

Constitution of Music Health Pty Ltd

A proprietary company limited by shares

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Constitution of Music Health Pty Ltd ACN 645 975 168 a proprietary company limited by shares.

General

1 Definitions

The following definitions apply in this Constitution unless the context requires otherwise:

Affiliate means in respect of a person (**Primary Person**), a person:

- (a) Controlled directly or indirectly by the Primary Person;
- (b) Controlling directly or indirectly the Primary Person; or
- (c) directly or indirectly under the common Control of the Primary Person and another person or persons,

and **Control** as used in this definition with respect to any person (other than an individual) means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person, whether through the ownership of voting securities, by agreement or otherwise, and includes the following:

- (d) direct or indirect ownership of more than 50% of the voting rights of such person; or
- (e) the right to appoint the majority of the members of the board of directors of such person (or similar governing body) or to manage on a discretionary basis the assets of such person.

Approved Fees for a Director (other than an Executive Director) means fees, salary, bonuses, fringe benefits and superannuation contributions provided by the Company, but does not include:

- (f) a payment as compensation for loss of office or in connection with retirement from office (which includes resignation from office and death while in office); or
- (g) any issue or acquisition of securities.

Board means the Directors acting collectively under this Constitution.

Board Reserved Matter means:

- (a) approving the payment of any Dividend;
- (b) approving any buy-back or capital reduction or other return of capital;
- (c) approving any alteration of the share capital of the Company;
- (d) approving the identity of a new third party investor in connection with the issue of Securities;
- (e) approving the company making capital expenditure in excess of \$100,000 (any one occurrence) or operational expenditure in excess of \$100,000 (any one occurrence);
- (f) approving the company entering into a debt facility in excess of \$100,000 or giving any security in support of such facility;
- (g) approving the company entering into any joint venture, partnership or profit-sharing arrangement;
- (h) hiring, terminating or materially altering the terms of employment of executive Director;
- (i) taking any step to dissolve, wind up or appoint an administrator, liquidator or receiver to the company.

The Board may by unanimous resolution amend any of the amounts specified above.

Board Special Resolution means a resolution of the Board that must be passed by ordinary resolution including the vote of the Founder Director (if, and for so long as, any Founder Director continues to

occupy such role at the relevant time).

Call includes any instalment of a call and any amount due on the issue of any share.

company means Music Health Pty Ltd ACN 645 975 168.

Constitution means this constitution.

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

CSF Offer means a crowdsourced funding offer that satisfies the requirements contained in Part 6D.3A of the Corporations Act.

CSF Shareholder means person whose shareholding consists solely of fully-paid ordinary shares in the company issued pursuant to a CSF Offer or whose shareholding consists solely of ordinary shares in the company that were originally issued to another entity pursuant to a CSF Offer.

Director means a person appointed or elected to the office of director of the company in accordance with this Constitution and, where appropriate, includes an alternate Director.

Dividend means a bonus or other distribution in kind or in cash.

Eligible Shareholder is defined in clause 1(b) of Schedule 1.

Eligible Shareholder Proportion means, in respect of an Eligible Shareholder, the proportion that the aggregate number of shares held by that Eligible Shareholder bears to the aggregate number of shares held by all Eligible Shareholder at the relevant time.

Excluded Issue means

- (a) an issue of Securities under a Share Plan; or
- (b) an issue of Securities approved by ordinary resolution of the shareholders.

Founder Director means Nicolas Carter - Johnson.

Initial Shareholder means Muru Music Pty Ltd (ACN 168 195 597).

Managing Director means a person appointed as managing director in accordance with rule 50.

Secretary means a person appointed as, or to perform the duties of, secretary of the company.

Securities includes shares, preference shares, rights to shares, options to acquire shares and other securities with rights of conversion to equity, in each case as issued or granted by the company.

Security Interest means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect, including any "security interest" as defined in the Personal Property Securities Act 2009 (Cth).

Shareholder Reserved Matter means:

- (a) materially alter the business carried on by the company;
- (b) alter the Company's constitution;
- (c) other than as permitted by this Constitution or the Corporations Act, authorise a transaction between the Company and a shareholder or its Affiliate, otherwise than on arm's length terms;
- (d) sell all or a substantial part of the assets of the company; and
- (e) apply to a stock exchange for a listing or for quotation of shares in the company.

