

Constitution of Ascot Resources Limited ACN 146 530 378

Corporations Act 2001 (Cth)

A Company limited by Shares

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Constitution of Ascot Resources Limited

ACN 146 530 378

Corporations Act 2001 (Cth)

A Public Company Limited by Shares

1. Name and type of Company

1.1 Name of Company

The name of the Company is Ascot Resources Limited ACN 146 530 378.

1.2 Type of company

- (a) The Company is a public company limited by shares.
- (b) The liability of the members of the Company is limited.

2. Definitions and interpretation

2.1 Definitions

In this Constitution:

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

ASIC means the Australian Securities and Investments Commission.

ASX Settlement Operating Rules means the settlement rules of the SCH.

Bonus Share Plan means a plan implemented under clause 27.

Call includes instalments of a call.

Committee means a committee of Directors established in accordance with clause 20.6.

Company means the company referred to in clause 1.1.

Constitution means this Constitution as amended or supplemented from time to time.

Director means any person holding the position of a director of the Company and includes an alternate director and **Directors** means the directors for the time being of the Company or as the context permits such number of them as have authority to act for the Company.

Dividend includes interim dividend distribution by way of shares and bonus issues.

Dividend Reinvestment Plan means a plan implemented under clause 28.

Exchange means ASX Limited ACN 008 624 691 or, as the context requires, the financial market operated by it under the name "Australian Securities Exchange."

Listed means admitted to the Official List of the Exchange.

Listing Rules means the Listing Rules of the Exchange and any other rules of the Exchange which are applicable while the Company is admitted to the Official List of the Exchange, each

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as amended or replaced from time to time, except to the extent of any express written waiver by the Exchange.

Managing Director means any person appointed to perform the duties of managing director of the Company from time to time.

Meeting means a meeting of members comprising either an annual general meeting or extraordinary general meeting duly convened.

Member Present means in connection with a meeting of members, a member being present in person or by proxy or attorney or, in the case of a corporation, by a Representative.

Month means calendar month.

Office means the registered office for the time being of the Company.

Officer has the meaning given in section 241(4) of the Act.

Prescribed Rate means the interest rate which is 2% above the Reserve Bank of Australia cash rate as published or quoted from time to time, or such other rate as may from time to time be fixed by the Directors, calculated daily.

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

Related Body Corporate has the meaning given in section 50 of the Act.

Representative means a person authorised in accordance with section 250D of the Act to act as a representative of a body corporate holding shares in the Company.

Secretary means the person appointed as the secretary of the Company and includes any assistant or acting secretary.

Securities Clearing House means any securities clearing house approved by ASIC in Australia.

Share means a share in the capital of the Company.

State means Western Australia.

Takeover Bid has the meaning given to that term set out in section 9 of the Act.

2.2 Corporations Act

- (a) Except so far as a contrary intention appears, in a provision of this Constitution that deals with a matter dealt with in a particular provision of the Act, the provision of this Constitution has the same meaning as in that provision of the Act.
- (b) The provisions of this Constitution displace the replaceable rules (but not the replaceable rules which mandatorily apply to a public company) contained in the Act.

2.3 Interpretation

- (a) Unless the contrary intention appears, a reference in this Constitution to:
 - (1) a document includes any variation or replacement of it despite any change in the identity of the parties;
 - (2) one gender includes the others;

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- (3) the singular includes the plural and the plural includes the singular;
 - (4) a person, partnership, corporation, trust, association, joint venture, unincorporated body, government body or other entity includes any other of them;
 - (5) a clause, subclause or paragraph is to a clause, subclause or paragraph of this Constitution;
 - (6) a party to a document includes the party's executors, administrators, successors, substitutes (including a person who becomes a party by novation) and permitted assigns;
 - (7) any statute, ordinance, code or other law includes regulations and other instruments under any of them and consolidations, amendments, re-enactments or replacements of any of them; and
 - (8) money is to Australian dollars, unless otherwise stated
- (b) The words include, including, such as, for example and similar expressions are not to be construed as words of limitation.
 - (c) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
 - (d) Headings and any table of contents or index are for convenience only and do not affect the interpretation of this Constitution.

3. Shares and capital

3.1 Shares and Value

Shares in the Company do not have a par value. The Directors will determine the issue price of all shares issued.

3.2 Power to issue Shares

- (a) Subject to the provisions of the Act and any special rights previously conferred on the holders of any existing shares or class of shares issued by the Company, shares in the Company are under the control of and may be issued by the Directors and any shares may from time to time be issued to such persons on terms and conditions and with preferred, deferred, qualified, guaranteed or other special rights, privileges, conditions, restrictions or limitations, whether in regard to dividend, return of capital, distribution of assets, voting or otherwise, as the Directors may determine.
- (b) The Directors may grant to any person an option to call on the Company to issue shares to the person.

3.3 Preference Shares

- (a) The Directors may issue preference shares, including preference shares which are, or at the option of the Company are, liable to be redeemed.
- (b) Each preference share confers on the holder a right to receive a preferential dividend at the rate and on the basis decided by the Directors under the terms of issue.

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- (c) In addition to the preferential dividend, each preference share may participate with the ordinary shares in profits if and to the extent the Directors decide under the terms of issue.
- (d) The preferential dividend may be cumulative if and to the extent the Directors decide under the terms of issue.
- (e) Each preference share confers on its holder:
 - (1) the right, in priority to the payment of any dividend on any other class of shares decided by the Directors under the terms of issue, to the preferential dividend; and
 - (2) the right in a winding up and on redemption to payment in cash in priority to any other class of shares decided by the Directors under the terms of issue of:
 - (A) the amount of any dividend accrued but unpaid on the share at the date of winding up or the date of redemption; and
 - (B) any amount paid on the share.
- (f) A preference share does not confer on its holder any right to participate in the profits or property of the Company (whether on a winding up, reduction of capital or otherwise) except as set out in this clause 3.3.
- (g) The holder of a preference share has the same right as the holder of an ordinary share to receive notice of and to attend a general meeting and to receive a copy of any documents to be laid before that meeting.
- (h) To the extent that Directors decide under the terms of issue, a preference share may confer a right to a bonus issue or capitalisation of profits in favour of holders of those shares only.
- (i) A preference share does not entitle its holder to vote at any general meeting of the Company except in the following circumstances:
 - (1) on a proposal:
 - (A) to reduce the share capital of the Company;
 - (B) that affects rights attached to the share;
 - (C) to wind up the Company; or
 - (D) for the disposal of the whole of the property, business and undertaking of the Company;
 - (2) on a resolution to approve the terms of a buy back agreement;
 - (3) during a period in which a dividend or part of a dividend on the share is in arrears; or
 - (4) during the winding up of the Company.

3.4 Variation of rights

- (a) The rights conferred on the holders of the shares of any class issued with preferred or other special rights will not, unless otherwise expressly provided by the terms of the

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issue of the shares of that class, be taken to be varied or cancelled by the creation or issue of further shares ranking equally with the first mentioned shares.

- (b) If the share capital is at any time divided into different classes of shares, all or any of the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the Company is being wound up, be varied or cancelled:
 - (1) with the written consent of the holders of 75% of the issued shares of that class; or
 - (2) with the sanction of a special resolution passed at a separate general meeting of the holders of shares of that class.

All the provisions of this Constitution relating to general meetings of the Company will, with appropriate modifications, apply to every such meeting except that the quorum at any such meeting is two Members Present who together hold or represent not less than 33% of the issued shares of the class and any Member Present holding shares of the class may demand a poll.

3.5 Recognition of ownership

- (a) Except as required by law, the Company will not recognise any person as holding any share on trust.
- (b) The Company is not obliged or compelled to recognise (whether or not it has notice of the interest or rights concerned) any trust, equitable, contingent, future or partial interest in any share or (except only as otherwise provided by this Constitution or by law) any other right in respect of a share except an absolute right to the share held by the registered holder.

3.6 Commission and brokerage

- (a) The Company may exercise the power to pay brokerage or commission conferred by and in the manner provided by the Act.
- (b) Payments by way of brokerage or commission may be satisfied by the payment of cash, by the allotment of fully paid or partly paid shares or partly by the payment of cash and partly by the allotment of fully paid or partly paid shares.

4. Share certificates

4.1 Certificates

- (a) The certificates for shares must be executed by the Company in the manner provided by clause 23 and be in the form from time to time prescribed by the Directors, subject to the Act.
- (b) Every member is entitled free of charge to one certificate for all the shares registered in the member's name.
- (c) In the case of joint holders of shares, the Company is not required to issue certificates to all of the joint holders and the delivery of a certificate for a share to one of several joint holders is a sufficient delivery to all of the joint holders.
- (d) Notwithstanding anything else in this Constitution, the Company need not issue a certificate, and may cancel any certificate without issuing a certificate in substitution, in

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respect of any shares in circumstances where such non-issue or cancellation of that certificate is permitted by the Act.

4.2 Replacement certificates

Subject to the Act:

- (a) if any certificate is worn out or defaced then, on production of it to the Directors, they may order it to be cancelled and may issue, on cancellation of the certificate and payment of such fee as may from time to time be determined by the Directors, a replacement certificate; and
- (b) if any certificate is lost or destroyed a replacement certificate will, on payment of such fee as may from time to time be determined by the Directors, be issued to the person entitled to the lost or destroyed certificate.

5. Calls

5.1 Power to make Calls

- (a) The Directors may from time to time as they think fit make Calls in respect of all or any money unpaid on the shares of members which is not by the conditions of issue of the shares made payable at or after fixed or defined times.
- (b) A Call may be revoked or postponed as the Directors may determine.
- (c) A Call may be made payable by instalments.

5.2 Time of Calls

A Call will be taken, for the purposes of this Constitution, to have been at the time when a resolution of the Directors authorising the Call was passed.

