

# Constitution

**9 Spokes International Limited**  
**New Zealand company number 3538758**

## **1. PRELIMINARY**

### **1.1 Name of Company**

The name of the Company is 9 Spokes International Limited, New Zealand company number 3538758.

### **1.2 Liability of shareholders**

The liability of a shareholder is limited.

### **1.3 Previous constitution displaced**

On and from the date that this Constitution is approved by the members, any previous constitution of the Company is displaced by this Constitution in its entirety and does not apply to the Company.

### **1.4 Defined terms**

In this Constitution, except where the context otherwise requires:

(a) an expression in a clause of this Constitution has the same meaning as in the Companies Act; and

(b) the following expressions in this Constitution have the meaning below:

**Alternate Director** means a person appointed as an alternate director under clause 15.4.

**ASX Settlement** means ASX Settlement Pty Limited ABN 49 008 504 532.

**ASX Settlement Rules** means the operating rules of ASX Settlement.

**ASX** means ASX Limited ABN 98 008 624 691.

**ASX Listing Rules** means the listing rules of ASX and any other rules of ASX applicable to the Company or the Shares while the Company is admitted to the Official List, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX.

**Auditor** means the Company's auditor.

**Business Day** means Monday to Friday inclusive, except New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day and any other day that ASX declares is not a business day.

**CHESS Holding** has the same meaning as in the ASX Settlement Rules.

**Companies Act** means the Companies Act 1993 (New Zealand) as amended or replaced from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Company.

**Company** means 9 Spokes International Limited, New Zealand company number 3538758

**Constitution** means the constitution of the Company as amended from time to time.

**CS Facility Rules** means the operating rules of an applicable clearing and settlement (CS) facility licensee.

**Director** means a person appointed to the position of a director of the Company and where appropriate, includes an Alternate Director.

**Directors** means all or some of the Directors acting as a board.

**Dividend** includes bonus.

**Executive Director** has the meaning given by clause 16.

**Issuer Sponsored Holding** has the same meaning as in the ASX Settlement Rules.

**Managing Director** means a Director appointed as managing director under clause 16.1(a).

**Marketable Parcel** has the same meaning as in the business rules of ASX in force from time to time.

**Non-Executive Director** means a Director who is not an Executive Director.

**Non-Marketable Parcel** means a parcel of securities that is less than a Marketable Parcel.

**Register** means the register of shareholders of the Company.

**Representative** means a person appointed by a shareholder to act as its representative under clause 11.10(a).

**Restricted Securities** has the same meaning as in the ASX Listing Rules.

**Shares** means shares in the share capital of the Company.

## 1.5 Interpretation

- (a) In this Constitution, except where the context otherwise requires:
  - (i) the singular includes the plural and vice versa, and a gender includes other genders;

- (ii) another grammatical form of a defined word or expression has a corresponding meaning;
  - (iii) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Constitution, and a reference to this Constitution includes any schedule or annexure;
  - (iv) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
  - (v) a reference to A\$, SA, dollar or \$ is to Australian currency; and
  - (vi) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.
- (b) Headings are for ease of reference only and do not affect interpretation.
- (c) Notwithstanding any other provision of this constitution, before the Company is admitted to the Official List of the ASX, a provision of this Constitution subject to or in any way restricted by the ASX Listing Rules or the CS Facility Rules is construed as if it were not subject to or restricted by the ASX Listing Rules or the CS Facility Rules.
- (d) For as long as the Company is admitted to the Official List of ASX, the following clauses apply:
- (i) Notwithstanding anything contained in this Constitution, if the ASX Listing Rules prohibit an act being done, the act shall not be done.
  - (ii) Nothing contained in this Constitution prevents an act being done that the ASX Listing Rules require to be done.
  - (iii) If the ASX Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be).
- (e) If the ASX Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision.
- (f) If the ASX Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision.
- (g) If any provision of this Constitution is or becomes inconsistent with the ASX Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

## **2. SHARES**

### **2.1 Issue of Shares**

- (a) Subject to the Companies Act, the ASX Listing Rules and this Constitution, the Directors may issue and allot, or dispose of, Shares:
  - (i) on terms determined by the Directors;

- (ii) at the issue price that the Directors determine; and
  - (iii) to Shareholders whether in proportion to their existing shareholdings or otherwise, and to such other persons as the Directors may determine.
- (b) The provisions of sections 45(1) and 45(2) of the Companies Act shall not apply to any issue or proposed issue of shares by the Company.
- (c) The Directors' power under clause 2.1(a) includes the power to:
  - (i) grant options over Shares;
  - (ii) issue and allot Shares:
    - (A) with any preferential, deferred or special rights, privileges or conditions;
    - (B) with any restrictions in regard to dividend, voting, return of capital or otherwise;
    - (C) which are liable to be redeemed;
    - (D) which are bonus Shares for whose issue no consideration is payable to the Company; or
    - (E) which have any combination of the characteristics described in clauses 2.1(c)(ii)(A) to 2.1(c)(ii)(E) inclusive.

## **2.2 Alteration of Rights**

The issue of additional Shares ranking equally with, or in priority to, existing Shares, whether as to voting rights or distributions, is deemed not to be an action affecting the rights attached to the existing Shares.

## **2.3 Rights**

Subject to this Constitution and to the terms of issue of Shares, all Shares attract the following rights:

- (a) the right to receive notice of and to attend and vote at all meetings of shareholders of the Company;
- (b) the right to receive dividends; and
- (c) in a winding up or a reduction of capital, the right to participate equally in the distribution of the assets of the Company (both capital and surplus), subject to any amounts unpaid on the Share.

## **2.4 Commission and brokerage**

Any brokerage or commission which may be paid by the Company may be made in cash, by the issue and allotment of Shares, or the issue of debentures, or by a combination of any of those methods.

## **2.5 Joint holders**

- (a) If two or more persons are registered as the holders of a Share, they are taken to hold the Share as joint tenants with the benefit of survivorship subject to the following provisions:
  - (i) the person whose name stands first on the Register is the only joint holder entitled to receive notices from the Company and any notice given to that person is deemed notice to all the joint holders;
  - (ii) only the person whose name stands first on the Register as one of the joint holders of the Shares is entitled (if the Company is required by the Listing Rules) to issue certificates for Shares or to delivery of a certificate relating to the Shares; and
  - (iii) the joint holders of the Shares are liable severally as well as jointly in respect of all payments which ought to be made in respect of the Shares.
- (b) Any one of the joint holders of a Share may give an effective receipt for any dividend or return of capital payable to the joint holders.
- (c) The Company is entitled to and in respect of CHESS Holdings, must:
  - (i) record the names of only the first three joint holders of a Share on the Register;
  - (ii) regard the three joint holders of a Share appearing first on the Register as the registered holders of that Share to the exclusion of any other holders; and
  - (iii) disregard the entitlement of any person to be registered on the Register as a holder if the name of the person would appear on the Register after the first three holders for that Share.

## **2.6 Equitable interests not recognised**

- (a) Except as required by law, the CS Facility Rules or as otherwise provided by this Constitution, the Company is entitled to treat the registered holder of any Shares as the absolute owner of the Share and is not, except as ordered by a Court or as required by statute, bound to recognise (even when having notice thereof) any equitable or other claim to or interest in the share or the part of any other person.
- (b) This clause applies even if the Company has notice of the relevant trust, interest or right.

## 2.7 Share certificates

- (a) The Directors will not, unless they determine otherwise or the ASX Listing Rules require, issue a certificate to a shareholder for any Shares registered in the shareholder's name or record any holding as held on a certificated subregister.
- (b) Any certificate for Shares must be issued and despatched in accordance with the ASX Listing Rules and the CS Facility Rules.
- (c) Subject to the ASX Listing Rules, the Directors may in their absolute discretion elect whether to maintain a certificated subregister for any class of Shares.
- (d) The Directors may order worn out or defaced certificates to be cancelled and, if necessary, replaced by new certificates.

## 2.8 Class meetings

- (a) The rights attached to any class of Shares may be varied in accordance with the Companies Act.
- (b) The provisions of this Constitution relating to meetings of shareholders apply, with necessary changes, to a meeting of a class of shareholders holding Shares in that class as if it was a meeting of shareholders except that:
  - (i) a quorum is two persons holding or representing by proxy, attorney or Representative not less than 5% of the Shares of the class or, if there is one holder of Shares in the class, that holder or a proxy, attorney or representative of that holder; and
  - (ii) any five holders, or holders of Shares of the class present in person or by proxy, attorney or Representative who can vote not less than 5% of all votes held by holders of that class, may demand a poll.

## 2.9 Non-marketable parcels

- (a) If one or more shareholders holds less than a Marketable Parcel of Shares, the Directors may invoke the procedure for the sale of Shares under this clause 2.9 (**Procedure**).
- (b) To invoke the Procedure, the Directors must give each shareholder (or each shareholder whose Shares are not held in a CHESS Holding) who holds less than a Marketable Parcel of Shares (**Eligible Member**) written notice (**Divestment Notice**) that complies with this clause 2.9.
- (c) A Divestment Notice given to a shareholder must:
  - (i) state that the Shares referred to in the Divestment Notice are liable to be sold in accordance with the Procedure if the shareholder does not advise the Company before a specified date (**Relevant Date**) that the shareholder wishes to keep those Shares; and
  - (ii) if the shareholder holds Shares in a CHESS Holding, contain a statement to the effect that if those Shares remain in a CHESS Holding after the Relevant Date, the Company may, without further notice, move those Shares from the

CHESS Holding to an Issuer Sponsored Holding for the purposes of divestment by the Company in accordance with the Procedure.

