any account or under any circumstance;
- (e) **(interest)**: interest under **rule 9.4** (Default Interest); and

- (f) **(employee loans)**: any amount due under any credit advance by the Company for the purpose of any share acquisition under any employee incentive scheme.

9.3 Tax Indemnity

- (a) **(Indemnity)**: Any shareholder must at any time indemnify the Company against any tax liability of the Company specified in this provision.
- (b) **(Legal representatives)**: The indemnity under this provision extends to any legal representative of any Incapacitated Shareholder, being at any time entitled to any share held by that Incapacitated Shareholder, to the extent that that legal representative has at that time possession or control of any assets of that Incapacitated Shareholder.
- (c) **(Tax liabilities)**: This provision applies to any tax liability of the Company under any law of any country or jurisdiction, whether within or outside Australia, incurred or arising for or on account of any shareholder in relation to:
 - (i) any share held by that shareholder, whether solely or jointly with any other holder; or
 - (ii) any dividend relating to that share,
and resulting from:
 - (iii) the death of that shareholder;
 - (iv) any default in payment of any income or other tax by that shareholder;
 - (v) any default in payment of any estate, probate, succession, stamp or other duty by that shareholder, or the legal representative of the estate of any deceased shareholder; or
 - (vi) any other fact relating to or connected with that shareholder.

9.4 Default Interest

- (a) **(Interest liability)**: Any shareholder must pay to the Company upon demand by the Company at any time default interest at the Specified Rate on any unpaid liability of that shareholder to the Company.
- (b) **(Accrual)**: Default interest accrues from day to day from and including the due date up to the date of actual payment calculated on the basis of a year of 365 days.
- (c) **(Costs)**: Any shareholder must indemnify the Company against any cost of recovery or enforcement incurred by the Company resulting from any default by that shareholder in payment of any liability to the Company.
- (d) **(Waiver)**: The directors may waive any payment due under this provision.

9.5 Rights Suspension

Any shareholder is not entitled to exercise any right, including any right to attend and vote at any general meeting, attaching to any share at any time when any share call or other liability then payable by that shareholder to the Company on or in relation to that or any other share held by that shareholder remains unpaid.

9.6 Dividend Proceeds

The Company may at any time under the security lien retain, or make any deduction from, any dividend due or payable to any shareholder and apply the retained or deducted dividend proceeds in payment of any moneys payable at that time by that shareholder to the Company.

9.7 Lien Transfer

The Company may at any time transfer any shares held by any shareholder on which the Company has a security lien in any manner decided by the directors, subject to each condition that:

- (a) **(present liability)**: any amount secured by the security lien is presently payable; and
- (b) **(payment demand)**: the Company has demanded payment of that amount from that shareholder, or any legal representative entitled to that share, by written notice specifying that amount, being not less than 10 business days before the proposed transfer date.

9.8 Transfer Completion

- (a) **(Authority)**: The directors may authorise any person to transfer any share to any transferee to effectuate any security lien transfer.
- (b) **(Registration)**: The Company must register the transferee as the holder of the shares comprised in any lien transfer.
- (c) **(Purchase proceeds)**: The Company is not liable to inquire into the validity of the application of the transfer proceeds by the transferee or any other person.
- (d) **(Title)**: The title of the transferee to the shares following registration is not invalidated or otherwise prejudiced by any invalidity or defect in connection with the lien transfer.
- (e) **(Call release)**: The transferee under any lien transfer is released from any liability for any previous share call due or payable in relation to any share comprised in the lien transfer, except where the Company and the transferee agree otherwise.
- (f) **(Remedy restriction)**: The remedy of any person wishing to dispute any lien transfer is limited to legal action for damages solely and exclusively against the Company.

9.9 Transfer Proceeds

- (a) **(Payment application)**: The Company must apply the proceeds of any lien transfer in payment of any liability secured by the security lien which is presently payable.

- (b) **(Surplus):** The Company must pay any residual surplus from the lien transfer proceeds to the person entitled to the shares comprised in the lien transfer immediately before the lien transfer.

10 SHARE FORFEITURE

10.1 Forfeiture Notice

- (a) **(Application):** This provision applies in the event that any shareholder defaults in payment of any share call on due date.
- (b) **(Notification):** The directors may at any time during any continuing payment default give written notice to the shareholder:
 - (i) demanding payment of the unpaid share call, together with any accrued interest and cost resulting from the non-payment;
 - (ii) specifying a date for payment of that demand, being not earlier than 10 business days following receipt of the notice; and
 - (iii) specifying that the shares subject to the share call are liable to forfeiture, in the event of default in payment on or before the specified payment date.

10.2 Forfeiture Decision

- (a) **(Forfeiture resolution):** The directors may decide by resolution to forfeit any share subject to any forfeiture notice at any time after the payment date specified, but before payment of the share call demanded, in that notice.
- (b) **(Dividends):** Forfeiture extends to any dividend declared in relation to any forfeited share, which has not been paid before forfeiture.
- (c) **(Decision notification):** The Company must notify the forfeiture decision to the shareholder registered as holder of the forfeited share.
- (d) **(Record):** The Company must immediately enter the fact and date of any forfeiture relative to the forfeited shares in the register of members.
- (e) **(Preservation):** Any forfeiture decision by the directors is valid, despite any non-compliance by the Company with this provision.

10.3 Share Surrender

- (a) **(Surrender):** The directors may accept in compliance with the *Corporations Act 2001*:
 - (i) any surrender of any fully paid share by way of compromise of any dispute as to registration, or payment of any liability to the Company, of any shareholder; and
 - (ii) any gratuitous surrender of any fully paid share.
- (b) **(Transfer):** The directors may transfer any surrendered share in the same manner as a forfeited share under this provision.

10.4 Forfeiture Powers

- (a) **(Transfer)**: The directors may transfer any forfeited share upon and subject to any provisions created under any agreement with any transferee.
- (b) **(Cancellation)**: The directors may cancel any forfeiture at any time before transfer.
- (c) **(Payment application)**: The directors must apply any transfer proceeds in payment of any outstanding liability of the holder of the forfeited shares.
- (d) **(Surplus)**: The Company must pay any residual surplus from the transfer proceeds of any forfeited shares to the person entitled to those shares immediately before the forfeiture.

10.5 Shareholder Cessation

- (a) **(Shareholder termination)**: Any person ceases to be a shareholder in relation to the forfeited shares at the time and on the date of the forfeiture decision of the directors.
- (b) **(Rights termination)**: That person is not entitled to:
 - (i) make any claim against the Company in relation to the forfeited shares; or
 - (ii) exercise any other right attaching to the forfeited shares, except for any right expressly conferred by the *Corporations Act 2001* or preserved by this Constitution.
- (c) **(Payment liability)**: That person remains liable for any moneys that were payable at the forfeiture date by that person to the Company in relation to the forfeited shares, including any interest under **rule 16.4** (Default Interest).
- (d) **(Waiver)**: The directors may waive payment of any moneys due from that person.

10.6 Forfeiture Certification

Any written statement by any director or secretary specifying that:

- (a) **(forfeiture)**: any share has been duly forfeited; or
- (b) **(payment)**: any moneys are payable by any existing or previous shareholder to the Company in relation to any share call,

on any date specified in the statement constitutes conclusive evidence of that specified fact, in the absence of proof to the contrary, as against that shareholder and any person claiming to be entitled to that share.

10.7 Transferee Protection

- (a) **(Completion)**: The Company may receive any consideration paid for any forfeited share under any transfer of that share and execute any transfer of that share in favour of any person as transferee.
- (b) **(Registration)**: The Company must following execution of the transfer register the transferee as the holder of the share.