5.3 Differentiate between members

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

5.4 Notice of Calls

- (a) The Company must give at least 5 days' written notice to each member of any Call in respect of a share held by the member.
- (b) The failure of a member to receive a notice of a Call or the accidental omission to give notice of a Call to a member does not invalidate the Call.

5.5 Fixed Calls

- (a) Any sum which, by the terms of issue of a share, becomes payable on allotment or at or after fixed or defined times will, for the purposes of this Constitution, be taken to be a Call duly made and payable on the date on which, by the terms of issue, that sum becomes payable.
- (b) In the case of non-payment of any such sum, the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise will apply as if the sum had become payable by virtue of a Call duly made and notified.

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5.6 Liability of Members

- (a) On receipt of notice of a Call, a member must make payment of the amount called in respect of the member's holding of shares in accordance with requirements set out in the notice.
- (b) The joint holders of a share are jointly and severally liable to pay all Calls in respect of the share.

5.7 Interest on Unpaid Calls

- (a) If a sum called or otherwise payable to the Company in respect of a share is not paid on or before the due date for payment, the person from whom the sum is due must pay interest on the sum from the due date for payment to the time of the actual payment at the Prescribed Rate together with any expenses incurred by the Company as a result of the failure of the member to make payment.
- (b) The Directors may waive payment of such interest wholly or in part.

5.8 Proceedings on Default

- (a) If a Call is not paid on or before the due date for payment, the Company may proceed to recover the sum called together with interest and expenses in any court or tribunal of competent jurisdiction but the exercise of such right will be without prejudice to the right of the Company to forfeit the share of the member who has failed to make payment of the Call.
- (b) In any proceedings for the recovery of any money due on any Call, it is sufficient to prove:
 - (1) that the name of the member sued is entered in the Register as the holder or one of the holders of the share in respect of which the Call was made;
 - (2) that the resolution making the Call is recorded in the minute book of the Company; and
 - (3) that:
 - (A) notice of the Call was given to the member in accordance with this Constitution; or
 - (B) in the case of Calls payable at or after fixed or defined times by the terms of issue of any share or otherwise, such terms apply.

Proof of these matters will be conclusive evidence of the debt due, and it will not be necessary to prove the appointment of the Directors who made the Call or the passing of the resolution or any other matter.

5.9 Prepayment of Calls

- (a) The Directors may, if they think fit, receive from any member the whole or any part of the amount unpaid on any shares held by the member although no part of that amount has been Called.
- (b) The Directors may authorise the Company to pay interest on the whole or a part of the money paid in advance of Calls (until the same would, but for such advance, become payable) at the rate, not exceeding the Prescribed Rate, as may be determined by the Directors.

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- (c) The Directors may at any time repay the whole or any part of an amount paid in advance of a Call by giving to the member one month's notice in writing of the intention to do so.

6. Forfeiture and surrender

6.1 Liability to forfeiture

- (a) If a member fails to pay the whole or any part of a Call on or before the due date for payment, the Directors may at any time while the Call remains unpaid serve a notice on that member requiring payment of the unpaid amount together with any interest that may have accrued and all expenses that may have been incurred by the Company by reason of the failure to pay the Call.
- (b) The notice must:
 - (1) set a date and time (not earlier than the expiration of 14 days from the date of service of the notice) on or before which the payment required by the notice is to be made and the place where the payment is required to be made; and
 - (2) state that in the event of non-payment on or before the day and at the place appointed, the shares in respect of which the Call was made will be liable to be forfeited.
- (c) If by the terms of issue of a share an amount is payable at or after a fixed or defined time to the Company, the provisions relating to forfeiture of shares contained in this Constitution will apply in the same manner as if the fixed amount was payable by virtue of a Call made.

6.2 Effect of non-compliance with notice

- (a) If the requirements of any notice given by the Company under clause 6.1 are not complied with, any shares in respect of which the notice has been given may, at any time prior to any payment as required by the notice, be forfeited in accordance with a resolution of the Directors to that effect.
- (b) Forfeiture of a share will include all Dividends declared in respect of the forfeited share and not actually paid before the forfeiture.

6.3 Notice of forfeiture

- (a) When any share has been forfeited, notice of the resolution of forfeiture must be given to the member in whose name the share was registered immediately prior to the forfeiture and an entry of the forfeiture with the date on which forfeiture occurred must immediately be made in the Register.
- (b) A failure to give any notice of forfeiture of a share or to make the appropriate entry in the Register does not affect the validity of the forfeiture.

6.4 Annulment of forfeiture

The Directors may, at any time prior to the sale or disposal of a forfeited share, annul the forfeiture of the share on such conditions as they think fit.

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6.5 Consequences of forfeiture

A person whose shares have been forfeited:

- (a) ceases to be a member in respect of the forfeited shares at the time of the resolution of the Directors approving the forfeiture;
- (b) has no claims against the Company in respect of the forfeited shares; and
- (c) remains liable to pay the Company all money which at the date of forfeiture was payable by the person to the Company in respect of the forfeited shares together with, if the Directors think fit, interest at the Prescribed Rate from the date of forfeiture until payment of the money for the time being unpaid in respect of the forfeited shares. The Directors may enforce the payment of such money as they think fit but are not under any obligation to do so.

6.6 Evidence of forfeiture

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

6.7 Disposal of forfeited Shares

- (a) A forfeited share may be sold or otherwise disposed of on terms and in such a manner as the Directors think fit.
- (b) The Company may receive the consideration (if any) given for a forfeited share on any sale or disposition of it and may execute or authorise a person to execute a transfer of the share in favour of the person to whom the share is sold or disposed of.
- (c) On the completion of the transfer of a forfeited share, the transferee will be registered as the holder of the share and will not be bound to see to the application of any money paid as consideration.
- (d) The title of the transferee to the share will not be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture sale or disposal of the share.
- (e) Any balance of the proceeds of sale of a forfeited share remaining after the payment to the Company of all amounts due to the Company in respect of the share will be payable to the person entitled to the share immediately prior to the forfeiture.

7. Lien

7.1 Right to Lien

- (a) The Company has a first and paramount lien on every share registered in the name of a member (whether solely or jointly with others) and on the proceeds of sale of the share for all money called or payable in of that share (including interest and expenses) and any amount that the Company may be required by law to pay in respect of the share.
- (b) The Company's lien (if any) will extend to all Dividends declared in respect of a share and other entitlements arising from the share. Any such Dividends and entitlements may be applied in towards satisfaction of all amounts due and payable to the Company in respect of which the lien exists.

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- (c) Unless otherwise determined by the Directors, the registration of a transfer of shares will operate as a waiver of the Company's lien (if any) which may exist in respect of a share.
- (d) The Directors may at any time exempt a share wholly or in part from the provisions of this Constitution concerning the Company's lien.

7.2 Imposition of liabilities

- (a) This clause applies where any law for the time being of any jurisdiction in or outside of Australia:
 - (1) imposes or purports to impose any immediate or future or possible liability on the Company to make any payment; or
 - (2) empowers any government or government authority or government official to require the Company to make any payment in respect of any shares registered in the Register as held either jointly or solely by any member or in of any Dividends or other money which are or may become due or payable or are accruing due to such member by the Company on or in respect of any shares so registered,

for or on account or in respect of any member and whether in consequence of:
 - (3) the death of such member;
 - (4) the liability for any income or other tax by such member;
 - (5) the liability for any estate, probate, succession, death, stamp or other duty by the executor or administrator of such member or by or out of the member's estate; or
 - (6) any other act or thing.
- (b) If any liability referred to in subclause 7.2(a) arises or is imposed on the Company, the Company:
 - (1) will be fully indemnified by such member or his executor or administrator from all liability;
 - (2) will have a lien on the shares registered in the name of that member and all Dividends and other entitlements in respect of those shares for all money paid or payable by the Company in respect of those shares or otherwise under or in consequence of the liability and interest accruing as referred to in paragraph 7.2(b)(4);
 - (3) may recover, as a debt due from such member or his executor or administrator that money together with interest accruing as referred to in paragraph 7.2(b)(4); and
 - (4) may deduct from any Dividend or any other amount payable to the member in respect of the shares or otherwise the amount due from such member or his executor or administrator together with interest on the amount from the date of payment of the amount by the Company to the date of payment of the amount due from the member or his executor or administrator at a rate not exceeding the Prescribed Rate, but the Directors will be entitled to waive the payment of interest in whole or in part.

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- (c) The rights conferred by law on the Company in respect of any liability of a member to the Company will not be prejudiced by this clause and will be enforceable by the Company against the member or his executor or administrator.

7.3 Suspension of Rights

A member will not be entitled to exercise any rights or privileges as a member until all Calls and other money due and payable (including expenses and interest) in respect of which the Company holds a lien over the member's shares have been paid in full.

7.4 Enforcement of Lien

- (a) Subject to subclause 7.4(b), the Company may sell, in such a manner as the Directors think fit, any shares on which the Company has a lien.
- (b) A share on which the Company has a lien will not be sold unless:
 - (1) a sum in respect of which the lien exists is presently payable; and
 - (2) at least 14 days prior to the date of the sale, the Company has given notice in writing to the member or the person entitled to the share by reason of the death, bankruptcy or lunacy of the member stating and demanding payment of the amount in respect of which the lien exists and which is presently due and payable.

7.5 Completion of sale under a Lien

- (a) To give effect to a sale of shares in respect of which the Company has a lien the Directors may authorise a person to transfer the shares sold to the purchaser of those shares.
- (b) The purchaser of the shares will be registered as the holder of the shares comprised in any such transfer and the purchaser will not be bound to see to the application of the purchase money.
- (c) The title of the purchaser to the shares will not be affected by any irregularity or invalidity in connection with the sale.
- (d) The shares transferred to the purchaser will be transferred free from liability to make payment of any amount to the Company except for the consideration for the shares and any other amount agreed between the Company and the purchaser.