- (d) The Relevant Date must be six weeks or more after the date that the Divestment Notice is sent.
- (e) A copy of a Divestment Notice must be given to any other person required by the CS Facility Rules.
- (f) If an Eligible Member on whom a Divestment Notice has been served, wants to keep the Shares referred to in the Divestment Notice, the Eligible Member must give the Company written notice before the Relevant Date, advising the Company that the Eligible Member wants to keep those Shares in which event the Company will not sell the Shares.
- (g) If an Eligible Member on whom a Divestment Notice has been served does not give the Company written notice before the Relevant Date advising the Company that the Eligible Member wants to keep the Shares referred to in the Divestment Notice, the Company may:
  - (i) if the Eligible Member holds those Shares in a CHESS Holding, move those Shares from the CHESS Holding to an Issuer Sponsored Holding; and
  - (ii) in any case, sell those Shares in accordance with the Procedure,but only if the Shares held by the Eligible Member on the Relevant Date is less than a Marketable Parcel.
- (h) Any Shares which may be sold under this clause 2.9 may be sold on the terms, in the manner (whether on-market, by private treaty, through a share sale facility established by, on behalf or, or at the request of the Company, or otherwise) and at the time or times determined by the Directors and, for the purposes of a sale under this clause 2.9, each Eligible Member:
  - (i) appoints the Company as the Eligible Member's agent for sale;
  - (ii) authorises the Company to effect on the Eligible Member's behalf a transfer of the Shares sold and to deal with the proceeds of the sale of the Shares in accordance with clause 2.9(j);
  - (iii) appoints the Company and its Directors jointly and severally as the Eligible Member's attorneys to execute an instrument or take other steps, in the Eligible Member's name and on the Eligible Member's behalf, as they or any of them may consider appropriate to transfer the Shares sold; and
  - (iv) authorises each of the attorneys appointed under clause 2.9(h)(iii) to appoint an agent to do a thing referred to in clause 2.9(h)(iii).
- (i) The title of the transferee to Shares acquired under this clause is not affected by an irregularity or invalidity in connection with the sale of Shares to the Transferee.



- (j) The proceeds of any sale of Shares under this clause 2.9 less any unpaid calls and interest (**Sale Consideration**) will be paid to the relevant Eligible Member or as that Eligible Member may direct.
- (k) The Company will hold the Sale Consideration in trust for the Eligible Member whose Shares are sold under this clause and will forthwith notify the Eligible Member in writing that the Sale Consideration in respect of the Eligible Member's Shares has been received by the Company and is being held by the Company pending instructions from the Eligible Member as to how it is to be dealt with.
- (l) Subject to the Companies Act, the Company or the purchaser will bear all costs, including brokerage and stamp duty, associated with the sale of any Shares under this clause.
- (m) The Procedure may only be invoked once in any 12 month period after its adoption or renewal.
- (n) If the Procedure has been invoked and there is an announcement of a takeover bid for Shares, no more sales of Shares may be made under this clause 2.9 until after the close of the offers made under the takeover. The Procedure may then be invoked again.

### **3. BUYBACKS AND REDEMPTIONS OF SHARES**

The Company may:

- (a) purchase or otherwise acquire Shares issued by it from one or more shareholders;
- (b) purchase or otherwise acquire other equity securities from one or more holders;
- (c) hold any Shares or other equity securities so purchased or acquired; and
- (d) redeem any redeemable shares or other equity securities held by one or more holders,

in accordance with the provisions, and subject to the restrictions, of the Companies Act, this Constitution and the ASX Listing Rules.

### **4. CALLS**

#### **4.1 General**

- (a) Subject to the Companies Act and the terms on which partly paid Shares are issued, the Directors may make calls on the holders of the Shares from time to time for any money unpaid on them.
- (b) A call is deemed to have been made at the time when the resolution of the Directors authorising the call was passed. Subject to the ASX Listing Rules and the Companies Act, the call may be revoked or postponed at the discretion of the Directors at any time prior to the date on which the payment in respect of the call is due.
- (c) The Directors may require a call to be paid by instalments.
- (d) The Company must comply with the Companies Act and the ASX Listing Rules in relation to the dispatch and content of notices to shareholders on whom a call is made.

- (e) A shareholder to whom notice of a call is given in accordance with this clause 4.1 must pay to the Company the amount called in accordance with the notice.
- (f) Failure to send a notice of a call to any shareholder or the non-receipt of a notice by any shareholder does not invalidate the call.
- (g) Joint holders of Shares are jointly and severally liable to pay all calls in respect of their Shares.

#### **4.2 Instalments and amounts which become payable**

If:

- (a) the Directors require a call to be paid by instalments; or
- (b) an amount becomes payable by the terms of issue of Shares on allotment, or at a time or in circumstances specified in the terms of issue,

then:

- (c) every instalment or the amount payable under the terms of issue is payable as if it were a call made by the Directors and as if they had given notice of it; and
- (d) the consequences of late payment or non-payment of an instalment or the amount payable under the terms of issue are the same as the consequences of late payment or non-payment of a call.

#### **4.3 Interest and expenses**

If an amount called is not paid on or before the due date, the person liable to pay the amount must also pay:

- (a) interest on the amount from the due date to the time of actual payment at a rate determined by the Directors (not exceeding 20% per annum); and
- (b) all expenses incurred by the Company as a consequence of the non-payment,

but the Directors may waive payment of the interest and expenses in whole or in part.

#### **4.4 Recovery of amounts due**

On the hearing of any action for the recovery of money due for any call, proof that:

- (a) the name of the person sued was, when the call was made, entered in the Register as a holder or the holder of Shares in respect of which the call was made;
- (b) the resolution making the call is duly recorded in the Directors' minute book; and
- (c) notice of the call was given to the person sued,

will be conclusive evidence of the debt.

## **4.5 Differentiation**

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.

## **4.6 Payment of calls in advance**

- (a) The Directors may accept from a shareholder the whole or part of the amount unpaid on a Share before the amount accepted has been called.
- (b) The Company may:
  - (i) pay interest on any amount accepted, until the amount is payable under a call and at a rate (not exceeding 20% per annum) agreed between the shareholder and the Directors; and
  - (ii) subject to any contract between the Company and the shareholder, repay all or any of the amount accepted in excess of the amount called on the Share.
- (c) Payment of an amount in advance of a call does not entitle the paying shareholder to any:
  - (i) dividend, benefit or advantage, other than the payment of interest under this clause 4.6; or
  - (ii) voting right,

to which the shareholder would not have been entitled if it had paid the amount when it became due.

## **5. LIEN AND FORFEITURE**

### **5.1 Lien**

- (a) To the extent permitted by the ASX Listing Rules, the Company has a lien on every partly paid Share and dividends payable in respect of the Share for all money:
  - (i) due and unpaid to the Company at a fixed time, in respect of the Share;
  - (ii) presently payable by a holder or the holder of the Share, or the holder's estate, to the Company in respect of the Share; or
  - (iii) which the Company is required by law to pay (and has paid) in respect of the Share.
- (b) The lien extends to reasonable interest and expenses incurred because the amount is not paid.
- (c) If any law for the time being of any country, state or place imposes or purports to impose an immediate or contingent liability on the Company to make any payment or authorises a taxing authority or Government official to require the Company to make

payment in respect of Shares or dividends or other moneys accruing due to the holder of the Shares:

- (i) the shareholder or, if the shareholder is deceased, the shareholder's legal personal representative, indemnifies the Company in respect of any such payment or liability; and
- (ii) subject to the Companies Act and the ASX Listing Rules, the Company:
  - (A) has a lien on the Shares and dividends and other moneys payable in respect of the Shares, whether the Shares are held by the shareholder solely or jointly with another person in respect of any payment made or liability incurred by the Company, together with reasonable expenses and interest on any payment made by the Company at a rate to be fixed by the Directors not exceeding 20% per annum from the date of payment by the Company to the date of repayment by the shareholder;
  - (B) may set off amounts so paid by the Company against amounts payable by the Company to the shareholder as dividends or otherwise; and
  - (C) may recover as a debt due from the shareholder or its legal personal representative the amount of all payments made by the Company together with reasonable expenses and interest at the rate and for the period referred to in clause 5.1(c)(ii)(A).
- (d) The Company may do all things which the Directors think necessary or appropriate to do under the ASX Listing Rules and the CS Facility Rules to enforce or protect the Company's lien.
- (e) Unless the Directors determine otherwise, the registration of a transfer of a Share operates as a waiver of the Company's lien on the Share.
- (f) The Directors may declare a Share to be wholly or partly exempt from a lien.

## **5.2 Lien sale**

If:

- (a) the Company has a lien on a Share for money presently payable;
- (b) the Company has given the shareholder or the shareholder's executors or administrators (as the case may be) holding the Share written notice demanding payment of the money; and
- (c) that shareholder fails to pay all of the money demanded,

then 14 or more days after giving the notice, the Directors may, if the ASX Listing Rules permit, sell the Share in any manner determined by them.

### **5.3 Forfeiture notice**

- (a) The Directors may at any time after a call or instalment becomes payable and remains unpaid by a shareholder, serve a notice on the shareholder requiring the shareholder to pay all or any of the following:
  - (i) the unpaid amount;
  - (ii) any interest that has accrued; and
  - (iii) all expenses incurred by the Company as a consequence of the non-payment.
- (b) The notice under clause 5.3(a) must:
  - (i) specify a day (not earlier than 14 days after the date of the notice) on or before which the payment required by the notice must be made; and
  - (ii) state that if a shareholder does not comply with the notice, the Shares in respect of which the call was made or instalment is payable will be liable to be forfeited.