- (c) **(Purchase proceeds):** The transferee is not liable to inquire into the validity of the application of the transfer proceeds by the Company.
- (d) **(Title):** The title of the transferee to any share is not invalidated or otherwise prejudiced by any invalidity or defect in connection with the forfeiture or transfer of the share.

11 SHAREHOLDER ACTION

11.1 Shareholder Meetings

- (a) **(Director call):** Any director may call any general meeting.
- (b) **(Cancellation):** Any director may by written notice to shareholders cancel any meeting called by that director.

11.2 Meeting Notification

The Company must give notice of any general meeting, in compliance with **rule 22** (Corporate Notices), to:

- (a) **(shareholders):** each shareholder;
- (b) **(directors):** each director;
- (c) **(legal representatives):** any legal representative entitled to any share of any Incapacitated Shareholder; and
- (d) **(auditor):** any auditor.

11.3 Notification Procedure

- (a) **(General notice):** The Company may call any general meeting by notice to shareholders, being at least 21 days, subject to this provision.
- (b) **(Short notice):** The Company may call on shorter notice:
 - (i) any annual general meeting, with the consent of all shareholders entitled to attend and vote at that meeting; and
 - (ii) any other general meeting, with the prior consent of shareholders holding at least 95% of the votes that may be cast at that meeting, except for any meeting at which any resolution will be moved to remove any auditor.
- (c) **(Preservation):** The non-receipt of any meeting notice to any person entitled to receive that notice, or accidental failure by the Company to give any meeting notice to that person, does not invalidate the meeting, or any action performed at the meeting.

11.4 Notice Contents

Any notice calling any general meeting must specify:

- (a) **(date):** the date, place and time for the meeting, and any technology to be used for any meeting to be held in 2 or more places;
- (b) **(business):** the general nature of the business of the meeting;
- (c) **(special resolution):** any intention to propose any special resolution and the terms of that resolution;

- (d) **(proxies)**: the right of any shareholder to appoint any proxy, whether or not a shareholder; and
- (e) **(multiple proxies)**: that any shareholder entitled to cast 2 or more votes may appoint 2 proxies and direct the proportion or number of votes which each appointed proxy may exercise.

11.5 Meeting Quorum

- (a) **(Number)**: The quorum for any general meeting is 2 shareholders, present at the time when the meeting proceeds to business, except that the quorum is 1 shareholder at any time when the Company has only 1 shareholder.
- (b) **(Calculation)**: The quorum must be decided by counting as a shareholder:
 - (i) any representative of any corporate shareholder; and
 - (ii) any proxy of any shareholder, or any 1 proxy where that shareholder has appointed more than 1 proxy.
- (c) **(Action restriction)**: The Company must not perform any action at any general meeting in the absence of a quorum.

11.6 Quorum Deficiency

Any general meeting, in the event that a quorum is not present within 20 minutes after the specified time for the meeting:

- (a) **(shareholder call)**: in relation to any meeting called on any requisition of shareholders under the *Corporations Act 2001*, is dissolved, except where adjourned under **rule 11.9** (Meeting Adjournment); and
- (b) **(director call)**: in relation to any other meeting:
 - (i) must be adjourned to a day and at a time and place decided by the directors or, in the absence of any decision, to the same day in the next week at the same time and place; and
 - (ii) is dissolved, in the absence of a quorum present within 20 minutes after the specified meeting time.

11.7 Meeting Participation

- (a) **(Directors)**: Any director who is not a shareholder is entitled to be present and speak at any general meeting.
- (b) **(Secretary)**: Any secretary who is not a shareholder is entitled to be present, and at the request of the chair, speak at any general meeting.
- (c) **(Adviser)**: Any employee or agent of the Corporate Group or other person, whether a shareholder or not, requested by the directors to attend any general meeting is entitled to be present and, at the request of the chair, speak at that general meeting.

11.8 Meeting Chair

- (a) **(Director decision)**: The directors may elect an individual as the chair of any general meeting and, a deputy chair, to act in the absence of the chair.

- (b) **(Director chair):** Any individual engaged as chair of the directors, or deputy chair of directors in the absence of the chair, must act as chair of any general meeting, in the absence of any decision of directors.
- (c) **(Director substitute):** The directors present at any general meeting may decide the chair of any meeting, whether any director or other person present at the meeting, in the event that a general meeting is held and:
 - (i) a chair has not been elected or engaged under any previous provision; or
 - (ii) the chair is not present within 15 minutes after the specified meeting time or declines to act as chair.
- (d) **(Shareholder substitute):** The shareholders present at any general meeting must decide the chair of that meeting, being an individual present, whether or not a shareholder, in the absence of any chair decided under any previous provision.

11.9 Meeting Adjournment

- (a) **(Adjournment):** The chair may and, following any direction by the meeting, must adjourn any general meeting at any time and to any place.
- (b) **(Business):** No action must be performed at any adjourned meeting, except for uncompleted business at the meeting being adjourned.
- (c) **(Adjournment notice):** Notice of the adjourned meeting, must be given as in the case of an original meeting, when a meeting is adjourned for 30 days or more.
- (d) **(Notice dispensation):** Notice of any adjournment or action to be performed at an adjourned meeting may be dispensed with, when a meeting is adjourned for less than 30 days.

11.10 Circulating Resolutions

The Company may pass any resolution of shareholders by means of a circulating resolution in compliance with the *Corporations Act 2001*, despite any other provision of this Constitution.

11.11 Single Shareholder Resolutions

- (a) **(Application):** This provision applies at any time when the Company has only 1 shareholder.
- (b) **(Resolutions):** The Company may pass any resolution by the shareholder recording the resolution and signing that record.
- (c) **(Decisions):** Any document signed by the shareholder recording any decision of that shareholder:
 - (i) constitutes a decision of the Company;
 - (ii) is valid and effective, as if it were a resolution duly passed at any general meeting; and
 - (iii) has effect as a minute of that decision.

12 SHAREHOLDER VOTING

12.1 Voting Method

- (a) **(Ordinary method)**: Any resolution proposed at any general meeting must be decided on a show of hands, except where a poll is demanded.
- (b) **(Declaration)**: Any declaration by the chair that any resolution has on a show of hands been carried or lost, and any entry to that effect in the meeting minutes, must be treated as conclusive evidence of that fact, without necessity to show the number or proportion of the votes recorded in favour of or against the resolution.

12.2 Poll Demand

- (a) **(Demand)**: A poll on any resolution at any general meeting may be demanded by:
 - (i) the chair; or
 - (ii) any shareholder present at the meeting.
- (b) **(Timing)**: Any poll may be demanded:
 - (i) at any time before any voting decision being taken or the declaration of that decision; or
 - (ii) immediately after that declaration.

12.3 Poll Procedure

- (a) **(Chair direction)**: The chair must following any poll demand direct the manner in and the time at which the poll will be taken, except that a poll on the election of the chair or on the question of an adjournment must be taken immediately.
- (b) **(Result)**: The result of the poll is the resolution of the meeting at which the poll was demanded.
- (c) **(Business continuity)**: The demand for a poll does not prevent a meeting from performing any action, except that item on which a poll has been demanded.

12.4 Casting Vote

The chair of any meeting has a casting vote in the case of an equality of votes on a show of hands or on a poll, in addition to any deliberative vote to which the chair may be entitled as a shareholder.

12.5 Voting Rights

Each shareholder is entitled to:

- (a) **(voting attendance)**: attend and vote at any general meeting of shareholders, or of shareholders holding shares of the same share class as that shareholder; and
- (b) **(voting presence)**: vote at that meeting in person or by proxy or attorney or, applicable to a company, corporate representative,

subject to this Constitution and any rights or restrictions attaching to any share class under the issue terms of that share class.