Shareholder Special Resolution means a resolution of the shareholders passed by shareholders entitled to vote and who between them hold at least 60% of the total number of issued Securities in the company.

Shareholder Present means, in connection with a general meeting, a shareholder present at the venue or venues for the meeting, in person or by proxy, by attorney or, where the shareholder is a body corporate,

by representative.

Share Plan means an employee incentive plan to issue Securities to eligible service providers (including Directors, employees and contractors) of the company.

Share Register means a register listing each person who is a holder or joint holder of a share which the company maintains in accordance with the Corporations Act.

2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) Mentioning anything after includes, including, or similar expressions, does not limit what else might be included.
- (c) The following rules apply unless the context requires otherwise.
 - (i) The singular includes the plural, and the converse also applies.
 - (ii) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - (iii) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
 - (iv) A reference to a rule is a reference to a rule of this Constitution.
 - (v) Except as provided in sub-section (vi) below, a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
 - (vi) A word or phrase given a meaning in the Corporations Act has the same meaning in this Constitution as in force on the day on which this Constitution became binding on the company.

3 Replaceable rules

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

4 Proprietary company provisions

- (a) The company is a proprietary company limited by shares.
- (b) The number of shareholders of the company is limited to no more than 50 (counting joint holders of a share in the Company as one person), but not counting any person who is:
 - (i) an employee of the company or of a subsidiary of the company who is a Shareholder;
 - (ii) any person who was an employee of the company or of a subsidiary of the company when that person became a shareholder;
 - (iii) a CSF Shareholder by reason of:
 - (A) being issued eligible Securities under a CSF Offer; or
 - (B) acquiring eligible Securities that were originally issued under a CSF Offer;
 - (iv) otherwise not required to be counted towards the 50 shareholder limit by reason of the Corporations Act.

Capital

5 Issue of Securities

- (a) Subject to the Corporations Act, this Constitution and any special rights conferred on the holders of any Securities, the issue of Securities is under the control of the Board, which may issue and cancel Securities and grant options over unissued Securities, on the terms the Board considers appropriate, subject to the pre-emptive rights for the issue of new Securities in Schedule 1.
- (b) Without affecting any special rights conferred on the holders of any Securities, any Securities may be issued with preferred, deferred or other special rights, obligations or restrictions, whether in regard to Dividends, voting, return of share capital, payment of Calls or otherwise, as the Board may determine and on any terms the Board considers appropriate.
- (c) Unless otherwise provided by the terms of issue, the issue of any new Securities ranking equally with existing Securities is not a variation of the rights conferred on the holders of the existing Securities.

6 Surrender of Securities

In its discretion, the Board may accept a surrender of Securities by way of compromise of any question as to whether or not those Securities have been validly issued or in any other case where the surrender is within the powers of the company. Any Securities surrendered may be sold or re-issued in the same manner as forfeited shares.

7 Joint holders

Where two or more persons are registered as the holders of any Securities, they are considered to hold the Securities as joint tenants with benefits of survivorship, subject to the following provisions.

- (a) The company is not bound to register more than three persons as the holders of the Securities (except in the case of personal representatives of a deceased Security holder).
- (b) The joint holders of the Securities are liable severally as well as jointly in respect of all payments which ought to be made in respect of the Securities.
- (c) On the death of any one of the joint holders, the remaining joint holders are the only persons recognised by the company as having any title to the Securities but the Board may require evidence of death and the estate of the deceased joint holder is not released from any liability in respect of the Securities.
- (d) Any one of the joint holders may give a receipt for any Dividend, bonus or return of capital payable to the joint holders in respect of the Securities.
- (e) Only the person whose name stands first in the Securities register as one of the joint holders of the Securities is entitled, if the company determines to issue certificates for Securities, to delivery of a certificate relating to the Securities or to receive notices from the company and any notice given to that person is considered notice to all the joint holders.
- (f) Any one of the joint holders may vote at any general meeting of the company in person, or by properly authorised representative, proxy or attorney, in respect of the Securities as if that joint holder was solely entitled to the Securities. If more than one of the joint holders tender a vote in person or by properly authorised representative, proxy or attorney, only the vote of the joint holder whose name appears first in the Securities register counts.