### **5.4 Forfeiture**

- (a) If a shareholder does not comply with a notice served under clause 5.3, then any or all of the Shares in respect of which the notice was given may be forfeited under a resolution of the Directors.
- (b) Unpaid dividends in respect of forfeited Shares will also be forfeited.
- (c) On forfeiture, Shares become the property of the Company and forfeited Shares must be:
  - (i) if the ASX Listing Rules permit, sold, disposed of, or cancelled on terms determined by the Directors; or
  - (ii) offered by public auction in accordance with any requirements of the ASX Listing Rules.
- (d) The Directors may, at any time before a forfeited Share is sold, disposed of or cancelled, annul the forfeiture of the Share on conditions determined by them.
- (e) Promptly after a Share has been forfeited:
  - (i) notice of the forfeiture must be given to the shareholder in whose name the Share was registered immediately before its forfeiture; and
  - (ii) the forfeiture and its date must be noted in the Register.
- (f) Omission or neglect to give notice of or to note the forfeiture as specified in clause 5.4(e) will not invalidate a forfeiture.

## **5.5 Liability of former shareholder**

- (a) The interest of a person who held Shares which are forfeited is extinguished but subject to the ASX Listing Rules and the Companies Act, the former shareholder remains liable to pay:
  - (i) all money (including interest and expenses) that was payable by the shareholder to the Company at the date of forfeiture in respect of the forfeited Shares; and
  - (ii) interest from the date of forfeiture until payment of the money referred to in clause 5.5(a)(i), of this clause at a rate determined by the Directors (not exceeding 20% per annum).
- (b) A former shareholder's liability to the Company ceases if and when the Company receives payment in full of all money (including interest and expenses) payable by the former shareholder in respect of the Shares. The liability may only be released or waived in accordance with the ASX Listing Rules.

## **5.6 Disposal of Shares**

- (a) The Company may:
  - (i) receive the consideration (if any) given for a forfeited Share on any sale or disposition of the Share, or a Share sold under a lien sale; and
  - (ii) effect a transfer of the Share in favour of a person to whom the Share is sold or disposed of.
- (b) The purchaser of the Share:
  - (i) is not bound to check the regularity of the sale or the application of the purchase price;
  - (ii) obtains title to the Share despite any irregularity in the sale; and
  - (iii) will not be subject to complaint or remedy by the former holder of the Share in respect of the purchase.
- (c) A statement signed by a Director that the Share has been regularly forfeited and sold or reissued or regularly sold without forfeiture to enforce a lien, is conclusive evidence of the matters stated as against all persons claiming to be entitled to the Share.
- (d) Subject to the terms on which a Share is on issue, the net proceeds of any sale made to enforce a lien or on forfeiture must be applied by the Company in the following order:
  - (i) in payment of the costs of the sale;
  - (ii) in payment of all amounts (if any) secured by the lien or all money (if any) that was payable in respect of the forfeited Share; and

- (iii) where the Share was forfeited under clause 5.5(a), in payment of any surplus to the former shareholder whose Share was sold.

## **6. TRANSFER OF SHARES**

### **6.1 General**

- (a) Subject to this Constitution, a shareholder may transfer Shares held by that shareholder.
- (b) Subject to clause 6.1(c), Shares may be transferred by:
  - (i) a written transfer instrument in any usual or common form; or
  - (ii) any other form approved by the Directors.
- (c) The Company may participate in any computerised or electronic system for market settlement, securities transfer and registration under a system of transfer approved under section 376 of the Financial Markets Conduct Act 2013 which is applicable to the Company or conducted in accordance with the Companies Act, the ASX Listing Rules and the CS Facility Rules, or corresponding laws or securities exchange rules in any other country.
- (d) Where an instrument of transfer would have complied with the provisions of the Financial Markets Conduct Act 2013 if it had been executed by the transferor in New Zealand, it may nevertheless be registered by the Company if it is executed in a manner acceptable to the Company or the Company's share registrar.
- (e) If the Company participates in a system of the kind described in clause 6.1(c), then despite any other provision of this Constitution:
  - (i) Shares may be transferred, and transfers may be registered under a system of transfer approved under section 376 of the Financial Markets Conduct Act 2013 which is applicable to the Company or in any manner required or permitted by the ASX Listing Rules or the CS Facility Rules (or corresponding laws or securities exchange rules in any other country) applying in relation to the system;
  - (ii) the Company must comply with and give effect to those rules; and
  - (iii) the Company may, in accordance with those rules, decline to issue certificates for holdings of Shares.
- (f) A written transfer instrument must be:
  - (i) executed by or on behalf of the transferor;
  - (ii) unless the Directors decide otherwise in the case of a fully paid Share, executed by or on behalf of the transferee; and
  - (iii) in the case of a transfer of partly paid Shares, endorsed or accompanied by an instrument executed by or on behalf of the transferee to the effect that the transferee agrees to accept the Shares subject to the terms and conditions on

which the transferor held them, to become a shareholder and to be bound by the Constitution.

Subject to the Companies Act, the written transfer instrument may comprise more than one document.

- (g) Except as required by the CS Facility Rules:
  - (i) a transferor of Shares remains the holder of the Shares transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the Shares; and
  - (ii) a transfer of Shares does not pass the right to any dividends on the Shares until such registration.

## **6.2 Transfer procedure**

- (a) Except where the Directors determine (to comply with laws or securities exchange rules of a foreign country or the CS Facility Rules), for a transfer of Shares that is not an ASX Settlement-regulated transfer or a transfer under a system of transfer approved under section 376 of the Financial Markets Conduct Act 2013:
  - (i) the written transfer instrument must be left at the Company's registered office or another place acceptable to the Company;
  - (ii) the instrument must be accompanied by a certificate for the Shares dealt with in the transfer where a certificate has been issued, unless the Directors waive production of the certificate on receiving satisfactory evidence of the loss or destruction of the certificate; and
  - (iii) the Directors may, if the ASX Listing Rules permit, require other evidence of the transferor's right to transfer the Shares.
- (b) For a transfer of Shares that is an ASX Settlement-regulated transfer or a transfer under a system of transfer approved under section 376 of the Financial Markets Conduct Act 2013, a Share transfer must be effected in accordance with the ASX Listing Rules and the ASX Settlement Rules.

## **6.3 Right to refuse registration**

- (a) The Directors may in their absolute discretion refuse to register any transfer of Shares or other securities where the Shares or other securities are not quoted by ASX. Where the Shares or other securities are quoted by ASX, the Directors may in their absolute discretion refuse to register any transfer in any of the circumstances permitted by the ASX Listing Rules.
- (b) The Directors must:
  - (i) except as permitted by ASX, refuse to register any transfer of Shares or other securities which are Restricted Securities if that transfer is or might be in breach of the ASX Listing Rules or any restriction agreement entered into by the Company under the ASX Listing Rules in relation to the Shares; and



- (ii) refuse to register any transfer where the Company is, or the Directors are, required to do so by the ASX Listing Rules.
- (c) Subject to clauses 6.3(a) and 6.3(b), the Company must not refuse or fail to register or give effect to, or delay or in any way interfere with, a proper ASX Settlement transfer of Shares or other securities quoted by ASX.
- (d) If a person has lodged a transfer which the Directors have refused to register, the Company must, within five Business Days after the date of lodgment, give to the lodging person written notice of the refusal and the reasons for it.
- (e) Subject to clause 6.3(c), Restricted Securities cannot be disposed of during the escrow period except as permitted by the ASX Listing Rules or ASX. The Company will refuse to register a transfer of Restricted Securities to the extent required under the ASX Listing Rules.

## **7. TRANSMISSION OF SHARES**

### **7.1 Title on death**

- (a) The legal personal representative of a deceased shareholder who was the sole holder of Shares is the only person whom the Company will recognise as having any title to the deceased shareholder's Shares.
- (b) If a deceased shareholder was a joint holder of Shares, the other joint holder is the only person whom the Company will recognise as having any title to the deceased shareholder's Shares.
- (c) The estate of the deceased shareholder will not be released from any liability to the Company in respect of the Shares.
- (d) The Company may register or give effect to a transfer to a transferee who dies before the transfer is registered.

### **7.2 Entitlement to transmission**

- (a) A person who becomes entitled to a Share in consequence of the death, mental incapacity or bankruptcy of a shareholder may, subject to clause 6.3 and to producing to the Company evidence of its entitlement which is satisfactory to the Directors, elect to:
  - (i) be registered as the holder of the Share; or
  - (ii) transfer the Share to some other person nominated by it.
- (b) If the person who has become entitled to a Share:
  - (i) elects to be registered as the holder, then the person must deliver or send to the Company a written notice of election signed by him or her; or
  - (ii) elects to transfer the Share, then the person must effect a transfer of the Share.

- (c) An election to be registered as a holder of a Share under clause 7.2(a)(i) or a transfer of a Share from a shareholder or deceased shareholder under this clause 7.2 is subject to the same limitations, restrictions and provisions of this Constitution as would apply if the election were a transfer or the transfer were made by the shareholder or deceased shareholder himself or herself.
- (d) A person who:
  - (i) has become entitled to a Share by operation of law; and
  - (ii) has produced evidence of that person's entitlement which is satisfactory to the Directors,
 is entitled to the dividends and other rights of the registered holder of the Share.
- (e) Where two or more persons are jointly entitled to any Share in consequence of the death of the registered holder, they will be considered to be joint holders of the Share.
- (f) Any person who is registered under this clause must indemnify the Company against all liabilities, costs, losses and expenses incurred by the Company as a result of registering the person.

## **8. CHANGES TO SHARE CAPITAL**

### **8.1 Consolidation or division**

For the purpose of giving effect to any consolidation or division of Shares, the Directors may, subject to the CS Facility Rules, settle any difficulty which arises with respect to fractions of Shares in any manner that they think expedient.