7.6 Appropriation of proceeds

The proceeds of any sale made under a lien which are received by the Company will be applied in or towards payment of the amount in respect of which the lien exists and which is presently due and payable including accrued interest and expenses. The residue (if any) will (subject to a like lien for amounts not presently due and payable as existed on the shares before the sale) be paid to the person entitled to the shares immediately prior to the date of sale.

8. Transfer of Shares

8.1 Transfer of Shares

- (a) Subject to this Constitution and the Act, a member's shares may be transferred by instrument in writing in the usual or common form or in such other form as the Directors may from time to time approve.

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- (b) Where a member's shares are transferred by instrument in writing the instrument must be executed by both the transferor and the transferee.
- (c) In order to enable an instrument of transfer of shares to be registered the following documents must be lodged for registration at the Office:
 - (1) the instrument of transfer, duly stamped in accordance with any relevant law;
 - (2) the certificate (if any) for the shares or satisfactory evidence of the loss or destruction of the certificate as the Directors are entitled to require under this Constitution; and
 - (3) any other information that the Directors may require to establish the transferor's rights to transfer the shares and the beneficial ownership of the shares.

8.2 Transfers Generally

- (a) No fee may be charged by the Company on the transfer of any shares.
- (b) The transferor of a share will remain the holder of the share until the name of the transferee is entered in the Register in respect of the share.

8.3 Refusal to Register

The Directors may decline to register any transfer of shares in the Company where the requirements of subclauses 8.1(b) and 8.1(c) have not been satisfied and may in addition decline to register any transfer of shares if:

- (a) the shares are not fully paid; or
- (b) the Company has a lien on the shares.

In such case, the Company must within seven days after the transfer was lodged with the Company give written notice of the refusal to the person lodging the transfer.

8.4 Retention of transfer documents

All instruments of transfer which are registered will be retained by the Company but any instrument of transfer which the Directors may decline to register must (except in case of fraud) be returned on demand in writing to the person who lodged it with the Company.

8.5 Suspension of transfers

The registration of transfers of shares may be suspended and the Register closed at such times and for such periods as the Directors think fit not exceeding an aggregate of 30 days in each calendar year.

9. Transmission of Shares

9.1 Title to Shares on death

- (a) In the case of the death of a member:
 - (1) the survivor or survivors where the deceased was a joint holder; and
 - (2) the legal personal representative of the deceased where the deceased was a sole holder,

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will be the only persons recognised by the Company as having any title to the deceased's interest in the shares.

- (b) The Directors are entitled to require such evidence satisfactorily proving the death of the member as they think fit.
- (c) Nothing in this Constitution will release the estate of a deceased joint holder from any liability in respect of any share which has been jointly held by the holder with other persons.

9.2 Registration of other persons

- (a) Any person becoming entitled to shares in consequence of the death or bankruptcy of any member or under any law relating to mental health may on such information being produced as may from time to time properly be required by the Directors elect either:
 - (1) to be registered personally as holder of the shares; or
 - (2) to have some other nominated person registered as the transferee of the shares.
- (b) If the person so becoming entitled elects to be registered as the holder of the shares, the person must deliver or send to the Company a notice in writing signed by the person stating the election made. If the person elects to have another person registered as the holder of the shares the person entitled must transfer the shares to the other person.
- (c) All the limitations, restrictions and provisions of this Constitution relating to:
 - (1) the right to transfer shares;
 - (2) the registration of a transfer of shares; and
 - (3) the right of the Directors to decline to register a transfer of shares,are applicable to any notice or transfer effected under this clause.

9.3 Rights on entitlement

- (a) A person entitled to be registered as a member in respect of shares by transmission will on production of all information as is properly required by the Directors, be entitled to the same Dividends and other advantages and to the same rights (whether in relation to meetings of the Company or to voting or otherwise) as the registered holder would otherwise have been entitled.
- (b) Where two or more persons are jointly entitled to any share in consequence of the death of a member they will for the purposes of this Constitution, be deemed to be joint holders of the share.

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10. Alteration of capital

10.1 Power to alter capital

The Company may by resolution passed in general meeting:

- (a) subject to clause 3.4, convert all or any of its shares on issue into a larger or smaller number of shares and, in doing so, any amount unpaid on shares which are converted is to be divided equally among the replacement shares;
- (b) cancel any shares which have been forfeited and reduce the amount of its share capital by the amount of the shares so cancelled;
- (c) subject to clause 3.4, convert any class of share into any other class of share.

10.2 Power to reduce capital

The Company may from time to time, in the manner permitted by the Act, reduce its share capital.

10.3 Share buy backs

The Company may buy back its own shares on terms and at times determined by the Directors, provided that any purchase must be in accordance with the Act.

11. General meetings

11.1 Convening of general meetings

- (a) Any Director may whenever he thinks fit convene a general meeting of the Company.
- (b) Except as provided by the Act, no member or members be entitled to convene a general meeting.
- (c) A general meeting of the Company may be convened at two or more venues using any technology that gives the members a reasonable opportunity to participate in the meeting.

11.2 Notice of general meeting

- (a) Subject to consent to shorter notice being given in accordance with the Act, at least 21 days' notice of any general meeting must be given specifying:
 - (1) the place, day and hour of the meeting;
 - (2) the general nature of any business to be transacted at the meeting;
 - (3) if a special resolution is to be proposed, the details of and intention to propose it;
 - (4) if the meeting is to be held in two or more places the technology that will be used to facilitate this; and
 - (5) any other information required by the Act.

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- (b) The accidental omission to give notice of any general meeting to or the non-receipt of notice of a meeting by any person entitled to receive notice will not invalidate the proceedings at or any resolution passed at the meeting.

11.3 Cancellation or postponement of General Meeting

- (a) Subject to the provisions of the Act and this Constitution the Directors may cancel a general meeting of the Company:
 - (1) convened by the Directors; or
 - (2) which has been convened by a member or members under the Act on receipt by the Company of a written notice withdrawing the requisition signed by that member or those members.
- (b) The Directors may postpone a general meeting or change the venue at which it is to be held. No business may be transacted at any postponed meeting other than the business stated in the notice to the members relating to the original meeting.
- (c) Where any general meeting is cancelled or postponed or the venue for the same is changed:
 - (1) the Directors must notify in writing each person entitled to receive notice of the meeting of the cancellation, the change of venue or the postponement of the meeting by any means permitted by this Constitution not less than 2 days prior to the date on which the meeting was proposed to be held, and in the case of the postponement of a meeting, the new place, date and time for the meeting; and
 - (2) any failure to notify in writing any person entitled to receive notice of the meeting or failure of a person to receive a written notice will not affect the validity of the cancellation, the change of venue or the postponement of the meeting.

12. Proceedings at general meetings

12.1 Quorum

- (a) No business may be transacted at any general meeting unless a quorum of members is present at all times during the meeting.
- (b) Two Members Present and entitled to vote constitute a quorum for all general meetings except where the Company has a single member in which case a quorum is constituted by that member. If a member has appointed more than one proxy or Representative, only one of them is to be counted for the purposes of the quorum.
- (c) If within 30 minutes after the time appointed for holding a general meeting a quorum is not present:
 - (1) the meeting if convened on the requisition of members will be dissolved;
 - (2) in any other case:
 - (A) it will stand adjourned to the same day in the next week at the same time and place or to such other day time and place as the Directors may by notice to the members appoint; and

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- (B) if at such adjourned meeting a quorum is not present within 30 minutes after the time appointed for the holding of the meeting the meeting will be dissolved.

12.2 Chairperson

- (a) The chairperson of Directors will be entitled to preside as chairperson at every general meeting.
- (b) Where a general meeting is held and:
- (1) there is no chairperson; or
 - (2) the chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or if present is unwilling to act as chairperson of the meeting,
- the Directors present may choose another Director as chairperson of the meeting. If no Director is so chosen or if all the Directors present decline to take the chair the Members Present may choose one of their number to be chairperson of the meeting.
- (c) The rulings of the chairperson of a general meeting on all matters relating to the order of business, procedure and conduct of the meeting will be final and no motion of dissent from such rulings will be accepted.
- (d) At any time during a meeting and in respect of any specific item or items of business, the chairperson may elect to vacate the chair in favour of another person nominated by the chairperson (which person must be a Director unless no Director is present or willing to act). That person is taken to be the chairperson and will have all the power of the chairperson (other than the power to adjourn the meeting) during the consideration of that item of business or those items of business.

12.3 Adjournments

- (a) If at a general meeting at which a quorum is present the Members Present with a majority of votes agree or direct the chairperson to do so, the chairperson must adjourn from time to time and place to place as the meeting determines, the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion or the taking of any poll and may adjourn any business, motion, question, resolution, debate, discussion or poll either to a later time at the same meeting or to an adjourned meeting.
- (b) The adjournment of any business, motion, question, resolution, debate, discussion or poll will not prevent the continuance of any other business remaining to be considered at the general meeting.
- (c) No business may be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (d) A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.
- (e) It is not necessary to give any notice of an adjournment of a general meeting or of the business to be transacted at the adjourned meeting except if the meeting is adjourned for 30 days or more in which case notice of the adjourned meeting must be given as in the case of an original meeting.

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12.4 Voting rights

Subject to this Constitution and to any rights or restrictions for the time being attached to any class or classes of shares:

- (a) at meetings of members or classes of members each member entitled to attend and vote may attend and vote personally or by proxy or by attorney or in the case of a corporation, by its Representative;
- (b) no person will be entitled to vote unless the person is a member or the proxy or attorney of a member or in the case of a corporation, its Representative;
- (c) every Member Present entitled to vote has one vote on a show of hands;
- (d) on a poll every Member Present entitled to vote has:
 - (1) one vote for every fully paid up share held; and
 - (2) in the case of partly paid shares a fraction of a vote equivalent to the proportion which the amount paid up on that member's share bears to the total issue price for the share.