8 Certificates

The Board may decide to issue certificates for Securities and to cancel any certificates on issue and to replace lost, destroyed or defaced certificates on issue on the basis and in the form it determines from time to time.

Forfeiture

9 Liability to forfeiture

- (a) If a shareholder fails to pay when due any sum payable in respect of any shares (including amounts payable on issue, Calls, instalments, interest or expenses), the Board may serve a notice on the shareholder requiring payment of the unpaid sum, together with accrued interest and all expenses of the company incurred by reason of the non-payment.
- (b) The notice must:
 - (i) specify:
 - (A) a time by which payment must be made, which must not be earlier than close of business (local time at the registered office of the company) 7 days after the date of service of the notice; and
 - (B) the required manner of payment; and
 - (ii) state that the shares are liable to be forfeited if payment is not made as required by the notice.

10 Power to forfeit

If the requirements of a notice with respect to a share under rule 9 are not complied with, then at any time the share may be forfeited by a resolution of the Board to that effect unless, before the resolution, the payment required by the notice is paid together with interest (if determined by the Board) at the rate determined by the Board.

11 Consequences of forfeiture

- (a) A person whose shares have been forfeited:
 - (i) ceases to be a shareholder in respect of the forfeited shares at the time and on the date of the passing of a resolution of the Board approving the forfeiture;
 - (ii) has no claims or demands against the company in respect of those shares including any Dividends;
 - (iii) has no other rights incident to the shares; and
 - (iv) unless otherwise approved by the company in general meeting, remains liable to pay to the company all money that, at the date of forfeiture, was payable by the person to the company in respect of the shares (including, if the Board determines, interest from the date of forfeiture at the rate the Board determines). The Board may enforce the payment of all or any part of the money as it determines.
- (b) If any amounts due in respect of any shares (including amounts payable on issue, Calls, instalments, interest or expenses) are unpaid by the shareholder:
 - (i) the shareholder is not entitled to any rights or privileges as a shareholder;
 - (ii) the company is entitled to set off any amount owed by it to the shareholder against the amounts the shareholder owes to it; and

- (iii) the company may refuse to register a transfer of the shares.
- (c) Nothing in this rule 11 affects any other right or remedy of the company against the shareholder or anyone else.

12 Notice of forfeiture

When any share is forfeited, the company will note it in the register of shareholders and notify the affected shareholder. Failure to do so does not invalidate the forfeiture. At any time before any forfeited share is cancelled or reissued, the Board may annul the forfeiture on any conditions it determines.

13 Reissue of forfeited shares

- (a) Subject to applicable law, the Board may reissue the forfeited shares in any manner it determines and, to the extent permitted by law, with or without any money previously paid on the shares being credited as paid up.
- (b) Unless otherwise agreed, the acquirer of a reissued share is:
 - (i) discharged from liability for any Calls which may have been due before the reissue of the forfeited share; and
 - (ii) not bound to see to the application of any money paid as consideration.
- (c) Subject to the terms of issue of the forfeited shares, the proceeds from the acquisition of the reissued shares must be applied to pay:
 - (i) first, the company's expenses of the reissue;
 - (ii) then, any expenses necessarily incurred in respect of the forfeiture; and
 - (iii) then, the Calls or other sums payable to the company in respect of the forfeited shares that are due and unpaid.

The balance, if any, must be paid to the person whose shares were forfeited.

14 Transfers after forfeiture and sale

- (a) The company may:
 - (i) receive the consideration (if any) given for a forfeited share on any sale or disposition of the share; and
 - (ii) effect a transfer of the share in favour of the person to whom the share is sold or disposed of.
- (b) On the completion of the transfer, the transferee is to be registered as the holder of the share and is not bound to see to the application of any money paid as consideration.