## **9. MEETINGS OF SHAREHOLDERS**

### **9.1 Calling meetings of shareholders**

- (a) A Director may call a meeting of shareholders.
- (b) The Directors must call annual meetings in accordance with the Companies Act, to be held by the Company at times to be determined by the Directors.
- (c) Shareholders may also request or call and arrange to hold meetings of shareholders in accordance with the procedures and requirements set out in the Companies Act.
- (d) A meeting of shareholders may be held at two or more venues simultaneously using any technology that gives the shareholders as a whole a reasonable opportunity to participate.

### **9.2 Notice**

- (a) Notice of a meeting of shareholders must be given in accordance with the Companies Act to the persons referred to in clause 21.2.

- (b) Except as permitted by the Companies Act, meetings of shareholders must be called on at least the minimum number of days' notice required by the Companies Act (which at the date of adoption of this Constitution is 10 Business Days) and otherwise in accordance with the procedures set out in the Companies Act.
- (c) Subject to the requirements of the Companies Act, a notice calling a meeting of shareholders must:
  - (i) specify the place, date and time of the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
  - (ii) state the general nature of the business to be transacted at the meeting;
  - (iii) if a Special Resolution is to be proposed at the meeting, set out an intention to propose the Special Resolution and state the resolution;
  - (iv) include such statements about the appointment of proxies as are required by the Companies Act;
  - (v) specify a place and an electronic address for the purposes of proxy appointments;
  - (vi) comply with any other requirements of the Companies Act.

### **9.3 Business**

- (a) The business of an annual meeting may include:
  - (i) any of the following matters, even if not referred to in the notice of meeting:
    - (A) consideration of the annual financial report, directors' report and auditor's report;
    - (B) election of directors;
    - (C) appointment of the auditor;
    - (D) fixing the auditor's remuneration;
  - (ii) any business which under this Constitution or the Companies Act is required to be transacted at an annual meeting; and
  - (iii) any other business which may lawfully be transacted at a meeting of shareholders.
- (b) The chairperson of an annual meeting must allow a reasonable opportunity for the shareholders as a whole at the meeting to:
  - (i) ask questions about or make comments on the management of the Company; and

- (ii) ask the Auditor or their representative questions relevant to the conduct of the audit and the preparation and content of the Auditor's report for the Company.
- (c) The Directors may postpone or cancel any meeting of shareholders (other than a meeting requested or called by shareholders under clause 9.1) at any time before the day of the meeting. The Directors must give notice of the postponement or cancellation to all persons entitled to receive notices of a meeting of shareholders.
- (d) An accidental omission to send a notice of a meeting of shareholders (including a proxy appointment form) or the postponement of a meeting of shareholders to any shareholder or the non-receipt of a notice (or form) by any shareholder does not invalidate the proceedings at or any resolution passed at the meeting of shareholders.

## **10. PROCEEDINGS AT MEETINGS OF SHAREHOLDERS**

### **10.1 Shareholder**

In clauses 10.2, 10.3, 10.6 and 11.1, shareholder includes a shareholder present in person or by proxy, attorney or Representative.

### **10.2 Quorum**

- (a) No business may be transacted at a meeting of shareholders unless a quorum of shareholders is present at the commencement of business.
- (b) A quorum of shareholders is three shareholders unless there is only one shareholder, when a quorum is that shareholder.
- (c) If a quorum is not present within 30 minutes after the time appointed for a meeting of shareholders:
  - (i) the meeting of shareholders is automatically dissolved if it was requested or called by shareholders under clause 9.1(c); or
  - (ii) in any other case:
    - (A) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
    - (B) if at the adjourned meeting of shareholders a quorum is not present within 30 minutes after the time appointed for the meeting the meeting of shareholders is automatically dissolved.

### **10.3 Chairperson**

- (a) The chairperson or in the chairperson's absence the deputy chairperson, of Directors' meetings will be the chairperson at every meeting of shareholders.
- (b) If:

- (i) there is no chairperson or deputy chairperson; or
- (ii) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the meeting of shareholders; or
- (iii) the chairperson and deputy chairperson are unwilling to act as chairperson of the meeting of shareholders,

the Directors present may elect a chairperson of the meeting of the shareholders.

- (c) If no chairperson is elected in accordance with clause 10.3(b), then:
  - (i) the shareholders may elect one of the Directors present as chairperson; or
  - (ii) if no Director is present or is willing to take the chair, the shareholders may elect one of the shareholders present as chairperson.
- (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 is willing to act). That person is to be taken to be the chairperson and will have all the powers of the chairperson (other than the power to adjourn the meeting), during the consideration of that item of business or those items of business.
- (e) If there is a dispute at a meeting of shareholders about a question of procedure, the chairperson may determine the question.

#### **10.4 General conduct**

The general conduct of each meeting of shareholders of the Company and the procedures to be adopted at the meeting will be determined by the chairperson, including the procedure for the conduct of the election of Directors.

#### **10.5 Adjournment**

- (a) The chairperson of a meeting of shareholders at which a quorum is present:
  - (i) in his or her discretion may adjourn the meeting of shareholders; and
  - (ii) must adjourn the meeting of shareholders if the meeting directs him or her to do so.
- (b) An adjourned meeting of shareholders may take place at a different venue from the initial meeting of shareholders.
- (c) The only business that can be transacted at an adjourned meeting of shareholders is the unfinished business of the initial meeting of shareholders.
- (d) If a meeting of shareholders has been adjourned for more than 30 days, notice of the adjourned meeting of shareholders must be given to shareholders as if it were an original meeting of shareholders, but otherwise it is not necessary to give notice of an

adjourned meeting of shareholders or the business of the adjourned meeting of shareholders.

- (e) A poll cannot be demanded on any resolution concerning the adjournment of a meeting of shareholders except by the chairperson.

## **10.6 Decisions**

- (a) Subject to the Companies Act in relation to Special Resolutions or any other resolution required to be carried out by a greater number of shareholders, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.
- (b) A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded by:
  - (i) at least 5 shareholders entitled to vote on the resolution;
  - (ii) shareholders with at least 10% of the votes that may be cast on the resolution on a poll;
  - (iii) a shareholder or shareholders holding voting Shares on which the aggregate amount paid up is at least 10% of the total amount paid up on the Shares that confer that right; or
  - (iv) the chairperson.
- (c) A poll may be demanded:
  - (i) before a vote is taken; or
  - (ii) in the case of a vote taken on a show of hands, immediately before or immediately after, the results of the vote are declared.
- (d) Unless a poll is demanded:
  - (i) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
  - (ii) an entry to that effect in the minutes of the meeting,are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.
- (e) The demand for a poll may be withdrawn.
- (f) A decision of a meeting of shareholders may not be impeached or invalidated on the ground that a person voting at the meeting was not entitled to do so.

## **10.7 Taking a poll**

- (a) Subject to clause 10.7(e), a poll will be taken when and in the manner that the chairperson directs. No notice need be given of any poll.
- (b) The result of the poll will determine whether the resolution on which the poll was demanded is carried or lost.
- (c) The chairperson may determine any dispute about the admission or rejection of a vote, and such determination, if made in good faith, will be final and conclusive.
- (d) A poll cannot be demanded on any resolution concerning the election of the chairperson of a meeting of shareholders.
- (e) A poll demanded by the chairperson on any resolution concerning the adjournment of a meeting of shareholders must be taken immediately.
- (f) After a poll has been demanded at a meeting of shareholders, the meeting of shareholders may continue for the transaction of business other than the question on which the poll was demanded.

## **10.8 Casting vote of chairperson**

The chairperson does not have a casting vote on a show of hands or on a poll.

## **10.9 Admission to meetings of shareholders**

The chairperson of a meeting of shareholders may refuse admission to a person, or require a person to leave and not return to, a meeting if the person:

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:
  - (i) electronic or recording device;
  - (ii) placard or banner; or
  - (iii) other article,

which the chairperson considers to be dangerous, offensive or liable to cause disruption; or

- (c) causes any disruption to the meeting.

## **10.10 Auditor's right to be heard**

The Auditor is entitled to:

- (a) attend any meeting of shareholders of the Company;

- (b) be heard at any meeting of shareholders of the Company on any part of the business of the meeting that concerns the Auditor in their capacity as auditor, even if:
  - (i) the Auditor retires at the meeting of shareholders; or
  - (ii) shareholders pass a resolution to remove the Auditor from office; and
- (c) authorise a person in writing to attend and speak at any meeting of shareholders as the Auditor's representative.

## **11. VOTES OF SHAREHOLDERS**

### **11.1 Entitlement to vote**

- (a) Subject to this Constitution and to any rights or restrictions attaching to any class of Shares:
  - (i) every shareholder may vote;
  - (ii) subject to clause 11.5(d), and the Companies Act, on a show of hands every shareholder has one vote; and
  - (iii) on a poll every shareholder has:
    - (A) for each fully paid Share held by the shareholder, one vote; and
    - (B) for each partly paid Share held by the shareholder, a fraction of a vote equivalent to the proportion which the amount paid (not credited) is of the total amounts paid and payable, whether or not called (excluding amounts credited), on the Share. Without limiting the generality of clause 4.6(c), an amount paid on a Share in advance of a call is not to be taken as paid for the purposes of this clause.
- (b) During a breach of the ASX Listing Rules relating to Shares which are Restricted Securities, or a breach of a restriction agreement, the holder of the relevant Restricted Securities is not entitled to any voting rights in respect of those Restricted Securities.
- (c) If a shareholder:
  - (i) dies; or
  - (ii) through mental or physical infirmity, is incapable of managing the shareholder's affairs,

and a personal representative, trustee or other person is appointed under law to administer the shareholder's estate or property, the personal representative, trustee or person so appointed may exercise any rights of the shareholder in relation to a meeting of shareholders as if the personal representative, trustee or person (as the case may be) was a shareholder.



## **11.2 Unpaid calls**

A shareholder is entitled to:

- (a) vote; or
- (b) be counted in a quorum,

only in respect of Shares on which all calls due and payable have been paid.