12.5 Voting disqualification

A member is not entitled to be present or to vote at any general meeting unless all Calls and other sums presently payable by the member in respect of shares held by the member have been paid.

12.6 Objection to qualification to vote

Any challenge as to the qualification of a person to vote at a general meeting or the validity of any vote tendered may only be raised at the meeting and must be determined by the chairperson whose decision will be final and conclusive and a vote allowed by the chairperson will be valid for all purposes.

12.7 Votes of joint holders

In the case of joint holders of a share any holder may vote but the vote of the person whose name appears first in the Register in respect of the share, whether in person or represented by proxy, attorney or Representative, will be accepted to the exclusion of the votes of the other joint holders.

12.8 Persons of unsound mind and minors

- (a) A member of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental health or who is a minor may vote whether on a show of hands or on a poll by his committee or by such other person as properly has the management or guardianship of his estate or by the public trustee (as the case may be) and the committee or other person or trustee may vote by proxy or representative.
- (b) Any person having the right of management or guardianship of the person or estate in respect of a member as referred to in subclause 12.8(a) must not exercise any of the rights conferred under that clause unless and until the person has provided to the Directors satisfactory evidence of the appointment of the person accordingly.

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12.9 Representatives

- (a) A person authorised as a Representative shall be exercised to exercise all of the rights and privileges of the appointor as a member.
- (b) The original form of appointment of a Representative, a certified copy of the appointment or a certificate of the body corporate evidencing the appointment of a Representative is evidence of a Representative having been appointed.

12.10 Voting

- (a) At any general meeting a resolution to be considered at the meeting will be decided on a show of hands unless a poll is demanded by:
 - (1) the chairperson of the meeting;
 - (2) at least five Members Present and entitled to vote on the resolution; or
 - (3) by a Member Present or Members Present who represent at least 5% of the votes that may be cast on the resolution on a poll.

However, if the Company has only one member, the member may pass a resolution in the manner set out in section 249B of the Act.

- (b) Before a vote on a resolution is taken, the chairperson must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- (c) A declaration by the chairperson of the result of a vote on a resolution by a show of hands and an entry to that effect contained in the minutes of the proceedings of the Company which has been signed by the chairperson of the meeting or the next succeeding meeting will be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

12.11 Polls

- (a) A poll may be demanded:
 - (1) before a vote on a resolution is taken;
 - (2) before the voting results on a show of hands are declared; or
 - (3) immediately after the voting results on a show of hands are declared.
- (b) If a poll is demanded it must be taken in such manner and at such time and place as the chairperson of the meeting directs subject to subclause 12.11(e).
- (c) The result of the poll will be taken to be the resolution of the meeting at which the poll was demanded.
- (d) The demand for a poll will not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.
- (e) A poll demanded on the election of a chairperson or any question of adjournment of the meeting must be taken immediately.
- (f) The demand for a poll may be withdrawn.

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12.12 Chairperson's casting vote

In the case of an equality of votes whether on a show of hands or on a poll the chairperson of the meeting at which the show of hands is taken or at which the poll is demanded is entitled to a casting vote in addition to any vote or votes to which he may be entitled to as a member.

12.13 Right of non-members to attend general meeting

- (a) The chairperson of a general meeting may invite any person who is not a member to attend and address a meeting.
- (b) Directors who are not members will be entitled to attend and address a general meeting.
- (c) Any Secretary who is not a member will be entitled to attend and, at the request of the chairperson, address a general meeting.
- (d) Any auditor of the Company will be entitled to attend and address a general meeting.

13. Proxies

13.1 Right to appoint proxies

- (a) A member who is entitled to attend and vote at a general meeting of the Company may appoint a person as the member's proxy to attend and vote for the member at the meeting and such person need not be a member.
- (b) The instrument appointing the proxy may specify the proportion or number of votes that the proxy may exercise.
- (c) If a member is entitled to cast two or more votes at a general meeting, the member may appoint not more than two proxies.
- (d) If a member appoints one proxy only, that proxy is entitled to vote on a show of hands. If a member appoints two proxies, only one proxy is entitled to vote on a show of hands.
- (e) Where a member appoints two proxies but the appointment does not specify the proportion or number of votes that each proxy may exercise, each proxy may exercise half of the votes of the member.
- (f) Any fraction of a vote resulting from a member appointing two proxies who are entitled to exercise the member's voting rights in respect of a proportion of the member's shares is to be disregarded.

13.2 Appointing a proxy

- (a) The instrument appointing a proxy must be in writing signed by the appointor or the appointor's attorney duly authorised in writing or if the appointor is a corporation signed by an authorised officer or attorney of the corporation.
- (b) The instrument of proxy is valid if it contains the information required by the Act which at the date of this Constitution is the following information:
 - (1) the name and address of the member;
 - (2) the name of the Company;

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- (3) the proxy's name or the name of the office of the proxy; and
- (4) the meetings at which the instrument of proxy may be used.
- (c) An instrument of proxy may be expressed to be a standing appointment. An instrument of proxy for a specified meeting is only valid for that meeting and any postponement or adjournment of that meeting.
- (d) An instrument of proxy will not be treated as invalid merely because it does not specify all of the information required by subclause 13.2(b).
- (e) An instrument of proxy may be revoked at any time by notice in writing to the Company.

13.3 Lodgement of proxies

- (a) An instrument appointing:
 - (1) a proxy and the power of attorney or other authority (if any) under which it is signed or executed or a certified copy of that power or authority; or
 - (2) an attorney to exercise a member's voting rights at a general meeting or a certified copy of that power of attorney,

must be deposited at the Office or at such other place as is specified for that purpose in the notice convening the general not less than 48 hours (or such shorter period as the Directors may allow) before the time appointed for the holding of the meeting or adjourned meeting as the case may be at which the person named in the instrument proposes to vote and in default the instrument of proxy or the power of attorney will not be treated as valid.

- (b) For the purposes of this clause, it will be sufficient that any document required to be lodged by a member be received in legible form by facsimile at the place at which the document is required to be delivered by the member and the document will be regarded as received at the time the facsimile was received at that place.

13.4 Validity of proxies

- (a) A vote exercised under an instrument of proxy, a power of attorney or other instrument of appointment is valid notwithstanding:
 - (1) the death or unsoundness of mind of the member;
 - (2) the bankruptcy or liquidation of the member;
 - (3) the revocation of the instrument of proxy or the power of attorney or any instrument under which the instrument or the power was granted, or
 - (4) the transfer of the share in respect of which the instrument of proxy or the power of attorney was granted,

if the Company has not received at its Office written notice of the death, unsoundness of mind, bankruptcy, liquidation, revocation or transfer at least 48 hours (or such shorter period as the Directors may allow) prior to the time appointed for the holding of the general or adjourned meeting, as the case may be, at which the instrument of proxy or the power of attorney is exercised.

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- (b) A proxy who is not entitled to vote on a resolution as a member may vote as a proxy for another member who can vote if the appointment specifies the way the proxy is to vote on the resolution and the proxy votes that way.

13.5 Rights of proxies and attorneys

- (a) The instrument appointing a proxy will be taken to confer authority to demand or join in demanding a poll.
- (b) Unless a member by the instrument of proxy directs the proxy to vote in a certain manner the proxy may vote as the proxy thinks fit on any motion or resolution. Otherwise the proxy will follow the voting instructions contained in the instrument of proxy.
- (c) A proxy will not be revoked by the appointor attending and taking part in any general meeting but if the appointor votes on a resolution either on a show of hands or on a poll the person acting as proxy for the appointor will not be entitled to vote in that capacity in respect of the resolution.
- (d) Notwithstanding clause 12.7, where an instrument of proxy is signed by all of the joint holders of any share, the votes of the proxy so appointed will be accepted in respect of that share to the exclusion of any votes tendered by a proxy for any one of those joint holders.
- (e) The chairperson of a general meeting may require any person acting as a proxy to establish to the satisfaction of the chairperson that he is the person nominated as proxy in the form of proxy lodged under this Constitution. If the person is unable to establish his identity he may be excluded from voting either up on a show of hands or on a poll.

14. Appointment and removal of Directors

14.1 Number of Directors

- (a) The number of Directors (not including alternate Directors) must not be less than three nor more than nine unless otherwise determined by the Company by resolution in general meeting.
- (b) Subject to any resolution of the Company determining the maximum and minimum Directors, the Directors may from time to time determine the respective number of "Executive" and "Non-Executive" Directors.

14.2 Director's qualifications

A Director is not required to hold shares in the Company.

14.3 Appointment of Directors

- (a) Subject to the Act, the Company may by resolution passed in general meeting:
 - (1) remove any Director; or
 - (2) appoint a person as a Director (whether or not as a replacement for a Director who has been removed or otherwise ceased to be a Director).
- (b) A Director elected or removed as a Director at a general meeting is taken to have been elected or removed with effect immediately after the end of that general meeting

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unless the resolution by which the Director was appointed or removed specifies a different time.

- (c) Subject to the Act, the Directors may at any time appoint any person as a Director either to fill a casual vacancy or as an addition to their number. Any Director so appointed must have his appointment confirmed by resolution passed at the next annual general meeting of the Company after the appointment is made. If the appointment is not confirmed at that meeting, the person ceases to be a director of the Company at the end of that meeting.
- (d) The Directors may act despite any vacancy in their body but if the number falls below the minimum fixed (if any) in accordance with clause 14.1 the Directors may act for the purpose of increasing the number of Directors to the minimum or of convening a general meeting or in emergencies but for no other purpose.