12.6 Voting Power

Each shareholder, present and having the right to vote at any general meeting, has:

- (a) **(ordinary method)**: on a show of hands, 1 vote; and
- (b) **(poll method)**: on a poll, 1 vote for each fully paid share held by that shareholder,

subject to this Constitution and any rights or restrictions attaching to any share class under the issue terms of that share class.

12.7 Joint Holder Vote

The vote of the joint holder of any share whose name appears first in the register of members must be accepted to the exclusion of any other joint holder.

12.8 Shareholder Incapacity

Any legal representative of an Incapacitated Shareholder may exercise any rights of that Incapacitated Shareholder in relation to any general meeting.

12.9 Shareholder Guardian

Any person, being the guardian of any shareholder who is a minor, may exercise any rights of that shareholder in relation to any general meeting, subject to the guardian providing the directors with sufficient evidence of the status of that person as guardian.

12.10 Voting Dispute

- (a) **(Dispute)**: Any dispute as to the entitlement of any person to vote at any general meeting may be raised only at the meeting or adjourned meeting at which the disputed vote is tendered.
- (b) **(Decision)**: Any dispute must be referred to the chair of the meeting, whose decision is final and conclusive.
- (c) **(Validity)**: Any vote allowed following dispute is valid for any purpose.

12.11 Proxy Appointment

- (a) **(Appointment)**: Any shareholder may by written document appoint a proxy to attend, vote or demand a poll at any general meeting, instead of and on behalf of that member.
- (b) **(Eligibility)**: A proxy need not be a shareholder.
- (c) **(Multiple proxies)**: Any shareholder may appoint 2 proxies, if the shareholder is entitled to cast 2 or more votes at any general meeting.
- (d) **(Split voting)**: Each proxy may exercise only the proportion of voting rights specified by the *Corporations Act 2001*, if a shareholder appoints 2 proxies and the appointment does not specify the proportion or number of the votes of that shareholder that each proxy may exercise.
- (e) **(Voting restriction)**: A proxy is entitled to vote on a show of hands, except that neither proxy is entitled to vote on a show of hands, if a member appoints 2 proxies.

12.12 Proxy Form

- (a) **(Form)**: Any proxy document must be in any form decided or accepted by the directors.
- (b) **(Document execution)**: A proxy document must be executed:
 - (i) by the appointing shareholder or any attorney of that appointing shareholder; or
 - (ii) in relation to any corporate shareholder, under seal or by any authorised officer or attorney of that corporate shareholder.
- (c) **(Voting discretion)**: Any proxy may vote as the proxy decides on any motion or resolution, in the absence of any voting direction in the proxy document.

12.13 Proxy Lodgment

- (a) **(Compliance)**: The documents required under the *Corporations Act 2001* for the valid appointment of a proxy must be received by the Company at any time before, as applicable, commencement or resumption of the general meeting.
- (b) **(Standing proxy)**: Documents necessary for the valid appointment of an attorney to act on behalf of any shareholder at all meetings of the Company, or at all meetings for a specified period, must be received by the Company at any time before commencement of the meeting or adjourned meeting at which the attorney proposes to vote and must comprise:
 - (i) the power of attorney or a certified copy of that power of attorney; and
 - (ii) any evidence decided by the directors of the validity and non-revocation of that power of attorney.
- (c) **(Receipt)**: Receipt by the Company of documents specified in this provision is effective, when received at:
 - (i) the registered office;
 - (ii) any fax number at the registered office; or
 - (iii) any place, fax number or electronic address specified for that purpose in the meeting notice.

12.14 Proxy Validity

Any vote exercised in compliance with the provisions of any proxy document, power of attorney or other appointment document is valid, despite any:

- (a) **(incapacity)**: previous legal disability of any Incapacitated Shareholder being the shareholder principal;
- (b) **(revocation)**: any revocation of that document or any consent under which that document was executed; or
- (c) **(transfer)**: transfer of any share in relation to which that document was executed,

except where the Company has received written notice of that fact at its registered office of at least 48 hours, or any shorter period decided by the directors, before the commencement of the meeting or adjourned meeting at which that document is used.

12.15 Proxy Incompleteness

- (a) **(Validity protection)**: Any proxy document not invalid because that document omits:
 - (i) the address of the appointing shareholder or any proxy;
 - (ii) the name of, or the name of the office held by, the proxy; or
 - (iii) in relation to any resolution, any voting direction to the proxy.
- (b) **(Chair substitution)**: Any proxy document must be treated as given in favour of the chair of the meeting, where that document fails to specify any proxy name.

13 DIRECTOR ENGAGEMENT

13.1 Appointment

- (a) **(Shareholders)**: The Company may at any time by resolution passed in general meeting appoint any person as a director.
- (b) **(Directors)**: The directors may at any time appoint any person as a director.

13.2 Share Qualification Exclusion

Any director is not be required to hold any share in the capital of the Company.

13.3 Removal

The Company may at any time by resolution passed in general meeting remove any director from office.

13.4 Vacation

The office of a director is automatically vacated, if the director:

- (a) **(incapacity)**: becomes of unsound mind or a person liable, or a person whose assets are liable, to any control or administration under any law relating to physical or mental health;
- (b) **(resignation)**: resigns by written notice to the Company delivered to the registered office, as at the time of resignation specified in that notice;
- (c) **(absence)**: is absent from meetings of directors held during any continuous period of 6 months, except with the consent of the directors; or
- (d) **(death)**: dies.

13.5 Remuneration

- (a) **(Fees):** The directors are entitled to payment of any fees for their service as directors decided by the Company in general meeting, not exceeding in aggregate any maximum amount specified at any time in any resolution passed in general meeting.
- (b) **(Increase proposal):** Any proposal for a resolution to increase the maximum aggregate fee amount, and the proposed increased amount, must be specified in the notice calling any general meeting to pass that resolution.
- (c) **(Fee Allocation):** Fees payable under this provision must be:
 - (i) allocated among the directors in any proportions agreed by the directors or, in the absence of agreement, equally; and
 - (ii) exclusive of any benefit provided by the Company to directors in compliance with any legislative scheme, including any superannuation guarantee or similar scheme, or any other benefit permitted by the *Corporations Act 2001* or this Constitution.
- (d) **(Executive engagement):** Any director engaged as an executive director and remunerated under an employment or engagement agreement must not be paid fees under this provision.
- (e) **(Cost reimbursement):** Any director is entitled to payment or reimbursement of any travelling and other cost properly incurred by that director in attending and returning from any meeting of directors, or committee of directors, or general meeting or otherwise in connection with the business of the Company.
- (f) **(Special fees):** The Company may decide to pay any special and additional remuneration to any director, who performs any extra service or makes any special effort for the benefit of the Company.
- (g) **(Special fee limitation):** Any special or additional remuneration must not comprise any commission on or percentage of profits, operating revenue or turnover.
- (h) **(Separate engagement):** A director may be engaged as an employee or agent of the Corporate Group in any other capacity, except as an auditor, upon any provisions as to remuneration, engagement period and otherwise as decided by the directors.