## **11.3 Joint holders**

- (a) If two or more joint holders purport to vote, the vote of the joint holder whose name appears first in the Register will be accepted, to the exclusion of the other joint holder or holders.
- (b) For the purposes of this clause 11.3, several executors or administrators of a deceased shareholder in whose sole name any Shares are registered will be taken to be joint holders of those Shares.

## **11.4 Objections**

- (a) An objection to the qualification of a voter may only be raised at the meeting of shareholders or adjourned meeting of shareholders at which the voter tendered its vote.
- (b) An objection must be referred to the chairperson of the meeting of shareholders, whose decision made in good faith is final.
- (c) Subject to clause 11.4(d), a vote which the chairperson does not disallow under an objection is valid for all purposes.
- (d) A vote which the ASX Listing Rules require the Company to disregard is not valid.

## **11.5 Votes by proxy**

- (a) A shareholder who is entitled to vote at a meeting of shareholders of the Company may appoint not more than two proxies to attend and vote at the meeting of shareholders on that shareholder's behalf.
- (b) A proxy need not be a shareholder.
- (c) If a shareholder appoints one proxy, that proxy may, subject to the Companies Act, vote on a show of hands.
- (d) If a shareholder appoints two proxies and the appointment does not specify the proportion or number of the shareholder's votes each proxy may exercise, each proxy may exercise half the votes. However, neither proxy may vote on a show of hands.
- (e) A proxy may demand or join in demanding a poll.

- (f) A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If an appointment directs the way the proxy is to vote on a particular resolution:
  - (i) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
  - (ii) if the proxy has two or more appointments that specify different ways to vote on the resolution, the proxy must not vote on a show of hands;
  - (iii) if the proxy is the chair, the proxy must vote on a poll and must vote that way; and
  - (iv) if the proxy is not the chair, the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.
- (g) If:
  - (i) a shareholder nominates the chairperson of the meeting as the shareholder's proxy; or
  - (ii) the chairperson is to act as proxy under clause 11.7 or otherwise under a default appointment according to the terms of the proxy form,

then the person acting as chairperson in respect of an item of business at the meeting must act as proxy under the appointment in respect of that item of business.

## **11.6 Document appointing proxy**

- (a) An appointment of a proxy is valid if it is signed by the shareholder making the appointment and must state whether the appointment is for a particular meeting or a specified term.
- (b) For the purposes of clause 11.6(a), an appointment received at an electronic address will be taken to be signed by the shareholder if:
  - (i) a personal identification code allocated by the Company to the shareholder has been input into the appointment; or
  - (ii) the appointment has been verified in another manner approved by the Directors.
- (c) The Company may send a proxy appointment form to shareholders in a form which has been approved by the Directors or by the chairperson and the Managing Director.
- (d) A proxy's appointment is valid at an adjourned meeting of shareholders.
- (e) A proxy or attorney may be appointed for all meetings or for any number of meeting of shareholders or for a particular purpose.
- (f) Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:

- (i) to vote on:
  - (A) any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion; and
  - (B) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting of shareholders,  
  
even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
- (ii) to vote on any motion before the meeting of shareholders whether or not the motion is referred to in the appointment.

### **11.7 Proxy in blank**

If a proxy appointment is signed by the shareholder but does not name the proxy or proxies in whose favour it is given, the chairperson may either act as proxy or complete the proxy appointment by inserting the name or names of one or more Directors.

### **11.8 Lodgment of proxy**

- (a) Subject to clause 11.8(c), the appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless reduced in the notice of meeting to which the appointment relates) before the meeting of shareholders (or the resumption of an adjourned meeting of shareholders) at which the appointee is to attend and vote.
- (b) If the appointment purports to be executed under a power of attorney or other authority, the original document or a certified copy of it must be received by the Company at least 48 hours (unless reduced in the notice of meeting to which the appointment relates) before the meeting of shareholders (or the resumption of an adjourned meeting of shareholders).
- (c) The Company receives an appointment of a proxy or attorney or other authority under which it was signed when they are received at:
  - (i) the Company's registered office;
  - (ii) a facsimile number at the Company's registered office; or
  - (iii) a place, facsimile number or electronic address specified for that purpose in the notice of meeting of shareholders.

### **11.9 Validity**

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) died;

- (b) became mentally incapacitated;
- (c) revoked the proxy or power; or
- (d) transferred the Shares in respect of which the vote was cast,

unless the Company received written notification of the death, mental incapacity, revocation or transfer before the relevant meeting of shareholders or adjourned meeting of shareholders.

#### **11.10 Representatives of bodies corporate**

- (a) Any shareholder that is a body corporate may appoint an individual as its representative as provided by the Companies Act.
- (b) The appointment of a Representative may set out restrictions on the Representative's powers.
- (c) 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 prima facie evidence of a Representative having been appointed.
- (d) The chairperson of a meeting of shareholders may permit a person claiming to be a Representative to exercise the body's powers even if he or she has not produced a certificate or other satisfactory evidence of his or her appointment.

#### **11.11 Shareholder proposals**

A shareholder of the Company may give written notice to the Directors of a matter the shareholder proposes to raise for discussion or resolution at the next meeting of shareholders at which the shareholder is entitled to vote. The provisions of clause 9 of the First Schedule of the Companies Act apply to any notice given pursuant to this clause.

### **12. APPOINTMENT AND REMOVAL OF DIRECTORS**

#### **12.1 Number of Directors**

- (a) Subject to the Companies Act, the Company may by resolution passed at a meeting of shareholders increase the minimum number of Directors or increase or reduce the maximum number of Directors.
- (b) Until the Company resolves otherwise in accordance with clause 12.1(a) there will be:
  - (i) a minimum of three Directors; and
  - (ii) a maximum of ten Directors.
- (c) Subject to any resolution of the shareholders determining the maximum and minimum numbers of Directors, the Directors may from time to time determine the respective numbers of Executive and Non-Executive Directors.

- (d) The Directors in office on the date this Constitution becomes effective, continue in office subject to this Constitution.

## **12.2 Qualification**

- (a) Neither a Director nor an Alternate Director has to hold any Shares in the Company.
- (b) In addition to the circumstances which disqualify a person from being a director according to the Companies Act, no person who has been bankrupt within the previous five years is eligible to become a Director.
- (c) A Director (and an Alternate Director when acting as a Director) is entitled to notice of all meetings of shareholders.

## **12.3 Power to remove and appoint**

- (a) The Company may, subject to the Companies Act, by resolution passed in a meeting of shareholders:
  - (i) remove any Director before the end of the Director's term of office; and
  - (ii) if the outgoing Director is a Non-Executive Director, elect another person to replace the Director.
- (b) A person appointed under clause 12.3(a) will hold office for the remainder of the term for which the Director replaced would have held office if the Director had not been removed.
- (c) Subject to the provisions of this Constitution, the Company may appoint a person as a Director by ordinary resolution passed in a meeting of shareholders.
- (d) A Director appointed or elected at a meeting of shareholders is taken to have been appointed or elected with effect from immediately after the end of that meeting of shareholders unless the resolution by which the Director was appointed or elected specifies a different time.
- (e) If the conduct or position of any Director is such that continuance in office appears to the majority of the Directors to be prejudicial to the interests of the Company, a majority of Directors at a meeting of the Directors specifically called for that purpose may suspend that Director.
- (f) A suspended Director may not take any part in the business or affairs of the Company until the suspension has been terminated.
- (g) Within 14 days of suspension of Director, the Directors must call a meeting of shareholders, at which the shareholders may consider a motion to remove the Director from office in accordance with clause 12.3(a)(i).
- (h) If a motion to remove a suspended Director from office is not carried at the meeting of shareholders called to consider the matter, the suspension of the Director is terminated and the Director is reinstated in his or her office.

#### **12.4 Additional and casual Directors**

- (a) Subject to clause 12.1, the Directors may appoint any person as a Director to fill a casual vacancy or as an addition to the existing Directors.
- (b) Unless the Director is an Executive Director and the ASX Listing Rules do not require that Director to be subject to retirement as set out in this clause, a Director appointed under clause 12.3(a) will hold office until the end of the next annual meeting of the Company, at which the Director may be re-elected but he or she will not be taken into account in determining the number of Directors who must retire by rotation at the meeting in accordance with clause 12.5(a).

#### **12.5 Retirement by rotation**

- (a) At the close of each annual meeting of shareholders one-third of the Directors or, if their number is not a multiple of three, then the number nearest to but not more than one-third of the Directors, must retire from office.
- (b) The Directors to retire by rotation at an annual meeting are those Directors who have been longest in office since their last election.
- (c) Directors elected on the same day may agree among themselves or determine by lot which of them must retire.
- (d) Subject to clause 16.1(i), a Director must retire from office at the conclusion of the third annual meeting after the Director was last elected, even if his or her retirement results in more than one-third of all Directors retiring from office.
- (e) A retiring Director remains in office until the end of the meeting and will be eligible for re-election at the meeting.

#### **12.6 Nomination of Director**

- (a) A person, other than a Director retiring under clause 12.4(b) or under clause 12.5(a) who seeks re-election, is not eligible for election as a Director at a meeting of shareholders unless:
  - (i) the person is proposed as a candidate by at least 50 shareholders or shareholders holding between them at least 5% of the votes that may be cast at a meeting of shareholders of the Company; and
  - (ii) the proposing shareholder leaves a notice at the Company's registered office which nominates the candidate for the office of Director and includes the signed consent of the candidate.
- (b) A notice given in accordance with clause 12.6(a) must be left at the Company's registered office not less than 35 Business Days before the relevant meeting of shareholders.