Payments by the company

15 Payments by the company

- (a) If the law of any place imposes or purports to impose any immediate or future or possible liability on the company to make any payments or empowers any government or taxing authority or government official to require the company to make any payment:
 - (i) in respect of any Securities held either jointly or solely by any holder;
 - (ii) in respect of any transfer of those Securities;

- (iii) in respect of any interest, Dividends, or other moneys due or payable or accruing or which may become due or payable to the holder by the company on or in respect of any Securities; or
 - (iv) for or on account or in respect of any holder of Securities,

then paragraphs (b) and (c) apply, in addition to any right or remedy the company may otherwise have.
- (b) The company is fully indemnified by:
 - (i) the holder;
 - (ii) the holder's trustee, executor or administrator; or
 - (iii) any person who becomes registered as the holder of the Securities on the distribution of the deceased holder's estate.
- (c) The company may recover any moneys paid as described in paragraph (a) which exceeded any Dividend, or other money then due or payable by the company to the holder, together with interest at a rate the Board may determine from time to time from the date of payment to the date of repayment, as a debt due from:
 - (i) the holder;
 - (ii) the holder's trustee, executor or administrator; or
 - (iii) any person who becomes registered as holder of the Securities on the distribution of the deceased holder's estate.
- (d) The Board may:
 - (i) exempt a Security from all or part of this rule 15; and
 - (ii) waive or compromise all or part of any payment due to the company under this rule 15.

Call on shares and interest on sums due to the company

16 Board's power to make Calls

- (a) Subject to the terms of issue of any shares, the Board may make Calls on the relevant shareholders in respect of any money unpaid on the shares.
- (b) Each shareholder must pay the amount of the Call on that shareholder's shares in the manner, by the time or times, and at the place specified by the Board.
- (c) The Board may revoke or postpone a Call.
- (d) A Call may be required to be paid by instalments.
- (e) A Call is made at the time of or as specified in the resolution of the Board authorising the Call.
- (f) The non-receipt of a notice of a Call by, or the accidental omission to give notice of a Call to, any shareholder does not invalidate the Call.
- (g) If the Board thinks fit, the company may receive from any shareholder all or any part of the moneys unpaid on all or any of the shares held by that shareholder beyond the sums actually called up and then due and payable either as a loan repayable or as a payment in advance of Calls. The company may pay interest on the moneys advanced at the rate and on the terms agreed by the Board and the shareholder paying the sum in advance.

17 Interest on unpaid amounts

- (a) If a sum called or otherwise payable to the company in respect of a share is not paid before or on the day for payment, the person from whom the sum is due must pay:
 - (i) interest on the sum from the due date to the time of actual payment at the rate determined by the Board; and
 - (ii) any costs and expenses incurred by the company by reason of non-payment or late payment of the sum.
- (b) The Board may waive payment of some or all of the interest, costs and expenses under paragraph (a).

18 Differentiation between holders

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

Transfer of Securities

19 Pre-emptive right on transfers

A transfer of Securities must be conducted in accordance with Schedule 2.

20 Transfer requirements

- (a) No transfer of any Securities may be registered unless a proper instrument of transfer, in writing in the usual or common form or in any form the Board may prescribe or in a particular case accept, signed by the transferor and the transferee and properly stamped (if necessary) is delivered to the company (but the Board may dispense with the execution of the instrument by the transferee if the Board thinks fit).
- (b) The transferor is considered to remain the holder of the Securities transferred until the name of the transferee is entered on the Securities register.

21 Transfer and certificate

- (a) Every transfer must be left for registration at the registered office of the company or any other place the Board determines. Unless the Board otherwise determines either generally or in a particular case, the transfer is to be accompanied by the certificate for the Securities to be transferred. In addition, the transfer is to be accompanied by any other evidence that the Board may require to prove the title of the transferor, the transferor's right to transfer the Securities, execution of the transfer or compliance with the provisions of any applicable laws.
- (b) Subject to paragraph (a), the certificate specifying the Securities in respect of which registration is required must be delivered to the company for cancellation on each application to register the transfer of any Securities or to register any person as the holder in respect of any Securities transmitted to that person by operation of law or otherwise. The certificate is considered to have been cancelled on such registration.
- (c) Each transfer that is registered may be retained by the company for any period determined by the Board, after which the company may destroy it.
- (d) Without limiting any other entitlement the company may have to charge fees, the company may charge a reasonable fee in relation to any transfer of Securities or the issue of any certificates for Securities.