13.6 Retiring Allowance

- (a) **(Benefits):** The Company may pay or provide any benefit to any director or any other person in connection with the retirement, or resignation from or loss of office, or death while in office, as a director.
- (b) **(Methods):** The Company may effectuate this provision by:
 - (i) creation and performance of any agreement with any present or prospective director under which that director, or any person nominated by that director, is paid or provided with any lump sum payment, pension, retiring allowance or other benefit upon or subsequent to cessation of office for any reason; or

- (ii) creation and funding of any fund or scheme to pay or provide any previously specified benefit to any director, upon cessation of office, or any person, including any person nominated by any director, in the event of the death of that director while in office.
- (c) **(Restrictions)**: The Company may decide to impose any condition or restriction under any agreement, fund or scheme specified in this provision.
- (d) **(Group provision)**: The Company may consent to the creation, performance and funding by the Corporate Group of any equivalent agreement, fund or scheme in relation to directors of the Corporate Group, whether or not any of those directors is also a director of the Company.

14 DIRECTOR FUNCTIONS

14.1 Management Powers

- (a) **(Business management)**: The directors manage the business of the Company.
- (b) **(Corporate powers)**: The directors may exercise all powers of the Company which are not, by the *Corporations Act 2001* or this Constitution, required to be exercised by the Company in general meeting, subject to the *Corporations Act 2001* and this Constitution.

14.2 Borrowing Powers

The directors may exercise all the powers of the Company:

- (a) **(Credit)**: to borrow and charge any property or business of the Company, including any uncalled capital; and
- (b) **(Security)**: to issue debentures or create any guarantee or security interest for any liability of the Company or of any other person,

without limitation of the generality of **rule 14.1** (Management Powers).

14.3 Attorneys

- (a) **(Appointment)**: The directors may by power of attorney appoint any person to be the attorney of the Company for any purpose, with any power vested in or exercisable by the directors, for any period and subject to any provisions.
- (b) **(Delegation)**: The directors may consent in any power of attorney to the delegation by the attorney of any power conferred upon the attorney.
- (c) **(Dealing protection)**: Any appointment of an attorney may provide for the protection and convenience of persons dealing with the attorney as decided by the directors.

14.4 Negotiable Instruments

Any negotiable instrument, including any cheque, of the Company must be executed by any person and in any manner decided by the directors at any time.

14.5 Wholly Owned Subsidiaries

Any director is authorised to act in the best interests of the holding company of the Company as contemplated by section 187 of the *Corporations Act 2001*, at any time when the Company is a wholly owned subsidiary of that holding company within the meaning of the *Corporations Act 2001*.

15 DIRECTOR ACTION

15.1 Director Meetings

- (a) **(Control)**: The directors may meet together to perform any business and adjourn and control their meetings as decided by the directors.
- (b) **(Meeting call)**: Any director may at any time, and on the request of any director a secretary must, call a meeting of the directors.
- (c) **(Notice)**: Reasonable notice must be given to each director of the place, date and time of any meeting of directors.
- (d) **(Overseas absence)**: Notice must be given to any director who is outside Australia at any time, only if that director has provided contact details, except that notice must be given to any current alternate director of that director remaining in Australia.

15.2 Meeting Technology

- (a) **(Methods)**: Each director, for the purposes of the *Corporations Act 2001*, consents by the fact of employment or engagement as a director to the use of any technology for calling or holding a directors meeting comprising:
 - (i) video;
 - (ii) telephone;
 - (iii) electronic mail;
 - (iv) any other technology which enables each director to communicate with each other director; or
 - (v) any combination of any previously specified method.
- (b) **(Consent withdrawal)**: Any director may withdraw that consent, in compliance with the *Corporations Act 2001*.
- (c) **(Effectiveness)**: Any meeting of directors held by use of technology, where the directors are not all in attendance at one place but where each director can communicate with each other director, whether simultaneously or at different times, must be treated:
 - (i) as if the participating directors for the purpose of this Constitution were assembled together and present at that meeting; and
 - (ii) so that any action performed by those directors in that manner is valid, as if performed at a meeting at which of those directors were present.

15.3 Meeting Quorum

- (a) **(Decision)**: The directors may decide the number of directors whose presence is necessary to constitute a quorum at any meeting of directors and, in the absence of any decision, is 2 directors entitled to vote.
- (b) **(Presence)**: The quorum need be present only at the time when the meeting proceeds to business, except where the directors decide otherwise.

15.4 Meeting Chair

- (a) **(Decision)**: The directors may elect 1 of their number as the chair of any directors meeting and may decide the period for which the chair is to hold office as chair.
- (b) **(Substitute)**: The directors present at any directors meeting must elect 1 of their number to act as chair for that meeting, in any case where:
 - (i) a chair has not been elected under the previous provision; or
 - (ii) the chair is not present within 10 minutes following the specified meeting time or declines to chair the meeting.

15.5 Voting

- (a) **(Majority vote)**: Any issue arising at a meeting of directors must be decided by a majority of votes of the directors present and voting.
- (b) **(Decision effect)**: Any majority decision must be treated as a decision of all the directors for any purpose.
- (c) **(Casting vote)**: The chair of the meeting has a casting vote in the case of an equality of votes, in addition to the deliberative vote of the chair.

15.6 Personal Interests

- (a) **(Contractual capacity)**: A director is not by holding office as director prevented from creating any agreement with the Company in any capacity.
- (b) **(Contract protection)**: Any agreement created by the Company with a director, or in which a director is directly or indirectly interested in any manner, is not invalid, merely because the director is a party to or interested in that agreement.
- (c) **(Disclosure)**: A director is not liable to account to the Company for any profit derived in relation to any matter in which the director has a material interest, merely by holding office or having a fiduciary relationship as director, if the director has:
 - (i) disclosed that interest to the directors as soon as practicable after receiving actual notice of the relevant facts; and
 - (ii) complied with this Constitution and the *Corporations Act 2001* in relation to that matter.
- (d) **(General notice)**: Any general notice from any director that that director is an officer or member of any specified company or firm, which specifies the nature and extent of any interest, is sufficient

disclosure in relation to any matter involving the Company and that company or firm, except where the actual interest at the time of initial consideration of the relevant matter by the directors is greater than the specified interest.

- (e) **(Voting capacity):** A director may vote and be counted in any quorum in relation to any matter in which that director has a material personal interest, subject to compliance with the *Corporations Act 2001*.
- (f) **(Document signature):** The fact that a director has executed on behalf of the Company, or signed as a witness to the execution under seal by the Company of, any agreement in which the director is in any manner interested does not invalidate that agreement, if the director has complied with this provision and the *Corporations Act 2001*.

15.7 Alternate Directors

- (a) **(Appointment):** Any director may appoint as an alternate director, in the place of that director during any period as decided by that director:
 - (i) with the consent of a majority of any other directors, any person, whether or not a shareholder; or
 - (ii) without need for the consent of any other directors, any other director.
- (b) **(Voting):** Any alternate director is entitled to receive notice of any directors meeting and attend and vote instead of the appointing director, if that director is not present at that meeting.
- (c) **(Powers):** Any alternate director may exercise any power exercisable by the appointing director, including execution of any document, and that exercise must be treated as the exercise of that power by the appointing director.
- (d) **(Agency):** Any alternate director exercises any power as agent of the Company, and not as agent of the appointing director.
- (e) **(Director alternate):** Any alternate director, being also a director, is entitled to cast a deliberative vote in each separate capacity as a director and alternate director.
- (f) **(Termination):** The appointment of any alternate director:
 - (i) may be terminated at any time by the appointing director, even if the appointment period has not expired; and
 - (ii) terminates automatically, upon vacation of office of the appointing director as a director.
- (g) **(Notification):** Any appointment, or the termination of any appointment, of an alternate director by an appointing director must be effected by a written notice to the Company signed by the appointing director.
- (h) **(Remuneration):** Any alternate director is not entitled to any additional remuneration from the Company, except:

- (i) for payment or reimbursement of any cost under **rule 13.5** (Remuneration) applicable to remuneration of directors generally; or
 - (ii) as decided by the directors.
- (i) **(Deduction)**: Any additional remuneration paid to any alternate director must be deducted from the remuneration of the appointing director.