14.4 Vacation of office

- (a) Any Director may retire from office on giving written notice to the Company at the Office of his intention to retire and the resignation will take effect at the time expressed in the notice (provided the time is not earlier than the date of delivery of the written notice to the Company).
- (b) In addition to other circumstances in which the office of a Director becomes vacant as provided in this Constitution, the office of a Director will automatically be vacated if the Director:
 - (1) is prohibited from being or ceases to be or is removed as a Director under the provisions of the Act or by reason of any order made under the Act;
 - (2) becomes an insolvent under administration or makes any composition or arrangement with his creditors or any class of his creditors;
 - (3) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (4) is absent from meetings of the Directors during a period of six consecutive months without special leave of absence from the Directors and the Directors as a result declare his office to be vacant;
 - (5) dies.

15. Alternate Directors

15.1 Appointment of alternate Director

- (a) Any Director may in writing signed by the Director appoint any person who is approved by the majority of the other Directors to be an alternate Director in the appointor's place during any period the appointor thinks fit.
- (b) A Managing Director may not appoint an alternate to act as Managing Director.

15.2 Rights and powers of alternate Directors

- (a) Every alternate Director is entitled:
 - (1) to receive notice of meetings of the Directors, if the appointor requests notice to be given to the alternate Director; and

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- (2) to attend and vote at meetings of the Directors at which the appointor is not present.
- (b) An alternate Director may exercise all the powers and rights of the appointor in the absence of the appointor and will be subject to the same terms and conditions affecting the appointor.
- (c) The exercise of any power by an alternate Director will have the same effect as if the appointing Director had exercised the power. The exercise of such power will be as agent of the Company and not as agent of the appointor.
- (d) An alternate Director does not require any share qualification and is not entitled to receive any remuneration from the Company for acting as alternate Director although he will be entitled to be reimbursed for expenses incurred in the same manner as Directors are entitled to be reimbursed for expenses under this Constitution.

15.3 Suspension or revocation of appointment

- (a) A Director may at any time revoke or suspend the appointment of an alternate Director appointed by him by notice in writing signed by the Director and delivered to the Office.
- (b) The Directors may at any time suspend or remove an alternate Director by resolution after giving the appointor reasonable notice in writing of their intention to do so.

15.4 Termination of appointment

The appointment of an alternate Director will automatically terminate if:

- (a) the appointor of the alternate Director ceases to be a Director;
- (b) an event occurs which if the alternate Director were a Director would result in the vacation of the office of Director; or
- (c) the alternate Director resigns as an alternate Director by written notice delivered to the Office and the appointor of the alternate Director.

15.5 Acting as alternate for more than one Director

A Director or any other person may act as an alternate Director to represent more than one Director.

16. Managing Director

16.1 Power to Appoint

- (a) The Directors may from time to time appoint one of their number to the office of Managing Director for such period and on such terms and conditions (including as to remuneration) as they think fit.

16.2 Qualifications

The provisions of this Constitution which apply to the resignation, disqualification and removal of Directors will apply to the Managing Director and if the Managing Director ceases to be a Director for any reason then his appointment as Managing Director will automatically terminate.

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16.3 Powers

- (a) The Directors may from time to time entrust to and confer on a Managing Director any of the powers exercisable by the Directors on terms and conditions and with any restrictions they think fit.
- (b) Any powers conferred on a Managing Director will be concurrent with the powers of the Directors and not to the exclusion of such powers.
- (c) The Directors may from time to time revoke, withdraw, alter or vary all or any of the powers conferred on a Managing Director.

16.4 Temporary appointments

If a Managing Director becomes at any time incapable of acting as such the Directors may appoint any suitably qualified person to temporarily act as Managing Director.

16.5 Removal or dismissal

The Directors may at any time remove or dismiss a Managing Director from his office and appoint another suitably qualified person in his place, subject to the terms of any contract between the Company and the relevant person.

17. Remuneration of Directors

17.1 Remuneration of Directors

- (a) The Directors will be paid for their services as Directors such fees (not exceeding in aggregate the maximum sum that is from time to time approved by the Company in general meeting) as the Directors determine.
- (b) The sum so fixed will be divided among the Directors in such proportion and manner as they agree or, failing agreement, equally.
- (c) No "Non-Executive" Director shall be paid as part or whole of their remuneration a commission on or a percentage of profits or a commission on or a percentage of operating revenue and no "Executive" Director shall be paid as part or whole of their remuneration a commission on or a percentage of operating revenue.
- (d) The remuneration of each Director for his ordinary services as Director under this clause will be regarded as accruing from day to day and will be apportioned accordingly.

17.2 Remuneration of Managing Director

Subject to the provisions of any contract between the Company and the relevant person the remuneration of a Managing Director will from time to time be fixed by the Directors.

17.3 Payment of expenses

The Directors will be entitled to be paid or reimbursed for all travelling and other expenses properly incurred by them in connection with any meeting of the Directors, any meeting of a Committee, general meetings of the Company and otherwise in connection with the business or affairs of the Company.

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18. Powers and duties of Directors

18.1 Powers of Directors

- (a) Subject to the Act and this Constitution, the management and control of the business and affairs of the Company will be vested in the Directors who may exercise all powers of the Company which are not by the Act or this Constitution required to be exercised by the Company in general meeting.
- (b) No resolution passed by the Company in general meeting will have the effect of invalidating any prior act of the Directors which would have been valid if the resolution had not been passed.

18.2 Borrowing powers

The Directors may exercise all the powers of the Company to:

- (a) raise or borrow any sum or sums of money for the purposes of the Company; and
- (b) secure the payment or repayment of any amount payable by the Company and any other obligation or liability in such manner and on such terms and conditions as they think fit whether on the security of any mortgage or by the issue of debentures of the Company or charged on all or any of the property, undertaking and assets of the Company both present and future and on all or any of its uncalled capital.

18.3 Negotiable instruments

All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed as the case may be by the persons and in the manner determined from time to time by the Directors and, failing such determination, by any two Directors.

18.4 Attorneys and agents

- (a) The Directors may from time to time by resolution, power of attorney or other instrument appoint any firm, company, corporation or person or body of persons whether nominated directly or indirectly by the Directors to be the attorney or agent of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for such period and subject to such conditions as the Directors may from time to time think fit.
- (b) Any such resolution, power of attorney or other instrument may contain provisions for the protection and convenience of persons dealing with the attorney or agent as the Directors think fit and may also authorise the attorney or agent to delegate all or any of the powers, authorities and discretions for the time being vested in the attorney or agent.

18.5 Conferment of powers

- (a) The Directors may from time to time confer on any Director for the time being or any other person as they may select such of the powers exercisable under this Constitution by the Directors as they may think fit for such time and to be exercised for such purposes and on such terms and conditions and with such restrictions as they think expedient.
- (b) Powers conferred under this clause may be exercised concurrently with the powers of the Directors in that regard and the Directors may from time to time withdraw, revoke or vary all or any of such powers.

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18.6 Inadvertent omissions

If it is discovered that a formality required by this Constitution to be done has been inadvertently omitted or has not been carried out, such omission will not invalidate any resolution, act, matter or thing which but for such omission would have been valid unless it is proved to the satisfaction of a majority of the Directors that such omission has directly and materially prejudiced any member. The decision of the Directors on any such question will be conclusive, final and binding on all members.

19. Directors' disclosure of interest

19.1 Contracts with Directors

- (a) A Director may hold any other office or place of profit under the Company except that of auditor of the Company in conjunction with the office of Director and may act in a professional capacity in relation to the Company and in any such case on such terms as to remuneration and otherwise as the Directors may determine.
- (b) A Director will not be disqualified by his office from contracting with the Company either with regard to such other office or place of profit or as vendor purchaser or otherwise, nor will:
 - (1) any such contract or any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested be avoided; or
 - (2) any Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or arrangement by reason only of the Director holding that office or of the fiduciary relationship established by the Director holding that office,but the nature of his interest must be disclosed by him in the manner required by the Act.
- (c) No Director may vote as a Director in respect of any contract or arrangement in which he has a material interest and if does so his vote will not be counted for the purpose of a quorum.

19.2 Disclosure of interest

- (a) A general notice given to the Directors by a Director that the Director is an officer, a member of or otherwise interested in any specified corporation or firm stating the nature and the extent of the Director's interest the corporation or firm will in relation to any matter involving the Company and that corporation or firm after the giving of the notice, be a sufficient disclosure of the Director's interest, provided that the extent of the interest is no greater at the time of first consideration of the relevant matter by the Directors than was stated in the notice.
- (b) A Director shall not be deemed to be interested or to have been at any time interested in any contract or arrangement by reason only that, in a case where the contract or arrangement has been made or will be made with, for the benefit of, or on behalf of a Related Body Corporate, he or she is a member in that Related Body Corporate.

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20. Proceedings of Directors

20.1 Meetings of Directors

- (a) The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings and proceedings as they think fit.
- (b) A Director may at any time, and on the request of a Director the Secretary must, convene a meeting of Directors by giving notice of the meeting to all Directors except a Director who the person convening the meeting reasonably believes to be outside Australia.
- (c) Notice of a meeting of Directors must be given no less than 24 hours' notice in advance of such meeting and need not be in writing.
- (d) Without limiting the discretion of the Directors to regulate their meetings under this clause, a meeting of the Directors may with the consent of all Directors consist of a conference between Directors some or all of whom are in different places if each Director who participates is able:
 - (1) to hear each of the other participating Directors addressing the meeting; and
 - (2) if he so wishes, to address each of the other participating Directors simultaneously,

whether directly, by conference telephone, video conferencing or any other form of communications equipment or by a combination of such methods. A meeting held in this way will be taken for the purposes of this Constitution to be held at the place where the largest group of participating Directors is assembled or, if no such group is readily identifiable, at the place where the chairperson of the meeting participates. Any Director may, by prior notice to the Secretary, indicate that he wishes to participate in a meeting in such manner. In this event, the Directors, if they all consent to the meeting being held in the manner referred to in this clause must procure that an appropriate conference facility is arranged at the expense of the Company. A Director who has consented to a meeting being held in the manner referred to in this clause may only withdraw his consent within a reasonable period before the meeting.