22 Drag along and tag along

Schedule 3 applies in the event of a Tag Along Event or Drag Along Offer.

Transmission of Securities

23 Transmission on death

- (a) Where a Security holder dies:
 - (i) the legal personal representatives of the deceased, where the Security holder was a sole holder or a joint holder holding as a tenant in common; and
 - (ii) the survivor or survivors, where the Security holder was a joint holder,are the only persons recognised by the company as having any title to the Security holder's interest in the Securities (as the case may be).
- (b) Subject to the Corporations Act, the Board may require evidence of a Security holder's death as it determines.
- (c) This rule 23 does not release the estate of a deceased joint holder from any liability in respect of any Security that had been jointly held by the holder with other persons.

24 Transmission by operation of law

A person (a **Transmittee**) who establishes to the satisfaction of the Board that the right to any Securities has devolved on the Transmittee by will or by operation of law may be registered as a holder in respect of the Securities or may (subject to the provisions in this Constitution relating to transfers) transfer the Securities. The Board has the same right to refuse to register the Transmittee as if the Transmittee was the transferee named in a transfer presented for registration.

General meetings

25 General meetings

- (a) A Director may convene a general meeting of the company whenever the Director thinks fit.
- (b) A general meeting of the company must be convened by the Board when required by section 249D or by order made under section 249G of the Corporations Act.
- (c) Any Director may cancel or postpone any meeting convened by that Director by notice in writing to all persons who were entitled to receive notice of that meeting, except where the cancellation or postponement would be contrary to the Corporations Act. Any failure to give notice of cancellation or postponement does not invalidate the cancellation or postponement or any resolution passed at a postponed general meeting.

26 Notice of general meetings

- (a) Where the Board has called a general meeting, notice of the meeting may be given in the form and manner in which the Board determines, subject to the Corporations Act.
- (b) The non-receipt of a notice convening a general meeting by, or the accidental omission to give notice to, any person entitled to receive notice does not invalidate the proceedings, or any resolution passed, at the meeting.

27 Business of general meetings

No person may move at any general meeting either any resolution (except in the form set out in the notice of meeting) or any amendment of any resolution, except with the approval of the Board, with the permission of the chair of the meeting or under the Corporations Act.

28 Quorum for general meetings

- (a) No business may be transacted at any general meeting except, subject to rule 29, the election of a chair of the meeting unless a quorum of shareholders is present at the time when the meeting proceeds to business.
- (b) Except as otherwise provided in this Constitution, two Shareholders Present constitutes a quorum.
- (c) If there is not a quorum at a general meeting within 30 minutes after the time specified in the notice of the meeting, the meeting is dissolved unless the chair of the meeting or the Board adjourns the meeting to a date, time and place determined by that chair or the Board. If no quorum is present at any adjourned meeting within 30 minutes after the time for the meeting, the meeting is dissolved.
- (d) Nothing in this Constitution limits the company's power to pass a resolution without a general meeting in accordance with the Corporations Act.

29 Conduct of general meetings

- (a) Subject to rule 29(b), the chair of the Board is entitled to preside as chair at every general meeting.
- (b) Where a general meeting is held and:
 - (i) there is no chair of the Board; or
 - (ii) the chair of the Board is not able to be present at the meeting or is not present within 15 minutes after the time appointed for the meeting, or despite being so present is unable or unwilling to act as chair of the meeting,the Directors present may choose one of their number or, in the absence of all Directors or if none of the Directors present wish to act, the Shareholders Present may elect one of their number to be chair of the meeting.
- (c) The general conduct of each general meeting of the company and the procedures to be adopted at the meeting are as determined at, during or prior to the meeting by the chair of the meeting.
- (d) The chair of a general meeting of the company may make rulings without putting the question (or any question) to a vote if that chair considers action is required to ensure the orderly conduct of the meeting.
- (e) The chair of a general meeting of the company may require the adoption of any procedures that are in that chair's opinion necessary or desirable for the proper and orderly casting or recording of votes at the meeting, whether on a show of hands or on a poll.
- (f) If at any time the chair of a general meeting of the company considers it necessary or desirable for the proper and orderly conduct of the meeting, that chair may demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Shareholders Present.
- (g) Any determination by the chair of a general meeting in relation to matters of procedure (including any procedural motions moved at, or put to, the meeting) or any other matter arising