15.8 Committees

- (a) **(Creation)**: The directors may delegate any powers exercisable by the directors to any 1 or more committees comprising any number of directors or other persons, as decided by the directors.
- (b) **(Membership)**: Any committee may comprise 1 or more persons.
- (c) **(Delegated powers)**: Any committee must exercise any delegated power in compliance with any direction of the directors, and that exercise must be treated as an exercise of that power by the directors.
- (d) **(Remuneration)**: The directors must decide the employment or engagement provisions, including remuneration, of any committee member, not being a director.
- (e) **(Control)**: The provisions of this **rule 15** (Director Action) generally apply to any committee, as if any reference in that provision:
 - (i) to the directors, meant the committee members; and
 - (ii) to a directors meeting, meant a meeting of the committee members.
- (f) **(Minutes)**: Minutes of any meeting, action or decision of any committee must be made, entered and signed in the same manner in any respect as required under the *Corporations Act 2001* for minutes of any meeting, action or decision of the directors.

15.9 Written Resolutions

- (a) **(Resolution document)**: Any resolution of directors may be passed on the day on which, and at the time at which, any document is signed by all directors, where that document:
 - (i) is sent to each director entitled to receive notice of a meeting at which a resolution could be proposed;
 - (ii) specifies the provisions of the resolution and that each signatory is in favour of that resolution; and
 - (iii) has been signed by each director entitled to vote on that resolution.
- (b) **(Minutes)**: The resolution document takes effect as a minute of the resolution.
- (c) **(Procedure)**: For the purposes of this provision:
 - (i) 2 or more separate documents containing identical statements, each being signed by 1 or more directors, may be treated as

together constituting one document containing that statement signed by those directors at the time of signature of the document signed last in time;

- (ii) reference to a director excludes a reference to any alternate director, whose appointing director has also signed the document; and
- (iii) any fax in legible form received by or on behalf of the Company and sent by any director must be treated as signed by that director, not later than the time of that receipt.

15.10 Defective Appointment

- (a) **(Action validation):** Any action performed by any meeting of the directors, committee of directors, or person acting as a director is valid, as if each person were duly appointed and qualified to be a director or committee member.
- (b) **(Defect exclusion):** This provision applies, despite the subsequent receipt of actual notice by the Company of any defect in the appointment or disqualification of any person as a director or committee member.

16 MANAGING DIRECTOR

16.1 Appointment

- (a) **(Engagement):** The directors may at any time employ or engage 1 or more directors to perform the office of managing director for any period and on any terms decided by the directors.
- (b) **(Revocation):** The directors may at any time revoke any employment or engagement of a managing director, subject to the provisions of any applicable employment or engagement agreement.
- (c) **(Termination):** The employment or engagement of any managing director terminates automatically, in the event that the managing director ceases to be a director for any reason.

16.2 Remuneration

The directors may at any time decide the remuneration of any managing director, whether by way of salary, commission or participation in profits or any combination of any previously specified method, subject to the provisions of any applicable employment or engagement agreement.

16.3 Powers

- (a) **(Delegated powers):** The directors may confer upon a managing director any powers exercisable by the directors, subject to any provisions or restrictions decided by the directors.
- (b) **(Concurrent powers):** Any delegated powers may be concurrent with, or exclude, the powers of the directors.
- (c) **(Revocation):** The directors may at any time revoke or vary any delegated powers conferred on a managing director.

17 CORPORATE OFFICERS

17.1 Secretaries

- (a) **(Engagement)**: The directors may at any time employ or engage, and terminate the employment or engagement of, any 1 or more secretaries, upon any provisions as to remuneration or otherwise decided by the directors.
- (b) **(Director secretary)**: The shareholders may terminate the employment or engagement of any secretary, where at any time the Company has only 1 director and that director is also the secretary of the Company.

17.2 Executive Officers

- (a) **(Engagement)**: The directors may at any time:
 - (i) create any executive or other position in the Company with any powers, as decided by the directors at any time; and
 - (ii) employ or engage any person in that position, whether or not a director.
- (b) **(Termination)**: The directors may at any time terminate the employment or engagement of a person holding a position created under this provision, and abolish that position, subject to the provisions of any applicable employment or engagement agreement.

18 CORPORATE ACTION

18.1 Corporate Seal

- (a) **(Common seal)**: The Company may have a common seal.
- (b) **(Duplicate seal)**: The Company may have a duplicate common seal, in addition to any common seal.
- (c) **(Authority)**: A seal must be used only with the consent of the directors, or committee of the directors authorised by the directors to consent to the use of the seal.
- (d) **(Affixation)**: Any document to which the seal is affixed must be signed by:
 - (i) 2 directors; or
 - (ii) a director and a secretary, or any other person engaged by the directors to countersign that document, or a class of documents comprising that document; or
 - (iii) by any director in the capacity of sole director, where at any time the Company has only 1 director and no secretary or only 1 director, who is also the sole secretary of the Company.
- (e) **(Document execution)**: This provision does not limit any other method of execution of any document by the Company.

18.2 Records

- (a) **(Inspection)**: The directors may consent to the inspection by any shareholder of any business record or other document of the Company to the extent, at any time and place and under any provisions decided by the directors.
- (b) **(Shareholders)**: Any shareholder, excluding any director being a shareholder, is not entitled to inspect any business record or other document of the Company, except where any law provides otherwise or with the consent of the directors.

19 CORPORATE PROFITS

19.1 Dividend Declaration

- (a) **(Declaration)**: The directors may at any time fix for payment and declare any dividend from the profits of the Company on any share, as decided by the directors in compliance with *Corporations Act 2001* and the issue terms of any share or share class.
- (b) **(Interest)**: The Company is not liable to pay any interest in relation to any dividend.

19.2 Dividend Credit

- (a) **(Paid shares)**: Any dividend on any share must:
 - (i) be paid proportionately on and in compliance with the share payment amount of that share; and
 - (ii) be apportioned between and in relation to the share payment amount of that share during any part of the period in relation to which the dividend is paid,subject to the issue terms of that share.
- (b) **(Call prepayments)**: Any amount paid or credited as paid on any share in advance of any share call must be excluded from that share payment amount for the purpose of this provision.
- (c) **(Sourced dividends)**: The directors may at any time decide that any dividend must be paid from any 1 or more specified sources and:
 - (i) permit any shareholder to elect from which specified source that dividend may be paid by the Company to that shareholder; and
 - (ii) identify the specified source from which that dividend will be payable, if any shareholder fails to make any election.

19.3 Reserves

- (a) **(Creation)**: The directors may at any time create any reserve by appropriation from the profits of the Company of any amount decided by the directors.
- (b) **(Application)**: The directors may apply any reserve in the business of the Company or for any purpose to which the profits of the Company may be applied.

- (c) **(Investment)**: The directors may invest any reserve, pending any business or other application.
- (d) **(Accumulation)**: The directors may carry forward any profits, without appropriation to reserve, in the event that the directors decide not to distribute those profits by way of dividend.

19.4 Asset Distribution

- (a) **(Distribution)**: The directors may, at the time of declaration of any dividend, direct payment of the dividend to any extent by the distribution of specific assets, including:
 - (i) paid up marketable securities of any other company; or
 - (ii) payments or distributions of other specific assets receivable upon any share buy back or reduction of capital by any other company.
- (b) **(Adjustment)**: The directors may decide, in the event of any difficulty in relation to any distribution:
 - (i) the distribution value of the specific assets;
 - (ii) to make any cash payment to any shareholder on the basis of that value for adjustment of shareholder rights; or
 - (iii) to vest any specific assets in any trustee.