- (e) No Director may leave a conference held in accordance with subclause 20.1(d) by disconnecting his means of communication unless he has previously obtained the express consent of the chairperson of the meeting. A Director will be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone or other means of communication unless he has previously obtained the express consent of the chairperson to leave the conference.
- (f) All resolutions of the Directors passed at a meeting of Directors where a quorum is present but where notice of the meeting has not been given as required to each Director, or any act carried out under such resolution, will, provided each Director to whom notice was not given subsequently agrees to waive the requirement for notice of the meeting, be as valid as if notice of the meeting had been duly given to all Directors.

20.2 Quorum

Until the Directors resolve to the contrary, two Directors personally present (or in conference in accordance with subclause 20.1(d)) form a quorum, notwithstanding that less than two Directors may be permitted to vote on any particular resolution or resolutions at that meeting for any reason whatsoever, and a quorum must be present at all times during the meeting. An alternate Director, provided that he is not also a Director, will be counted in a quorum at a meeting at which his appointor is not present.

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20.3 Chairperson

- (a) The Directors may elect one of their number to be chairperson of their meetings and determine the period during which the chairperson is to hold office.
- (b) If a meeting of Directors is held and:
 - (1) a chairperson has not been elected, or
 - (2) the chairperson is not present at the time appointed for the holding of the meeting or otherwise does not wish to chair the meeting,the Directors present must elect one of their number to be chairperson of the meeting.

20.4 Voting

- (a) A resolution of the directors must be passed by a majority of votes of the Directors present at the meeting who vote on the resolution. A resolution passed by a majority of the votes cast by the Directors will for all purposes be taken to be a determination of the Directors.
- (b) Each Director will have one vote except that a person who is an alternate Director will be entitled (in addition to his own vote if he is a Director) to one vote on behalf of each Director whom he represents as an alternative Director at the meeting and who is not personally present.
- (c) In case of an equality of votes at a meeting of Directors, the chairperson has a casting vote in addition to his deliberative vote, but the chairperson shall have no casting vote where only two or less Directors are competent to vote on the question.

20.5 Circular resolutions by Directors

- (a) A resolution in writing signed by a majority of the Directors for the time being entitled to vote in relation to the resolution (not being less than a quorum) and stating that the signatories are in favour of the resolution will be as valid and effectual from the time it is signed by the last Director as if it had been passed at a duly convened meeting of Directors provided each Director has received reasonable notice of the resolution.
- (b) A resolution in writing may consist of several documents in like form each signed by one or more Directors.
- (c) Every such resolution will be deemed to have been passed on the day and at the time at which the document was last signed by a Director. An alternate Director may sign such a document in the place of an alternate Director's appointor.
- (d) A facsimile transmission which is received by the Company and which purports to have been signed by a Director or an alternate Director will for the purposes of this clause be taken to be in writing and signed by that Director or alternate Director at the receipt of the facsimile transmission by the Company in legible form.

20.6 Committee of Directors

- (a) The Directors may form and delegate any of their powers to a Committee consisting of such Directors as they think fit and may from time to time revoke such delegation.
- (b) A Committee must in exercise of the powers delegated to it conform to any directions and restrictions that may be imposed on it by the Directors. A power so exercised will be taken to be exercised by the Directors.

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- (c) The meetings and proceedings of any Committee consisting of more than one person will be governed by the provisions for regulating the meetings and proceedings of the Directors contained in this Constitution.
- (d) A minute of all the proceedings and decisions of every Committee will be made, entered and signed in the same manner in all respects as minutes of proceedings of the Directors are required by the Act and this Constitution to be made entered and signed.
- (e) Where a Committee consists of only one Director, a document signed by that Director recording his decision as the Committee will be valid and effective as if it were a decision made at a meeting of that Committee and that document will constitute a minute of that decision.
- (f) Questions arising at a meeting of a Committee shall be determined by a majority of votes of the members present and voting. In case of an equality of votes, the chairperson shall have a casting vote.

20.7 Validation of acts of Directors

All acts done:

- (a) at any meeting of the Directors;
- (b) by a Committee;
- (c) by any person acting as a Director; or
- (d) by any person purporting to act as an attorney of the Company under a power of attorney executed by the Company,

will even if it is discovered afterwards that there was a defect in the appointment or continuance in office of any such Director, person or attorney or that they or any of them were duly disqualified or were not entitled to vote, be as valid as if every such person had been duly appointed or had continued in office and was duly qualified to be a Director or attorney and had been entitled to vote.

21. Minutes

21.1 Minutes

- (a) The Directors must cause minutes to be kept in accordance with the Act for the purposes of recording:
 - (1) the names of the Directors present at each meeting of the Directors and of Directors present at each meeting of any committee;
 - (2) all orders, resolutions and proceedings of general meetings and of meetings of Directors and of Committees; and
 - (3) such matters as are required by the Act to be recorded in the record books of the Company including, without limitation, all declarations made or notices given by any Director of his interest in any contract or proposed contract or the holding of any office or property whereby any conflict of duty or interest may arise.
- (b) Such minutes must be signed by the chairperson of the meeting, or the chairperson of the next succeeding and minutes which purport to be signed accordingly will be

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received in evidence without any further proof as sufficient evidence that the matters and things recorded by such minutes actually took place or happened as recorded and of the regularity of such matters and things and that the same took place at a meeting duly convened and held.

22. Secretary

22.1 Appointment and Tenure

One or more Secretaries will, in accordance with the Act, be appointed by the Directors on terms and conditions (including remuneration) as they think fit.

22.2 Removal

Any Secretary so appointed may be removed by the Directors.

23. Local management

- (a) The Directors may provide for the management and transaction of the business and affairs of the Company in any place in Australia or elsewhere to the extent permitted by law.
- (b) The Directors may from time to time establish any local boards of directors, managers, branch offices or agencies for managing the affairs of the Company in any locality and may:
 - (1) appoint any persons to be Members of such local boards of directors or managers or agents; and
 - (2) fix their remuneration.
- (c) The Directors may at their discretion make regulations for the management of any local board, branch office or agency from time to time.
- (d) All local boards of directors, branch offices, agencies, local directors, agents, officers, clerks, servants and workmen wherever located shall at all times be under the control of the Directors.
- (e) Except for the power of making calls which cannot be delegated, the Directors may from time to time delegate to any person appointed under clause 23(b) any of the powers, authorities and discretions for the time being vested in the Directors other than and may authorise the Members for the time being of any local board of directors or any of them to fill any vacancies therein and to act notwithstanding such vacancies.
- (f) Any appointment made under clauses 23(b) or 23(e) shall be made on such terms and conditions as the Directors determine at their discretion.
- (g) The Directors may at any time:
 - (1) remove any person appointed under clauses 23(b) and 23(e); and
 - (2) annul or vary any delegation of their powers to persons so appointed.
- (h) Any person appointed under clauses 23(b) or 23(e) may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in that person.

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- (i) If a Director is in any place where there is a local board of directors, the Director shall be entitled to act and vote at all meetings of the local directors.

24. Execution of documents

24.1 Common seal

If the company has a common seal, the directors must provide for the safe custody of the seal.

24.2 Authority

No document, writing or other material may be executed by the Company except by the authority of the directors or of a committee of the directors authorised in that behalf.

24.3 Execution

- (a) Without limiting the manner in which the Company may execute any agreement, deed, share certificate (if any) or other document, the Company may execute any such document either with or without the use of a common seal.
- (b) Every document which is executed must be signed (whether with or without the common seal):
 - (1) (where the Company has a sole director and secretary) by that person; or
 - (2) (where the Company has more than one director) by at least one director, a director and secretary or a director and another person specifically authorised by the directors for that purpose.
- (c) A director may be appointed as a director in whose presence any document or instrument may be executed by the Company notwithstanding that he is interested in the Contract or arrangement to which the document or instrument relates.

25. Dividends and reserves

25.1 Declaration of Dividends

- (a) Subject to the provisions of the Act and any special rights and restrictions attached to any shares the Directors may from time to time declare and pay Dividends as appear to them to be justified by the profits of the Company.
- (b) No Dividend will bear interest against the Company.

25.2 Crediting and paying Dividends

- (a) Subject to subclause 25.2(d) and any special rights and restrictions attached to any shares, all Dividends will be declared and paid according to the amount paid or credited as paid on the shares on which the Dividend is to be paid.
- (b) No amount paid or credited as paid on a share in advance of a Call will be treated for the purposes of this clause as paid or credited as paid on the share.
- (c) Dividends will be apportioned and paid proportionately to the amounts paid on the shares during any portion or portions of the period in respect of which the Dividend is paid but if any share is issued on terms providing that it will rank for Dividend as from a particular date that share will rank for Dividend accordingly.

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- (d) If at any time there is more than one class of share on issue, any Dividend may be declared and paid and any distribution of capitalised profits may be made on the shares of any one or more classes of shares to the exclusion of any other class. In addition any Dividend declared and paid or distribution made in respect of the shares of any class may be at a higher or lower rate than or at the same rate as the Dividend declared and paid or distribution made on the shares of any other class.

25.3 Reserves

- (a) The Directors may at any time set aside out of the profits of the Company such sums as they think proper as reserves which will at the discretion of the Directors be applicable for any purpose to which the profits of the Company may be properly applied.
- (b) Pending any such application the reserves may either be employed in the business of the Company or invested in such investments as the Directors may from time to time think fit.
- (c) The Directors may carry forward any profits which they may think prudent not to distribute as Dividends without placing those profits to reserve.