#### **12.7 Vacation of office**

The office of a Director immediately becomes vacant if the Director:

- (a) ceases to be a Director by virtue of the Companies Act;
- (b) becomes disqualified by the Companies Act from holding office or continuing as a Director;
- (c) is liable to pay a call but does not pay the call within 21 days after the date on which it is payable;
- (d) becomes bankrupt or makes any general arrangement or composition with his or her creditors;
- (e) cannot fully participate in the management of the Company because of his or her mental incapacity or is a person whose estate is liable to have a person appointed, under the law relating to the administration of estates of persons who through mental or physical infirmity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Directors incapable of performing his or her duties;
- (f) resigns from his or her office of Director by notice in writing to the Company;
- (g) is removed by a resolution of the Company; or
- (h) not being engaged abroad on the business of the Company, is absent from Directors' meetings for three consecutive months without leave of absence from the Directors.

### **13. REMUNERATION OF DIRECTORS**

#### **13.1 Remuneration of Non-Executive Directors**

- (a) Subject to the ASX Listing Rules, the Directors may, in accordance with section 161 of the Companies Act, authorise the Directors (other than Executive Directors) as a whole to be paid or provided remuneration for their services the total amount or value of which must not exceed an aggregate maximum of \$500,000.00 per annum or such other maximum amount determined from time to time by the Company in meeting of shareholders.
- (b) The notice calling a meeting of shareholders at which it is proposed that shareholders approve an increase of the aggregate maximum sum must state the amount of the increase and the aggregate maximum sum, and any other matters required by the ASX Listing Rules.
- (c) Subject to the ASX Listing Rules, the aggregate maximum sum will be divided among the Non- Executive Directors in such proportion and manner as the Directors agree and, in default of agreement, equally and shall be deemed to accrue from day to day.
- (d) Non-Executive Directors may not be paid a commission on or a percentage of profits or operating revenue.
- (e) If a Non-Executive Director is required to perform services for the Company which in the opinion of the Directors, are outside the scope of the ordinary duties of a Director, the Company may pay or provide the Director remuneration determined by the Directors which may be either in addition to or instead of the Director's remuneration

under clause 13.1(a). No remuneration may be paid or provided under this clause 13.1 if the effect would be to exceed the aggregate maximum sum of Directors' remuneration determined by the Company in a meeting of shareholders.

- (f) Non-Executive Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or meetings of shareholders of the Company or otherwise in connection with the Company's business.
- (g) Shares may be provided to Non-Executive Directors as part of their remuneration under clauses 13.1(c) and 13.1(d) according to the rules of any share plan for the remuneration of Non- Executive Directors that may be introduced by the Company. For the purposes of clause 13.1(a), the value of any Shares provided will be determined according to the rules of the share plan.

### **13.2 Remuneration of Executive Directors**

- (a) The remuneration of an Executive Director may from time to time be fixed by the Directors. The remuneration may be by way of salary or commission or participation in profits or by all or any of these modes but may not be by commission on, or a percentage of, operating revenue.
- (b) The Company may reimburse an Executive Director for his or her expenses properly incurred as a Director or in the course of his or her office.
- (c) Except in circumstances prohibited by the Companies Act, the Company may pay a premium for a contract insuring a person who is or has been an Executive Director against liability incurred by the person as a Director.

### **13.3 Retirement benefits**

- (a) Subject to the Companies Act, the Company may give a person a benefit in connection with a Director's retirement from a board or managerial office in the Company or a related body corporate of the Company.
- (b) Subject to the Companies Act, the Company may enter into an agreement or contract with a person for the giving to the person or any other person of a benefit in connection with a Director's retirement from a board or managerial office in the Company or a related body corporate of the Company.

## **14. POWERS AND DUTIES OF DIRECTORS**

### **14.1 Directors to manage Company**

- (a) The business of the Company is managed by or under the direction of the Directors who may exercise all powers of the Company that this Constitution, , the Companies Act or the ASX Listing Rules do not require to be exercised by the shareholders.
- (b) Without limiting the generality of clause 14.1(a), the Directors may exercise all the powers of the Company to:
  - (i) borrow money;



- (ii) charge any property or business of the Company or all or any of its uncalled capital;
- (iii) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
- (iv) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

## **15. PROCEEDINGS OF DIRECTORS**

### **15.1 Directors' meetings**

- (a) The chairperson, the deputy chairperson, or any two Directors may at any time call or request that an employee of the Company call a meeting of the Directors.
- (b) A Directors' meeting must be called by not less than 48 hours' notice of a meeting to each Director, unless the Directors unanimously agree otherwise. The notice may be in writing or given using any technology consented to by all the Directors.
- (c) An accidental omission to send a notice of a meeting of Directors to any Director or the non-receipt of such a notice by any Director does not invalidate the proceedings, or any resolution passed, at the meeting.
- (d) Subject to the Companies Act, a Directors' meeting may be held by the Directors communicating with each other by any technological means consented to by all the Directors. The consent may be a standing one.
- (e) The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- (f) A Director who participates in a meeting held in accordance with clause 15.1(d) is taken to be present and entitled to vote at the meeting.
- (g) A Director can only withdraw his or her consent under clause 15.1(d) to the means of communication between Directors proposed for a Directors' meeting if the Director does so at least 48 hours before the meeting.
- (h) Clause 15.1(d) applies to meetings of Directors' committees as if all committee members were Directors.
- (i) The Directors may meet together, adjourn and regulate their meetings as they think fit.
- (j) A quorum for meetings of Directors may be fixed by the Directors and unless so fixed, is three Directors present. The quorum must be present at all times during the meeting.
- (k) Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, one or more of the Directors may call a meeting of shareholders to deal with the matter.

- (1) The provisions of the Third Schedule of the Companies Act shall not apply to proceedings of the Directors except to the extent that those provisions are included in this Constitution.

## **15.2 Decisions**

- (a) Questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to the Companies Act, each Director has one vote.
- (b) The Chairperson of a meeting is not entitled to a casting vote.
- (c) An Alternate Director has one vote for each Director for whom he or she is an alternate. If an Alternate Director is a Director, he or she also has a vote as a Director.

## **15.3 Directors' interests**

- (a) A Director must comply with the disclosure of interest requirements of section 140 of the Companies Act, but failure to comply with that section does not affect the validity of any contract or arrangement entered into by the Company.
- (b) Subject to the provisions of this clause 15.3, a Director or a body or entity in which a Director has a direct or indirect interest may:
  - (i) enter into any agreement or arrangement with the Company;
  - (ii) hold any office or place of profit other than as auditor in the Company; and
  - (iii) act in a professional capacity other than as auditor for the Company,and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.
- (c) The fact that a Director holds office as a director, and has fiduciary obligations arising out of that office:
  - (i) will not void or render voidable a contract made by a Director with the Company;
  - (ii) will not void or render voidable a contract or arrangement entered into by or on behalf of the Company and in which the Director may have any interest; and
  - (iii) will not require the Director to account to the Company for any profit realised by or under any contract or arrangement entered into by or on behalf of the Company and in which the Director may have any interest.
- (d) A Director may be or become a director or other officer of, or otherwise be interested in:

- (i) any related body corporate of the company; or
- (ii) any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise,

and is not accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.

- (e) A Director must give to the Company such information about the Shares or other securities in the Company in which the Director has a relevant interest to enable the Company to comply with any disclosure obligations it has under the ASX Listing Rules.

#### **15.4 Alternate Directors**

- (a) A Director may, with the approval of the Directors, appoint any person as his or her alternate.
- (b) An Alternate Director is entitled to notice of Directors' meetings while he or she is acting in that capacity and, if the appointor is not present at a meeting, is entitled to attend, be counted in a quorum and vote as a Director.
- (c) An Alternate Director is an officer of the Company and is not an agent of the appointor.
- (d) The provisions of this Constitution which apply to Directors also apply to Alternate Directors, except that Alternate Directors are not entitled in that capacity to any remuneration from the Company.
- (e) The appointment of an Alternate Director may be revoked at any time by the appointor or by the other Directors.
- (f) An Alternate Director's appointment ends automatically when his or her appointor ceases to be a Director.
- (g) Any appointment or revocation under this clause must be effected by written notice delivered to the Company.
- (h) An Alternate Director does not have an interest in a contract or arrangement or a material personal interest in a matter by reason only of the fact that his or her appointor has such an interest.

#### **15.5 Remaining Directors**

- (a) The Directors may act even if there are vacancies on the board.
- (b) If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Director or Directors may act only to:
  - (i) appoint a Director or Directors; or

- (ii) call a meeting of shareholders.

## **15.6 Chairperson**

- (a) The Directors may elect a Director as chairperson of Directors' meetings and may determine the period for which the chairperson will hold office.
- (b) If no chairperson is elected or if the chairperson is not present at any Directors' meeting within 10 minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.
- (c) The Directors may elect a Director as deputy chairperson to act as chairperson in the chairperson's absence.

## **15.7 Delegation**

- (a) The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to a committee or committees.
- (b) The Directors may at any time revoke any delegation of power under clause 15.7(a).
- (c) At least one member of each committee of Directors must be a Director.
- (d) A committee may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.
- (e) Meetings of any committee of Directors will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each member was a Director.

## **15.8 Written resolutions**

- (a) If all the Directors who are eligible to vote on a resolution have signed a document containing a statement that they are in favour of a resolution set out in the document, then a resolution in those terms is taken to have been passed by the Directors without a meeting. The resolution is passed when the last Director signs.
- (b) For the purposes of clause 15.8(a), separate copies of a document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy.
- (c) Any document referred to in this clause may be in the form of a facsimile transmission or electronic notification.
- (d) If a resolution is taken to have been passed in accordance with this clause 15.8, the minutes must record that fact.
- (e) This clause 15.8 applies to meetings of Directors' committees as if all members of the committee were Directors.