19.5 Dividend Payment

- (a) **(Payment)**: Any dividend or other amount payable in cash in relation to any share may be paid by the Company, at the sole risk of the intended recipient by:
 - (i) cheque sent by post directed to the address of the shareholder or any other address specified in writing by that shareholder;
 - (ii) electronic funds transfer to any account with any bank or other financial institution specified by that shareholder, being acceptable to the Company; or
 - (iii) any other means decided by the directors,
 or otherwise applied in compliance with any law.
- (b) **(Unclaimed payment)**: Any unclaimed dividend may be invested or otherwise applied by the directors for the benefit of the Company until claimed, subject to any applicable law.

19.6 Capitalisation

- (a) **(Resolution)**: The Company in general meeting or the directors may resolve:
 - (i) to capitalise any moneys credited to any reserve or profit and loss account or otherwise available for distribution to shareholders; and
 - (ii) to apply those capitalised moneys, in any manner specified in this provision, for the benefit of shareholders in full payment of the interest of shareholders in those capitalised moneys, in the same

proportion as the entitlement of shareholders on a distribution of moneys by way of dividend.

- (b) **(Application methods):** Specified applications for the benefit of shareholders under this provision comprise:
 - (i) payment up of any amounts unpaid on shares held by shareholders;
 - (ii) payment for the issue of marketable securities to shareholders credited as fully paid;
 - (iii) any combination of any previously specified application; or
 - (iv) any other application permitted by law.
- (c) **(Implementation):** The directors must perform any action necessary to effectuate the resolution for the adjustment of rights of shareholders, including:
 - (i) deciding the distribution value of any specific assets;
 - (ii) issue of fractional title documents or cash payments in relation to marketable securities issuable in fractions or deciding those fractions;
 - (iii) vest any cash or specific assets in any trustee for shareholders;
 - (iv) authorise any person to create any agreement with the Company on behalf of all shareholders entitled to any additional marketable securities under the capitalisation;
 - (v) create any agreement with that authorised person to provide for the issue to shareholders of marketable securities under the capitalisation credited as fully paid; and
 - (vi) create any agreement with that authorised person to provide for the payment by the Company on behalf of shareholders of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the capitalisation moneys.
- (d) **(Contractual effect):** Any agreement made with any authorised person under this provision is effective and binding on all shareholders to which that agreement applies.

19.7 Dividend Reinvestment

- (a) **(Creation):** The Company in general meeting or the directors may resolve:
 - (i) to create any plan under which any shareholder may elect that dividends on any shares held by that shareholder must be paid by the issue of fully paid ordinary shares;
 - (ii) to extend participation in any plan, at the time of or after its creation, to any holder of marketable securities of the Company comprising debt securities equating for that purpose interest on those securities with dividends; and

- (iii) to vary, suspend or terminate any plan.
- (b) **(Contractual effect)**: Any plan takes effect in compliance with its provisions.
- (c) **(Implementation)**: The directors must perform any action necessary or convenient to effectuate the plan, including:
 - (i) any issue of any shares; or
 - (ii) any appropriation, capitalisation, application, payment or distribution of moneys in connection with that issue in compliance with any law.
- (d) **(Director powers)**: The directors may exercise any powers conferred on the directors under any plan, this Constitution or the *Corporations Act 2001*, with any necessary adjustment, to perform any action specified in this provision, despite the fact that not all shareholders, or all shareholders in any share class, may participate in that plan or benefit from that action.
- (e) **(Information)**: The directors may provide any information as decided by the directors to assist any shareholder in the assessment of any opportunity for that shareholder to participate in any plan.
- (f) **(Liability exclusion)**: Each of the Company, and any director or other employee or agent of the Company, is not liable for, or to provide, any legal, tax or financial advice to any shareholder or other person in relation to any election or opportunity available to that shareholder or person.
- (g) **(Admission exclusion)**: The directors are not liable:
 - (i) to admit any shareholder; or
 - (ii) to comply with any request made by any shareholder who is not admitted,as a participant in any plan.

20 CORPORATE LIQUIDATION

20.1 Asset Deficiency

- (a) **(Application)**: This provision applies in the event that in any liquidation of the Company the assets available for distribution among shareholders are insufficient to repay all the paid up share capital.
- (b) **(Distribution)**: The assets must be distributed so that, as far as possible, the loss will be carried by shareholders in proportion to the capital paid up, or which should have been paid up, at the commencement of the liquidation on shares held by the shareholders.

20.2 Asset Surplus

- (a) **(Application)**: This provision applies in the event that in any liquidation of the Company the assets available for distribution among

shareholders are sufficient to repay all paid up capital at the commencement of the liquidation.

- (b) **(Distribution):** The excess assets must be distributed among shareholders in proportion to the capital paid up, or which should have been paid up, at the commencement of the liquidation on shares held by the shareholders.

20.3 Liquidation Powers

- (a) **(Powers):** The liquidator may in the event of any liquidation of the Company:
 - (i) with the consent of any special resolution, divide any specific assets among shareholders in kind;
 - (ii) decide a fair value for those assets; and
 - (iii) decide the manner of division among shareholders, or different classes of shareholders.
- (b) **(Shareholder trust):** The liquidator may, with the consent of any special resolution, vest any assets in any trustee upon any trust for the benefit of shareholders as contributories as decided by the liquidator, except that any shareholder must not be compelled to accept any marketable security in relation to which there is any liability.

21 CORPORATE INDEMNITY

- (a) **(Indemnity):** The Company must indemnify any present or previous director or secretary against any liability resulting from any action by that officer in that capacity to any person, excluding the Corporate Group, except for any action performed without good faith or with actual notice that that action was wrongful.
- (b) **(Legal cost):** The indemnity in favour of that officer extends to any liability comprising any cost of engagement in any legal action or proceeding, resulting in any judicial order for judgment, acquittal or relief under the *Corporations Act 2001* in favour of that officer.
- (c) **(Insurance exclusion):** The Company is not liable to indemnify any officer to the extent that that officer is entitled to an indemnity in relation to any liability under any insurance agreement.
- (d) **(Indemnity cover):** The Company may by decision of the directors create or procure any:
 - (i) indemnity in favour of; or
 - (ii) insurance for the benefit of,any present or previous director, secretary, auditor, employee or other officer of the Company.
- (e) **(Preservation):** The benefit of any indemnity given under this provision continues after any modification or deletion of this provision, in relation to any liability resulting from any fact or action occurring before that modification or deletion.

22 CORPORATE NOTICES

22.1 Notification Methods

- (a) **(Written notices):** Any notice by the Company to any shareholder may be served by:
 - (i) delivery in person;
 - (ii) post to or delivery at any address of the shareholder as specified in the register of members or any other address specified by the shareholder to the Company;
 - (iii) fax to any fax number specified by the shareholder to the Company;
 - (iv) electronic transmission to any electronic mail address specified by the shareholder to the Company; or
 - (v) service in any previously specified method on any attorney of that shareholder in compliance with this provision.
- (b) **(Attorneys):** Any shareholder may by written notice to the secretary delivered at or sent to the registered office direct that any notice by the Company be served on any attorney of that shareholder, and at an address, as specified in the notice.
- (c) **(Overseas address):** Notice to any shareholder whose address for notices is outside Australia must be sent by airmail, fax or electronic mail.
- (d) **(Omitted address):** Any shareholder is not entitled to receive any notice or document from the Company, if that shareholder has failed to deliver at or send to the registered office an address, facsimile number or electronic mail address for registration in the register of members as an address for service.