25.4 Deductions from dividends

The Directors may deduct and retain from any Dividend payable to a member all sums of money presently payable by the member to the Company on account of Calls or other sums due in relation to shares held by the member and may apply that Dividend in or towards satisfaction of such debts and liabilities.

25.5 Dividends paid in kind

- (a) The Directors when declaring a Dividend may direct that the Dividend be paid wholly or partly by cash, the issue of shares or the distribution of specific assets and in particular of fully paid shares of any other company.
- (b) The Directors may settle any difficulty which arises with regard to a distribution of specific assets by way of Dividend as they think expedient and in particular in order to adjust the rights of all members may:
 - (1) fix the value for distribution of specific assets or any part of them;
 - (2) determine that cash payments will be made to any members on the basis of the value so fixed in order to adjust the rights of all parties; and
 - (3) vest any cash or specific assets in trustees on trust for all the members entitled to the Dividend.

25.6 Payment of dividends

- (a) Any Dividend, interest or other money payable in cash in respect of shares may be paid by cheque sent through the post directed to the address of the holder as shown in the Register or in the case of joint holders to the address shown in the Register of the joint holder who is first named in the Register unless the holder or joint holders notify the Company in writing of another address.
- (b) Any one or more of the joint holders of a share may give effectual receipts for any Dividends, interest or other money payable in respect of shares held by them as joint holders.

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- (c) Subject to any applicable law, all Dividends declared but unclaimed may be invested or otherwise used by the Directors for the benefit of the Company until claimed or dealt with in accordance with the relevant law.

26. Capitalisation of profits

26.1 Capitalisation of profits

Subject to the Act and the rights and restrictions attaching to shares, the members in general meeting or the Directors may from time to time resolve to capitalise any profits in any manner approved by the members or the Directors (as the case may be) for the benefit of members in the proportions to which those members would have been entitled in a distribution of those profits by way of Dividend.

26.2 Director's powers on capitalisation

- (a) The Directors must do all things necessary to give effect to any resolution passed as referred to in clause 26.1 and in particular to the extent necessary to adjust the rights of the members may, without limitation:
 - (1) make cash payments in cases where securities become issuable in fractions or determine that fractions may be disregarded;
 - (2) fix the value for distribution of any specific assets or any part of any assets;
 - (3) vest any cash or specific assets in trustees and on trusts for the person entitled; and
 - (4) authorise any person to make on behalf of members entitled to any further securities on the capitalisation, an agreement with the Company providing for the issue to them as fully paid up, of any such further securities or for the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised.
- (b) Any agreement made under an authority referred to in paragraph 26.2(a)(4) is effective and binding on all members concerned.

27. Bonus Share Plan

27.1 Authorisation of Bonus Share Plan

Subject to the Act, the Company may, by ordinary resolution in general meeting, authorise the Directors to implement a Bonus Share Plan on such terms and conditions as are referred to in the resolution and which plan provides for any dividend which the Directors may declare from time to time under clause 25, less any amount which the Company shall either pursuant to this Constitution or any law be entitled or obliged to retain, not to be payable on shares which are participating shares in the Bonus Share Plan but for those shares to carry instead an entitlement to receive an allotment of additional fully paid ordinary shares to be issued as bonus shares.

27.2 Amendment and Revocation

Any resolution passed by the Company in general meeting pursuant to clause 27.1 may, at any time, be amended or revoked by the Company by ordinary resolution in general meeting.

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28. Dividend Reinvestment Plan

28.1 Authorisation of Dividend Reinvestment Plan

Subject to the Act, the Company may by resolution of the Directors, implement a Dividend Reinvestment Plan on such terms and conditions as are referred to in the resolution and which plan provides for any dividend which the Directors may declare from time to time under clause 25 and payable on shares which are participating shares in the Dividend Reinvestment Plan, less any amount which the Company shall either pursuant to this Constitution or any law be entitled or obliged to retain, to be applied by the Company to the payment of the subscription price of ordinary fully paid shares.

28.2 Amendment and Revocation

Any resolution passed by the Company in general meeting pursuant to clause 27.1 may, at any time, be amended or revoked by the Company by ordinary resolution in general meeting.

29. Takeover Approval

Subject to the provisions of the Act, where offers have been made for shares in the Company under a Takeover Bid and each such offer relates to a proportion of these shares in the Company included in a class of shares being a proportion that is the same in respect of each offer, the Directors shall refuse to register a transfer giving effect to a contract resulting from the acceptance of any offer under the Takeover Bid unless the following provisions have been complied with:

- (a) the Directors shall convene a Meeting of the Company to be held in accordance with this Constitution on a day which is not less than 14 days prior to the end of the period during which the offers made under the Takeover Bid remain open;
- (b) at the Meeting referred to the members entitled to vote in accordance with clause 29(c) shall consider and vote on a resolution approving the Takeover Bid which resolution shall be taken to have been passed if the votes cast in favour of the resolution exceed 50% of all votes validly passed in respect of the resolution; and
- (c) for the purposes of the resolution referred to in clause 29(b) a person (other than the offeror under the Takeover Bid or a person associated within the meaning of the Corporations Act with the bidder) who, as at 5.00pm on the day on which the first offer under the Takeover Bid was made, held shares included in the class of shares the subject of the Takeover Bid is entitled to vote and despite anything contained in this Constitution shall have one vote for each such share held.

30. Accounts and inspection of records

30.1 Accounts and inspection

The Directors must cause proper financial records to be kept and must distribute copies of the financial reports of the Company and a Director's report in accordance with the requirements of the Act and also from time to time to determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the Company or any of them will be open to the inspection of members not being Directors. No member (not being a Director) has any right of inspection of any account or book or paper of the Company except as conferred by law or authorised by the Directors.

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30.2 Confidential information

No member (not being a Director) will be entitled to require or receive any information concerning the business, trading or customers of the Company or any trade secret, secret process or other confidential information of or used by the Company.

31. Notices

31.1 Service of Notices

- (a) A notice may be given by the Company to any member by:
 - (1) serving it on the member personally;
 - (2) sending it by post to the member or leaving it at the member's address shown in the Register or otherwise the address supplied by the member to the Company for the giving of notices;
 - (3) facsimile to the facsimile number supplied by the member to the Company for the giving of notices; or
 - (4) sending it to the electronic address supplied by the member to the Company for the giving of notices.
- (b) Any member who has not left at or sent to the Office his place of address for inclusion in the Register as the place at which notices may be given to the member will not be entitled to receive any notice.
- (c) Where a notice is sent by post, service of the notice will be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and will be deemed to have been effected on the day after the date of posting. Service of a notice to a member outside Australia will be deemed to have been made in the ordinary course of the post.
- (d) Where a notice is sent by facsimile or other electronic means, service of the notice will be taken to be effected by properly addressing and sending the notice and in such case will be taken to have been effected on the business day after it is sent.
- (e) A notice may be given by the Company to the persons entitled to a share in consequence of the death, lunacy or bankruptcy of a member by:
 - (1) service on the member personally;
 - (2) sending it by post addressed to the person by name or by the title of the representative of the deceased or lunatic or the assignee of the bankrupt or by any like description at the address, if any, within Australia supplied for the purpose by the person claiming to be entitled; or
 - (3) by giving the notice in any manner in which the same might have been given if the death, lunacy or bankruptcy had not occurred.
- (f) Evidence of service of a notice may be established by proving that the envelope containing the notice and stamped appropriately was properly posted and a certificate given by any Officer of the Company to that effect will be conclusive evidence of service.

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31.2 Notices to joint holders

A notice may be given by the Company to the joint holders of a share by giving notice to the joint holder first named in the Register in respect of the share and such notice will be taken to be notice to all joint holders.

31.3 Notices of General Meeting

Subject to the rights and restrictions attaching to any share and subclause 31.1(b), notice of every general meeting must be given in any manner authorised by this Constitution to:

- (a) every member;
- (b) every person entitled to a share in the Company in consequence of the death or bankruptcy of a member or under the law relating to mental health;
- (c) every Director; and
- (d) the auditor (if any) for the time being of the Company.

32. Winding Up

32.1 Distribution

- (a) If the Company is wound up and the assets available for distribution among the members are insufficient to repay the whole of the paid up capital those assets will be distributed so that as nearly as may be the losses will be borne by the members in proportion to the capital paid up or which ought to have been paid up at the commencement of the winding up on the shares held by them respectively.
- (b) If the Company is wound up and the assets available for distribution among the members are more than sufficient to repay the whole of the capital paid up at the commencement of the winding up the excess will be distributed among the members in proportion to the capital paid up or which ought to have been paid up at the commencement of the winding up on the shares held by them respectively.
- (c) No amount paid or credited as paid on a share in advance of a Call will be treated for the purposes of this clause as paid or credited as paid on the share.

32.2 Distribution in kind

- (a) If the Company is wound up the liquidator may with the sanction of a special resolution of the Company divide among the members in kind the whole or any part of the assets of the Company (whether they consist of property of the same kind or not) and the liquidator may:
 - (1) for that purpose set such value as he considers fair on any assets to be divided;
 - (2) determine how the division will be carried out as between the members or different classes of member; and
 - (3) vest the whole or any part of any such assets in trustees on such trusts for the benefit of the members as the liquidator thinks fit but so that no member will be compelled to accept any shares or other securities on which there is any liability.