- (f) Any document referred to in this clause 15.8 must be sent to every Director who is entitled to vote on the resolution.

## **15.9 Validity of acts of Directors**

- (a) An act done by a Director is effective even if their appointment, or the continuance of their appointment, is invalid because the Company or Director did not comply with this Constitution or any provision of the Companies Act.
- (b) Clause 15.9(a) does not deal with the question whether an effective act by a director:
  - (i) binds the company in its dealings with other people; or
  - (ii) makes the company liable to another person.

## **15.10 Minutes**

- (a) The Directors must cause minutes to be made of:
  - (i) the names of the Directors present at all Directors' meetings and meetings of Directors' committees;
  - (ii) all proceedings and resolutions of meetings of shareholders, Directors' meetings and meetings of Directors' committees;
  - (iii) all resolutions passed in accordance with clause 15.8;
  - (iv) appointments of officers, but only if the Directors resolve that a minute of the appointment should be made; and
  - (v) all disclosures of interests made in accordance with the Companies Act.
- (b) Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting, and if so signed will be conclusive evidence of the matters stated in such minutes.

## **16. EXECUTIVE DIRECTORS**

### **16.1 Appointment**

- (a) The Directors may appoint a Director to the office of Managing Director on such terms as they think fit.
- (b) The Directors may appoint a Director to any other full-time or substantially full-time executive position in the Company on such terms as they think fit.
- (c) A Director appointed under clauses 16.1(a) or 16.1(b), and a Director (however appointed) occupying for the time being a full-time or substantially full-time executive position in the Company or a related body corporate of the Company, is referred to in this Constitution as an Executive Director.

- (d) If the appointment of an Executive Director is for a fixed term, the term must not exceed five years.
- (e) The Directors may, subject to the terms of the Executive Director's employment contract, suspend, remove or dismiss him or her from executive office and appoint another Director in that place.
- (f) If an Executive Director or the Managing Director ceases to be a Director, his or her appointment as an Executive Director terminates automatically.
- (g) If an Executive Director or the Managing Director ceases to hold an executive office in the Company, then, unless the Directors resolve otherwise, he or she also ceases to be a Director from the same date.
- (h) If an Executive Director is suspended from executive office of the Company or of a related body corporate of the Company, his or her duties and obligations as Director are suspended for the same period.
- (i) A Managing Director is not subject to retirement by rotation and is not to be taken into account in determining the rotation of retirement of Directors. Any other Executive Directors are subject to retirement by rotation.

## **16.2 Powers of Executive Directors**

- (a) Subject to section 130 of the Companies Act, the Directors may confer on an Executive Director any powers exercisable by the Directors, subject to any terms and restrictions determined by the Directors.
- (b) The Directors may authorise an Executive Director to sub-delegate all or any of the powers vested in him or her.
- (c) Any power conferred under this clause may be concurrent with but not to the exclusion of the Directors' powers.
- (d) The Directors may at any time withdraw or vary any of the powers conferred on an Executive Director.

## **17. LOCAL MANAGEMENT**

### **17.1 General**

- (a) Subject to section 130 of the Companies Act, the Directors may provide for the management and transaction of the affairs of the Company in any place and in such manner as they think fit.
- (b) Without limiting clause 17.1(a), but subject to the Companies Act, the Directors may:
  - (i) establish local boards or agencies for managing any of the affairs of the Company in a specified place and appoint any persons to be members of those local boards or agencies; and

- (ii) delegate to any person appointed under clause 17.1(b)(i) any of the powers, authorities and discretions which may be exercised by the Directors under this Constitution,

on any terms and subject to any conditions determined by the Directors.

- (c) The Directors may at any time revoke or vary any delegation under this clause 17.1.

## **17.2 Appointment of attorneys and agents**

- (a) The Directors may from time to time by resolution or power of attorney appoint any person to be the attorney or agent of the Company:

- (i) for the purposes;
- (ii) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
- (iii) for the period; and
- (iv) subject to the conditions, determined by the Directors.

- (b) An appointment by the Directors of an attorney or agent of the Company may be made in favour of:

- (i) any member of any local board established under this Constitution;
- (ii) any company;
- (iii) the members, directors, nominees or managers of any company or firm; or
- (iv) any fluctuating body of persons whether nominated directly or indirectly by the Directors.

- (c) A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.

- (d) An attorney or agent appointed under this clause 17.2 may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

## **18. POWERS OF ATTORNEY**

### **18.1 Powers of attorney**

- (a) If a shareholder executes or proposes to execute any document or do any act by or through an attorney which is relevant to the Company or the shareholder's shareholding in the Company, that shareholder must deliver the instrument appointing the attorney to the Company.

- (b) The Company may require the shareholder to lodge a certified copy of the instrument for retention by the Company, and ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.
- (c) Any power of attorney granted by a shareholder will, as between the Company and the shareholder who granted the power of attorney:
  - (i) continue in force; and
  - (ii) may be acted on,  
  
unless express notice in writing of its revocation or of the death of the shareholder who granted it is lodged with the Company.
- (d) Where a shareholder proposes that an attorney represent the shareholder at a meeting of shareholders or adjourned meeting, the shareholder must comply with clause 11.8(a) of this Constitution.

## **19. INSPECTION OF RECORDS**

### **19.1 Times for inspection**

- (a) Except as otherwise required by the Companies Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by shareholders other than Directors.
- (b) A shareholder other than a Director does not have the right to inspect any financial records or other documents of the Company except as provided in the Companies Act or unless the shareholder is authorised to do so by a court order or a resolution of the Directors.
- (c) Notwithstanding clauses 19.1(a) and 19.1(b), the books of the Company containing the minutes of meetings of shareholders will be kept at the Company's registered office and will be open to inspection of shareholders at all times when the office is required to be open to the public.

## **20. DIVIDENDS AND RESERVES**

### **20.1 Dividends**

The Directors may by resolution either:

- (a) declare a dividend and may fix the amount, the time for and method of payment; or
- (b) determine a dividend is payable and fix the amount and the time for and method of payment.



## **20.2 Amend resolution to pay dividend**

If the Directors determine that a dividend is payable under clause 20.1(b), they may, if permitted by the ASX Listing Rules, amend or revoke the resolution to pay the dividend before the record date notified to ASX for determining entitlements to that dividend.

## **20.3 No interest**

Interest is not payable by the Company on a dividend.

## **20.4 Reserves**

- (a) The Directors may set aside out of profits such amounts by way of reserves as they think appropriate before declaring a dividend or determining to pay a dividend.
- (b) The Directors may apply the reserves for any purpose for which profits may be properly applied.
- (c) Pending any application of the reserves, the Directors may invest or use the reserves in the business of the Company or in other investments as they think fit.
- (d) The Directors may carry forward any undistributed profits without transferring them to a reserve.

## **20.5 Dividend entitlement**

- (a) Subject to the rights of persons (if any) entitled to Shares with special rights as to dividends:
  - (i) all fully paid Shares on which any dividend is declared or paid, are entitled to participate in that dividend equally; and
  - (ii) each partly paid Share is entitled to a fraction of the dividend declared or paid on a fully paid Share of the same class, equivalent to the proportion which the amount paid (not credited) on the Share bears to the total amounts paid and payable, whether or not called, (excluding amounts credited) on the Share.
- (b) An amount paid on a Share in advance of a call is not to be taken as paid for the purposes of clause 20.5(a).
- (c) Unless otherwise determined by the Directors, Shares rank for dividends from their date of allotment.
- (d) Subject to the Companies Act and the CS Facility Rules, a transfer of Shares registered after the record date notified to ASX for determining entitlements to a dividend paid or payable in respect of the transferred Shares, does not pass the right to that dividend.

## **20.6 Restricted securities**

During a breach of the ASX Listing Rules relating to Shares which are Restricted Securities, or a breach of a restriction agreement, the holder of the relevant Restricted Securities is not entitled to any dividend in respect of those Restricted Securities.

## **20.7 Deductions from dividends**

The Directors may deduct from a dividend payable to a shareholder all sums presently payable by the shareholder to the Company on account of calls or otherwise in relation to Shares in the Company.

## **20.8 Distribution of assets**

- (a) The Directors may resolve that a dividend (interim or final) will be paid wholly or partly by the transfer or distribution of specific assets, including fully paid shares in, or debentures of, any other corporation.
- (b) If a difficulty arises in making a transfer or distribution of specific assets, the Directors may:
  - (i) deal with the difficulty as they consider expedient;
  - (ii) fix the value of all or any part of the specific assets for the purposes of the distribution;
  - (iii) determine that cash will be paid to any shareholders on the basis of the fixed value in order to adjust the rights of all the shareholders; and
  - (iv) vest any such specific assets in trustees as the Directors consider expedient.
- (c) If a transfer or distribution of specific assets to a particular shareholder or shareholders is illegal or, in the Directors' opinion, impracticable, the Directors may make a cash payment to the shareholder or shareholders on the basis of the cash amount of the dividend instead of the transfer or distribution of specific assets.

## **20.9 Payment**

- (a) Any dividend or other money payable in respect of Shares may be paid:
  - (i) by cheque sent through the mail directed to:
    - (A) by the address of the shareholder shown in the Register or to the address of the joint holder of Shares shown first in the Register; or
    - (B) by an address which the shareholder has, or Joint holders have, in writing notified the Company as the address to which dividends should be sent;
  - (ii) by electronic funds transfer to an account with a bank or other financial institution nominated by the shareholder and acceptable to the Company; or

- (iii) by any other means determined by the Directors.
- (b) Any joint holder may give an effectual receipt for any dividend or other money paid in respect of Shares held by holders jointly.