22.2 Notification Receipt

- (a) **(Postal delivery):** Service of any notice sent by post is effective upon proper addressing, prepayment and posting of that notice as at:
 - (i) in relation to any notice of a meeting, the day after the date of posting; and
 - (ii) in any other case, the time of delivery in the ordinary course of post.
- (b) **(Electronic transmission):** Service of any notice sent by fax or electronic transmission is effective upon proper addressing and transmission of the notice as at the date of transmission.

22.3 Legal Representatives

- (a) **(Notice methods):** Any notice by the Company to any legal representative of any Incapacitated Shareholder entitled to any share following any legal disability of that Incapacitated Shareholder may be served by:
 - (i) delivery in person;

- (ii) post addressed to that legal representative at any address within Australia specified by that legal representative to the Company;
 - (iii) fax to any fax number specified by that legal representative to the Company; or
 - (iv) electronic transmission to the electronic mail address specified by that legal representative to the Company.
- (b) **(Substitute address):** Any notice may be sent to the address, fax number or electronic mail address applicable to any Incapacitated Shareholder in the absence of any legal disability of that Incapacitated Shareholder, if that legal representative fails to specify any substituted address or number.

22.4 Joint Holders

- (a) **(Notices):** Joint holders of any share must specify to the Company a single address for service of any notice.
- (b) **(Payment):** Joint holders of any share must specify to the Company a single account for the payment of moneys by electronic funds transfer.
- (c) **(Receipt):** Any notice sent or payment made to the address or account specified under this provision must be treated as sent or made to all joint holders of the share.
- (d) **(Notification failure):** The Company must send any notice or payment to the address of the joint holder first named in the register of members, in the absence of any specification under this provision.
- (e) **(Release):** Any joint holder of a share may give an effective receipt or release to the Company for any payment in relation to the share.

23 DICTIONARY

Specified words and expressions for the purposes of this Constitution comprise:

“advance” in relation to any credit, means the making or extension, or borrowing, of that credit at any time and in any manner or by any means;

“agreement” means any contract, deed, covenant, undertaking, commitment, promise, understanding, acknowledgment, confirmation, term, condition, representation, warranty, assurance, provision, security interest, guarantee, waiver or legally enforceable agreement, arrangement or course of dealing, whether or not in writing and whether present or future, and the benefit of any agreement within any previous meaning;

“amendment” in relation to any agreement or document, means amendment, variation, modification, alteration, novation, assumption, supplement, renewal, replacement, substitution, exchange, or waiver of that agreement or document;

“assessment” means assessment, appraisal, evaluation, consideration, valuation, decision, determination, calculation, review, inquiry or report;

“authorised officer” in relation to any company for the purposes of any agreement at any time, means any director, secretary or person notified in that capacity by that company in or under any provision of that agreement to any party to that agreement, without withdrawal or cancellation of that notification as at that time;

“borrowing” in relation to any credit, means the borrowing of or raising moneys or incurring financial liability under or in relation to that credit in any manner or by any means;

“business day” for the purposes of any agreement, means any day on which trading banks generally are open for business in the place of receipt of any written notice, payment of any moneys or performance of any liability by any party contemplated or required under that agreement, excluding a Saturday, Sunday or public holiday in that place;

“company” means any company, body corporate, corporation, trust, partnership, joint venture, or any other incorporated or unincorporated body, association, society, organisation or entity;

“constitution documents” in relation to any company, means any replaceable rules or other constitution or other equivalent documents of or applicable to that company;

“cost” means:

- (a) any cost, charge, expense, disbursement, fee, commission, payment, outgoing, insurance premium payment, levy, tax, duty, impost, fine or penalty, whether legally due or otherwise, incurred at any time, directly or indirectly; and
- (b) in relation to legal cost, cost on a full solicitor and own client indemnity basis;

“credit” means any present or future loan, advance, credit facility or other financial accommodation;

“debt arrangement” in relation to any person, means any compromise, composition, moratorium, scheme of arrangement or reconstruction, suspension of any payment or right, restriction on any right or enforcement of any right, property transfer for the benefit of creditors, management, administration, voluntary administration, company arrangement or deed of company arrangement agreed or effected by or in connection with that person, or any creditor, asset, debt or other liability of that person;

“decision” means any decision, determination, declaration, resolution, discretion, election, opinion, consideration, assessment, appraisal, computation, calculation, valuation, certificate, certification or notice;

“default” by any person under any law, agreement or trust, means:

- (a) any default under, breach of, non-performance of or non-compliance with that law, agreement or trust or any provision of that law, agreement or trust by that person;
- (b) the occurrence of any event specified or defined in that law, agreement or trust to be a default under or breach of that law, agreement or trust

by that person, whether or not within the power or control of that person;

- (c) any fraud, action, neglect, delay, breach of duty, omission or other prejudicial conduct under or relevant in relation to that law, agreement or trust; and
- (d) the occurrence of any fact which with the giving of notice, expiry of any period of time, fulfilment of any condition or occurrence of any other fact would constitute any default within any previous meaning or any default, termination, cancellation, prepayment or similar event of any nature or description under that law, agreement or trust;

“director” includes any alternate director or sole director;

“dispute” means dispute, disagreement, difference, challenge or objection;

“dividend” in relation to any share, means:

- (a) any dividend, money or other distribution of assets, whether on account of capital or income, applied, accruing or attaching in relation to or in connection with that share, or any right under that share;
- (b) any interim dividend within any previous meaning; and
- (c) any right to or proceeds of any dividend within any previous meaning;

“entity” means any company, trust, fund, authority, institution, foundation, hospital, school, charity, partnership, society, association, club or other incorporated or unincorporated body or trustee of any trust in that capacity for the beneficiaries or charitable or other purposes of the trust;

“exercise” means:

- (a) in relation to any right, any exercise or enforcement of or obtaining or taking, or discretionary determination to refrain from the exercise or enforcement of, that right, whether actual, attempted or contemplated; and
- (b) in relation to any power, any exercise of that power or making of any decision or appointment;

“general meeting” means any general meeting of shareholders, or class of shareholders;

“guarantee” in relation to any person, means any guarantee, indemnity, undertaking, covenant, letter of credit, legally binding letter of comfort, suretyship document, irrevocable offer, put option or other legal liability of any nature or description:

- (a) to pay or purchase;
- (b) to provide moneys or credit, whether by the advance of money, purchase of or subscription for marketable securities, purchase of assets, rights or services, or otherwise, for the payment or discharge of;
- (c) to indemnify against the consequences of default in the payment of; or
- (d) to be responsible for,

any liability or the financial condition or solvency or insolvency of any other person;

“holder” in relation to any marketable security held or to be held by any person, means that person, or any nominee of that person, as the registered holder, proprietor, purchaser or transferee of that marketable security;

“incapacity” in relation to any person, means any legal or other incapacity, disability, or limitation, or any absence or lack of, or failure in the authorisation of or consent to, any capacity, power, ability or entitlement, of or affecting that person, whether acting in its own right or any other purported capacity;

“incapacitated person” means any individual person who becomes incapable or protected under or within the meaning of any legislation or other law relating to physical or mental health or welfare;

“insolvent person” means any individual bankrupt or company in liquidation;

“invalidity” means invalidity, nullity, voidability, avoidance, setting aside, unenforceability, illegality, irrecoverability, incapacity, impropriety, irregularity, deficiency, impairment, prohibition, postponement, suspension, extinguishment, frustration, failure, ineffectiveness, or limitation of or being of partial force and effect, whether total or partial, or liability to invalidity or invalidation within any previous meaning;