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33. Indemnity

33.1 Indemnity

To the extent permitted by law every Officer (and former Officer) of the Company will be indemnified out of the funds of the Company against all costs, expenses and liabilities incurred as such an Officer or employee (or former Officer or employee). However, no such Officer (or former Officer) will be indemnified out of the fund of the Company under this clause unless:

- (a) it is in respect of a liability to another person (other than the Company or a related body corporate to the Company) where the liability to the other person does not arise out of conduct involving a lack of good faith; or
- (b) it is in respect of a liability for costs and expenses incurred:
 - (1) in defending proceedings, whether civil or a criminal in which judgement is given in favour of the Officer (or former Officer) or in which the Officer (or former Officer) is acquitted; or
 - (2) in connection with an application, in relation to such proceedings, in which the court grants relief to the Officer (or former Officer) under the Act.

33.2 Payment of indemnity policy premium

- (a) To the extent permitted by law the Company may at the discretion of the Directors enter into and/or pay a premium in respect of a policy of insurance insuring an Officer (or former Officer) of the Company against any liability incurred by such person in that capacity (whether in respect of acts or omissions prior to or after the date of the issue of the policy or both) except for:
 - (1) a liability arising out of conduct involving a wilful breach of duty in relation to the Company; or
 - (2) a contravention of sections 232(5) or 232(6) of the Act.

The Directors have the discretion to approve the terms and conditions of any such policy of insurance.
- (b) Where an Officer (or former Officer) has the benefit of an indemnity under an insurance policy in respect of his actions or omissions then the Company will not be required to indemnify the Officer under clause 33.1 except to the extent that the indemnity affected by the insurance policy does not fully cover the persons liability.

33.3 Indemnity to continue

The indemnity granted by the Company contained in clause 33.1 will continue in full force and effect notwithstanding the deletion or modification of that clause, in respect of acts and omissions occurring prior to the date of the deletion or modification.

34. Directors access to information

Where the Directors consider it appropriate, the Company may:

- (a) give a former Director access to certain papers, including documents provided or available to the Directors and other papers referred to in those documents; and
- (b) bind itself in any contract with a Director or former Director to give such access.

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35. Discovery

Save as provided by the Act no member shall be entitled to require of any information in respect of any details of the Company's trading or any matter which is or may be in the nature of a trade secret, mystery or trade or technical process which may relate to the business of the Company and which in the opinion of the Directors it would be expedient in the interests of the members of the Company to communicate.

36. Listing and ASX Settlement Operating Rules

36.1 Listing

If the Company is Listed and for so long as the Company remains Listed, the following provisions shall apply:

- (a) even if contrary to a provision in this Constitution, if the Listing Rules prohibit an act being done, the act must not be done;
- (b) no provision contained in this Constitution may prevent an act being done that the Listing Rules require to be done;
- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require this Constitution to contain a provision which is omitted, this Constitution is deemed to contain that provision;
- (e) if the Listing Rules require this Constitution to omit a provision which is in this Constitution, this Constitution is deemed not to contain that provision; and
- (f) if any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

36.2 Inconsistency

If the Company is Listed and for so long as the Company remains Listed, this Constitution (other than clause 36) is also to be read as subject to the ASX Settlement Operating Rules and in the case of any inconsistency between any Rule (other than clause 36) and any provision of the ASX Settlement Operating Rules, the provisions of the ASX Settlement Operating Rules shall prevail and the Rule should be read down accordingly.

The provisions of clause 36 shall be paramount and given full force and effect despite any inconsistency between any clause or any provision of the ASX Settlement Operating Rules.

[See Appendix 15A of the Listing Rules].

37. Sale of less than minimum holding

37.1 Application

- (a) If the Company is Listed and for so long as the Company remains Listed, the provisions of this clause 37 shall apply.
- (b) This clause 37 has effect notwithstanding any other provision of this Constitution to the contrary and shall override the same to the extent of any inconsistency.

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37.2 Definitions

In this clause:

Continuation Election Notice means a notice by a Small Holder in the form contained on or enclosed with a Continuing Member Notice and completed and signed in accordance with the instructions on the Continuing Member Notice, notifying the Company that this clause is not to apply to that Small Holder so that that Small Holder may remain as the holder of the shares registered in its name.

Continuing Member Notice means a notice issued under clause 37.3 below.

Election Deadline means 5.00pm (Australian Western Standard Time) on a date specified in a Continuing Member Notice, being a date not less than six weeks after the date of dispatch of that Continuing Member Notice.

Marketable Parcel means marketable parcel as defined in the Listing Rules.

Sale Consideration means the consideration received for the sale of any shares (less any unpaid Calls, instalments or interest (if any) accrued on those instalments) under this clause.

Small Holders means persons registered, either alone or jointly with any other persons, as the holders of less than a Marketable Parcel of a class of shares in the Company.

37.3 Minimum Shareholding

Subject to the provisions of this clause, the Directors may determine no more than once in any 12 Month period, to require all (and not merely some) of the Small Holders of any class of shares in the Company to elect whether they wish to remain as the holders of the shares of that class in the Company registered in their name by forwarding to each such Small Holder (including all persons registered jointly) a Continuing Member Notice containing or enclosing:

- (a) details of the shares of that class in the company held by the Small Holder;
- (b) statements to the effect that:
 - (1) the Company intends to invoke the provisions of this clause which allows for the sale of shares of that particular class held by all Small Holders in that class;
 - (2) if the Company does not receive from any such Small Holder a Continuation Election Notice by the Election Deadline, the Company will be, subject to this clause, entitled to sell the shares of that particular class held by those particular Small Holders in its absolute discretion; and
 - (3) in the case of a Member whose shares are in a CHESS holding, that the Company may, without further notice, after the Election Deadline, move the shares from the CHESS holding to an Issuer Sponsored or certificated holding for the purpose of sale;
- (c) a Continuation Election Notice;
- (d) a copy of the text of this clause; and
- (e) any other information which the Directors may desire to include.

37.4 Continuing Election Notice

- (a) If a Small Holder on whom a Continuing Member Notice has been served wants to keep the shares referred to in the Continuing Member Notice, the Small Holder must

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give the Company a Continuing Election Notice which must be received by the Company before the Election Deadline, in which event the Company will not sell the shares referred to in the Continuing Member Notice.

- (b) If a Small Holder on whom a Continuing Member Notice has been served does not give a Continuing Election Notice which is received by the Company before the Election Deadline, the Company shall be entitled to, subject to this clause:
- (1) if the Small Holder holds those shares in a CHESS Holding, move those shares from the CHESS Holding to an Issuer Sponsored or a certificated holding for the purpose of the sale; and
 - (2) in any case, sell those shares in accordance with this clause,
- but only if the shares held by the Small Holder in the class of shares the subject of the Continuing Member Notice are, at the Election Deadline, less than a Marketable Parcel.
- (c) If a Small Holder provides a Continuing Election Notice it may at any time withdraw or revoke such notice, in which case, the provisions of this clause 37 will apply.

37.5 Appointment of Company

Any shares to be sold under this clause may be sold on such terms and conditions, in such manner, at such prices and to such persons (including the Company itself where authorised by law) as the Directors may, in their absolute discretion, think fit and, for the purposes of such sale, each such Small Holder shall be deemed to have:

- (a) appointed the Company as its agent for sale;
- (b) authorised the Company to effect on its behalf a transfer of the shares sold and to deal with the proceeds of the sale of the shares in accordance with this clause;
- (c) appointed the Company, its Directors and the Secretary at the relevant time jointly and severally as its attorney to execute any instrument or take such steps in its name and on its behalf as they or any of them may consider appropriate to transfer the shares so sold; and
- (d) authorised each of the attorneys appointed under clause 37.5(c) to appoint an agent to do a thing referred to in clause 37.5(c).

37.6 Procedures

Any transferee of any shares sold under this clause shall not be bound to see to the regularity of any procedure or to the application of the purchase consideration in respect of such sale nor shall any transferee be required to produce the certificates in respect of such shares to enable registration. Once the transferee has been registered as the holder of such shares the transferee's title shall not be affected by any irregularity or invalidity in any procedure and the only remedy of any Small Holder aggrieved by the sale of its shares under this clause shall be in damages only and against the Company exclusively and shall be limited to the amount of the relevant Sale Consideration.

37.7 Sale Consideration

- (a) The Sale Consideration shall be held by the Company in trust for the Small Holder whose shares have been so sold.
- (b) On receipt of the Sale Consideration, the Company shall forthwith notify such Small Holder in writing that the relevant class of shares held by it have been sold and that the

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relevant Sale Consideration is being held by the Company pending the receipt by the Company of written instructions as to how such money is to be dealt with. If the Small Holder has been issued with a share certificate or certificates, to be effective, the Small Holder's instructions must be accompanied by the share certificate or certificates in respect of such shares sold or, if the certificate or certificates have been lost or destroyed, by a statement and undertaking under section 1070D(5) of the Corporations Act.

- (c) The costs and expenses of any sale of shares under this clause (including legal costs and disbursements, brokerage and stamp duty) shall be borne and paid by the Company.

37.8 Rights of the Directors

Despite any provision of this clause 37, either express or implied, to the contrary:

- (a) the Directors shall not be bound to exercise the powers conferred by this clause and shall be entitled, at any time prior to a sale of shares being effected, to suspend or terminate its use by written notice to the Small Holders affected;
- (b) the accidental omission by the Company to give any notice required under this clause or the non-receipt of any such notice by any Small Holder shall not invalidate any action undertaken in good faith under this clause;
- (c) the Directors may, in its absolute discretion, settle any ambiguity, difficulty, anomaly or dispute which may arise in relation to the operation of this clause; and
- (d) no sale of any shares under this clause shall be undertaken if prior to such sale a Takeover Bid to acquire shares of the same class as the shares which are to be sold under this clause has either been announced as being intended to be made or has been made and is still open for acceptance.

37.9 Application of Listing Rules

If the Company is Listed, this clause shall be subject to the potential operation of the Listing Rules or the ASTC Settlement Rules (as the case may be) to the shares intended to be sold under this clause.

[See Listing Rule 15.13]