#### **20.10 Election to reinvest dividend**

The Directors may:

- (a) establish a plan under which shareholders or any class of shareholders may elect to reinvest cash dividends paid by the Company by subscribing for Shares;
- (b) vary, suspend or terminate the arrangements established under clause 20.10(a).

#### **20.11 Election to accept Shares in lieu of dividend**

- (a) The Directors may resolve, in respect of any dividend which it is proposed to pay on any Shares, that holders of those Shares may elect to:
  - (i) forego their right to share in the proposed dividend or part of the proposed dividend; and
  - (ii) instead receive an issue of Shares credited as fully paid.
- (b) If the Directors resolve to allow the election provided for in clause 20.11(a), each holder of Shares conferring a right to share in the proposed dividend may, by notice in writing to the Company given in such form and within such period as the Directors may decide, elect to:
  - (i) forego the dividend which otherwise would have been paid to the holder on such of the holder's Shares conferring a right to share in the proposed dividend as the holder specifies in the notice of election; and
  - (ii) receive instead Shares to be issued to the holder credited as fully paid, on and subject to such terms and conditions as the Directors may determine.
- (c) Following the receipt of duly completed notices of election under clause 20.11(a)(ii), the Directors must:
  - (i) appropriate from the Company's profits or any reserve available for distribution to shareholders an amount equal to the aggregate issue price (if any) of the Shares to be issued credited as fully paid to those holders of Shares who have given such notices of election; and
  - (ii) apply the amount (if any) in paying up in full the number of Shares required to be so issued.
- (d) The Directors may rescind, vary or suspend a resolution of the Directors made under clause 20.11(a) and the arrangements implemented under the resolution.

- (e) The powers given to the Directors by this clause 20.11 are additional to the provisions for capitalisation of profits provided for by this Constitution. If the Directors exercise their power to capitalise profits under clause 20.13 then any shareholder who has elected to participate in arrangements established under this clause 20.11 is deemed, for the purpose of determining the shareholder's entitlement to share in the capitalised sum, not to have so elected.

## **20.12 Unclaimed dividends**

All dividends unclaimed for one year after the time for payment has passed may be invested by the Directors as they think fit for the benefit of the Company until claimed or until required to be dealt with in accordance with any law relating to unclaimed money. The Company shall be entitled to mingle the distribution with other money of the Company and shall not be required to hold it or to regard it as being impressed with any trust. All dividends or other monetary distributions unclaimed for five years or more after the due date for payment may be forfeited by the Board for the benefit of the Company. The Company shall, nevertheless, annul the forfeiture and subject to compliance with the solvency test, shall pay the dividend or other monetary distribution to the person producing evidence of entitlement.

## **20.13 Capitalisation of profits**

- (a) The Directors may resolve:
  - (i) to capitalise any sum being the Company's profits or any reserve available for distribution to shareholders; and
  - (ii) that:
    - (A) no Shares be issued and no amounts unpaid on Shares be paid up on capitalisation of the sum; or
    - (B) the sum be applied in any of the ways mentioned in clause 20.13(b) for the benefit of shareholders in the proportions in which the shareholders would have been entitled if the sum had been distributed by way of Dividend.
- (b) The ways in which a sum may be applied for the benefit of shareholders under clause 20.13(a)(ii)(B) are:
  - (i) in paying up any amounts unpaid on Shares held or to be held by shareholders;
  - (ii) in paying up in full unissued Shares or debentures to be issued to shareholders as fully paid; or
  - (iii) partly as mentioned in clause 20.13(b)(i) and partly as mentioned in clause 20.13(b)(ii).
- (c) To the extent necessary to adjust the rights of the shareholders among themselves, the Directors may:

- (i) make cash payments in cases where Shares or debentures become issuable in fractions; and
- (ii) authorise any person to make, on behalf of all the shareholders entitled to a benefit on the capitalisation, an agreement with the Company providing for:
  - (A) the issue to them, credited as fully paid up, of any such further Shares or debentures; or
  - (B) the payment by the Company on their behalf of the amount or any part of the amount remaining unpaid on their existing Shares by the application of their respective proportions of the sum resolved to be capitalised, and any agreement made under the authority of clause 20.13(c)(ii) is effective and binding on all the shareholders concerned.

## **21. NOTICES**

### **21.1 Service of notices**

- (a) All notices, reports, accounts or documents required to be sent to a shareholder of the company shall be sent in the manner set out in section 391 of the Companies Act.
- (b) A notice sent by post or courier is taken to be served:
  - (i) by properly addressing, prepaying and posting or directing the delivery of the notice; and
  - (ii) on the day after the day on which it was posted or given to the courier for delivery.
- (c) A notice sent by facsimile transmission or electronic notification is taken to be served:
  - (i) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
  - (ii) on the day of its transmission except if transmitted after 5.00pm in which case is taken to be served on the next day.
- (d) A notice may be served by the Company on joint holders under clause 2.5 or 11.3 by giving the notice to the joint holder whose name appears first in the Register.
- (e) A cheque, warrant or other document may be delivered by the Company either personally or by sending it:
  - (i) in the case of a shareholder whose address recorded in the Register is not in New Zealand, by airmail post, facsimile transmission, electronic notification or in another way that ensures that it will be received quickly, as appropriate; and
  - (ii) in any other case by ordinary post,

and is at the risk of the addressee as soon as it is given or posted.

A shareholder whose address recorded in the Register is not in New Zealand may specify in writing an address in New Zealand for the purposes of clause 21.

- (f) A certificate in writing signed by a Director or other officer of the Company, or by any person that the Company has engaged to maintain the Register, that a document or its envelope or wrapper was addressed and stamped and was posted or given to a courier is conclusive evidence of posting or delivery by courier.
- (g) Subject to the Companies Act the signature to a written notice given by the Company may be written or printed.
- (h) All notices sent by post outside Australia must be sent by prepaid airmail post.
- (i) A notice sent by post, courier, facsimile transmission or electronic notification to a shareholder's address shown in the Register or the address supplied by the shareholder to the Company for the purpose of sending notices to the shareholder is deemed to have been served notwithstanding that the shareholder has died, whether or not the Company has notice of his or her death.

## **21.2 Persons entitled to notice**

- (a) Notice of every meeting of shareholders must be given to:
  - (i) every shareholder;
  - (ii) every Director and Alternate Director;
  - (iii) ASX; and
  - (iv) the Auditor.
- (b) No other person is entitled to receive notice of a meeting of shareholders.

## **22. AUDIT AND FINANCIAL RECORDS**

### **22.1 Company to keep financial records**

- (a) The Directors must cause the Company to keep written financial records and to prepare financial documents and reports in accordance with the requirements of the Companies Act and the ASX Listing Rules.
- (b) The Directors must cause the financial records and financial documents of the Company to be audited in accordance with the requirements of the Companies Act and the ASX Listing Rules.

## **23. METHOD OF CONTRACTING**

### **23.1 Manner of execution**

A contract or other enforceable obligation may be entered into by the Company as follows:

- (a) an obligation which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by:
  - (i) two or more Directors;
  - (ii) any Director or another person authorised by the Directors, whose signature must be witnessed; or
  - (iii) one or more attorneys appointed by the Company in accordance with this constitution;
- (b) an obligation which, if entered into by a natural person, is by law, required to be in writing, may be entered into on behalf of the Company in writing by a person acting under the Company's express or implied authority; and
- (c) an obligation which, if entered into by a natural person, is not, by law, required to be in writing, may be entered into on behalf of the Company in writing or orally by a person acting under the Company's express or implied authority.

### **23.2 Company may appoint attorneys**

The Company may, by an instrument in writing executed in accordance with clause 23.1, appoint one or more persons as its attorney or attorneys either generally or in relation to a specified matter or matters. An act of an attorney in accordance with the instrument binds the Company.

## **24. WINDING UP**

### **24.1 Winding up**

- (a) Nothing in this clause prejudices the rights of the holders of Shares issued on special terms and conditions.
- (b) If the Company is wound up, the liquidator may, with the sanction of a Special Resolution of the Company:
  - (i) divide among the shareholders in kind all or any of the Company's assets; and
  - (ii) for that purpose, determine how he or she will carry out the division between the different classes of shareholders,

but may not require a shareholder to accept any Shares or other securities in respect of which there is any liability.

- (c) The liquidator may, with the sanction of a Special Resolution of the Company, vest all or any of the Company's assets in a trustee on trusts determined by the liquidator for the benefit of the contributories.

## **25. INDEMNITY**

### **25.1 Indemnity for Directors**

Every Director shall be indemnified by the Company for any costs referred to in section 162(3) of the Companies Act and any liability or costs referred to in section 162(4) of the Companies Act. Directors Board may determine the amounts and terms and conditions of such an indemnity.

### **25.2 Other indemnities and insurance**

In addition to the indemnity set out in clause 25.1, the Company may:

- (a) indemnify a director or employee of the Company or a related company for any costs referred to in section 162(3) of the Companies Act. The Directors may determine the amounts and terms and conditions of any such indemnity;
- (b) indemnify a director or employee of the Company or a related company in respect of any liability or costs referred to in section 162(4) of the Companies Act. The Directors may determine the amounts and terms and conditions of any such indemnity; and
- (c) with the prior approval of the Directors effect insurance for a director or employee of the Company or a related company in respect of any liability or costs referred to in section 162(5) of the Companies Act. The Directors may determine the amounts and terms and conditions of any such insurance.

### **25.3 Interpretation**

Words given extended meanings by section 162(9) of the Companies Act have those extended meanings in this clause 25.

### **25.4 Shareholder disclosure**

If a shareholder has entered into any arrangement restricting the transfer or other disposal of Shares and those arrangements are of the nature of arrangements which the Company is required to disclose under the ASX Listing Rules, then the shareholder must provide to the Company such information that the Company requires and within the time that the Company requires, to comply with the Company's disclosure obligations.