“issue” in relation to any marketable security held or to be held by any person, means any issue, allotment, offer, subscription, acquisition, accrual or attachment of that marketable security to, by or for the benefit of that person;

“issue right” in relation to any marketable security held or capable of being held by any person, means any right or option of that person to take up, accept, call for or require that marketable security, or the issue of that marketable security to that person;

“law” means any legislation, rule of the general law, including common law, equity and bankruptcy, judicial order, governmental consent and governmental requisition;

“legal representative” in relation to any person being:

- (a) dead or deceased, means a person named as the executor of the will of the deceased, whether or not that named person has been granted probate of the will, or the administrator of the estate of the deceased;
- (b) a minor, means the parent or guardian of the minor;
- (c) an incapacitated person, means any trustee, guardian, manager, committee or other person appointed under any legislation or other law relating to physical or mental health or welfare, whether by judicial order or otherwise, to control, manage or protect the incapacitated person or the property, affairs or business of the incapacitated person; and
- (d) an insolvent person, means the trustee in bankruptcy, receiver, manager, administrator of a deed of company arrangement, administrator or

trustee of any voluntary arrangement or composition, or liquidator of or in relation to the insolvent person;

“legislation” means:

- (a) any statute, enactment, ordinance, code or other legislation;
- (b) any section or provision of that legislation;
- (c) any order, regulation, rule, by-law, proclamation, statutory instrument or regulatory policy, guide or guideline made or issued under that legislation; and
- (d) any amendment, modification, consolidation, re-enactment or replacement of, or substitution for, any legislation within any previous meaning at any time;

“liability” in relation to any person, means any liability, debt, indebtedness, moneys, payment, cost, loss, damages, compensation, expenditure, obligation, duty, function, responsibility, accountability, answerability or agreement of, due from, payable by or to be performed by that person at any time, whether present or future, actual or contingent, alone, severally, jointly or jointly and severally and whether as principal or vicariously by or through any action performed or omitted by any employee or agent of that person;

“liquidation” as applicable to any person, means receivership, debt arrangement, merger, amalgamation, reconstruction, winding up, dissolution, bankruptcy, death or administration under any law relating to individual health or welfare;

“loss” means any loss, liability, damage, injury, accident, claim or cost, incurred at any time, and any fact causing or giving rise to any loss within any previous meaning, whether directly or indirectly, actually or potentially;

“marketable security” means:

- (a) any share;
- (b) any debenture, stock, option, bond or promissory note created or issued by any company, governmental agency or entity;
- (c) any unit or other interest in a unit trust or managed investment scheme as defined in the *Corporations Act 2001*;
- (d) any right or option in relation to any marketable security within any previous meaning; or
- (e) any marketable security within any previous meaning with special, qualified, restricted or deferred rights attaching to that marketable security,

but excludes any cheque, bill of exchange or payment order, except for a promissory note;

“minor” means an individual person under the age of 18 years;

“month” means calendar month;

“new right” in relation to any marketable security to or in which any person has a legal or equitable right, title or interest, means any new or additional

marketable security, issue right, or other right, asset or moneys issued, or to be issued, to that person at any time in relation to or in connection with that marketable security, whether by way of new issue, bonus issue, rights issue, purchase, transfer, option, redemption, capital return, capital reduction, cancellation, forfeiture, consolidation, substitution, subdivision, splitting, conversion, reclassification, preference or otherwise;

“nominee” in relation to the issue, purchase, transfer, holding or registration of any marketable security, means any nominee, appointee, agent or trustee of or for any person who has a legal or beneficial right, title or interest to or in that marketable security;

“person” means any individual natural person, the estate of any individual natural person, company, trust, governmental agency or other entity;

“power” means any right, power or decision;

“presence” in relation to any shareholder at any company meeting, means that shareholder being present at that meeting in person or by proxy, attorney, representative or other permitted agent;

“property” means any money, goods, thing in action, right, land, business undertaking and any other real or personal property, including any intellectual property or intangible asset, of any nature or description, whether present or future, tangible or intangible, vested or contingent and any legal, equitable or statutory right, title, estate, tenure, interest, income, revenue or benefit in, under, derived from or incidental to that property;

“registration” in relation to the issue or transfer of any marketable security to any person, means the registration, recording or entry of the name of that person as registered holder or proprietor of that marketable security in the register of members or other applicable register relating to marketable securities of the company issuing that marketable security;

“restriction” means restriction, limitation, qualification or liability;

“right” means any right, equity, interest, entitlement, remedy, benefit, advantage, entitlement, privilege, bonus, claim, power, authority, authorisation, function, discretion, option or right to make or give any notice, claim, request or requisition;

“seal” means any common seal or duplicate common seal;

“security interest” means:

- (a) any mortgage, charge, pledge, lien, trust or power created or conferred in relation to any asset;
- (b) any title retention interest or other proprietary title or legal interest retained or reserved in any asset;
- (c) any other right conferred on, or agreement with, any creditor to be paid in priority or preference to other creditors by recourse to any asset or its proceeds;
- (d) any acknowledgment or confirmation of any liability; or
- (e) any agreement or document created to achieve or effect any security interest within any previous meaning,

by way of security for the payment or performance of any liability;

“share” means:

- (a) any share;
- (b) any issue right or new right relating to any share; and
- (c) any right in relation to any share within any previous meaning, excluding any share option;

“share call” means:

- (a) any call on the holder relating to any share or any instalment of that call; and
- (b) any instalment or other amount payable by the holder under the issue terms of any share, whether at any fixed time or otherwise and whether or not payable subsequent to any call on the holder;

“share payment amount” in relation to any share, means any amount paid, or credited as paid, on that share under any share call;

“shareholder” means the holder of any share in, and includes any member registered in the register of, members of any company;

“subsidiary” in relation to:

- (a) a body corporate, means a subsidiary within the meaning of Division 6 of Part 1.2 of the *Corporations Act 2001*;
- (b) a trust, means a trust that would be a subsidiary within that meaning if it were a company equating for this purpose:
 - (i) shares with the beneficial interests or units held in the trust; and
 - (ii) the board of directors with the trustee; and
- (c) a body corporate or subtrust owned or held as an asset of a trust, means a subsidiary within any previous meaning which would be applicable if the trust were a body corporate;

“tax” means any tax, duty, charge or rate levied, imposed, assessed or collected by or under any legislation or governmental agency, including GST, together with any associated interest, penalty, fine, charge and fee or other amount;

“title document” in relation to any marketable security, means any certificate or other document or agreement evidencing the legal right, title or interest of any person to or in that marketable security;

“transfer” in relation to any asset, means any conveyance, transfer, assignment, assurance, alienation, disposition, factoring, discounting, bailment, delivery of possession, payment, sale, realisation, exchange, conversion, variation, disposal or vesting of, or dealing with, that asset;

“trust” means trust, settlement and will;

“validity” in relation to any agreement, document, right or consent, means the validity, subsistence, enforceability, legality, recoverability, propriety,

regularity and maintenance in full force and effect of that agreement, document, right or consent;

“voting right” in relation to any marketable security, means any right to vote or attend or make any demand for a poll at any meeting, or similar right, attaching to or exercisable in relation to that marketable security;

“waiver” in relation to any agreement or document, means any waiver of or consent to departure from any provision of, or grant to any person of any indulgence, forbearance, concession, extension of time for payment or performance of any liability or agreement to restrict or restrain any right of enforcement or legal action or proceeding or other right under, that agreement or document, whether full or partial in effect; and

“writing” includes facsimile transmission and any other means of communication or reproduction of words in a tangible and permanently visible form.