directly or indirectly from the business is final (including any procedural motions moved at, or put to, the meeting). Any challenge to a right to vote (whether on a show of hands or on a poll) or to a determination to allow or disregard a vote may only be made at the meeting and may be determined by the chair of the meeting whose decision is final.

- (h) If a person purports to cast a vote at a general meeting in contravention of the Corporations Act, the chair of the meeting may determine that the vote be disregarded and treated as not having been cast.
- (i) Nothing contained in this rule 29 limits the powers conferred on a chair of a general meeting by law.

30 Acting chair

- (a) If during any general meeting the chair of the meeting acting under rule 29 is unwilling to chair any part of the proceedings, that chair may withdraw during the relevant part of the proceedings and may nominate any person who immediately before the general meeting was a Director or who has been nominated for election as a Director at the meeting to be acting chair of the meeting during the relevant part of the proceedings. On the conclusion of the relevant part of the proceedings, the acting chair of the meeting is to withdraw and the chair of the meeting acting under rule 29 is to resume to chair the meeting.
- (b) Where an instrument of proxy appoints the chair of a general meeting as proxy for the part of the proceedings for which an acting chair of the meeting has been nominated, the instrument of proxy is taken to be in favour of that acting chair for the relevant part of the proceedings.

31 Adjournment of general meetings

- (a) During the course of a general meeting the chair of the meeting may adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion, either to a later time at the same meeting or to an adjourned meeting to be held at the time and place determined by that chair.
- (b) If the chair of a general meeting exercises a right of adjournment of the meeting under this rule 31, that chair has the sole discretion to decide whether to seek the approval of the Shareholders Present to the adjournment and, unless that chair exercises that discretion, no vote may be taken by the Shareholders Present in respect of the adjournment.
- (c) No business may be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.

32 Voting at general meetings

- (a) Each question submitted to a general meeting is to be decided by a show of hands of the Shareholders Present and entitled to vote, unless a poll is demanded.
- (b) Unless a poll is demanded, a declaration by the chair of a general meeting following a vote on a show of hands at the meeting that a resolution has been passed or lost is conclusive.
- (c) At any general meeting, a poll may be demanded by a shareholder in accordance with the Corporations Act (and not otherwise) or by the chair of the meeting.

33 Special meetings

All the provisions of this Constitution as to general meetings apply to any special meeting of any class of shareholders that may be held under the operation of this Constitution or the Corporations Act.

34 Procedure for polls

- (a) When demanded at a general meeting, a poll may be taken in the manner and at the time that the chair of the meeting directs.
- (b) The result of a poll may be announced in the manner and at the time (whether during the relevant meeting or afterwards) that the chair of the meeting considers appropriate.
- (c) The result of a poll is the resolution of the meeting at which the poll was demanded.
- (d) The demand for a poll does not prevent a meeting from continuing for the transaction of any business other than that on which a poll has been demanded. Subject to rules 31 and 32(c), a poll demanded on any question of adjournment is to be taken at the meeting and without adjournment.

35 Chair does not have casting vote

In the case of an equality of votes on a show of hands or on a poll at or for the purposes of a general meeting of the company, the chair of the meeting does not have a casting vote.

36 Representation and voting of shareholders

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

- (a) at meetings of shareholders or a class of shareholders, each shareholder entitled to attend and vote may:
 - (i) attend and vote in person; or
 - (ii) be represented and vote by proxy, by attorney or (where the shareholder is a body corporate) by representative;
- (b) on a show of hands in respect of a resolution:
 - (i) subject to subparagraphs (ii) and (iii), each Shareholder Present has one vote;
 - (ii) where a shareholder has appointed more than one person as representative, proxy or attorney for the shareholder, none of the representatives, proxies or attorneys is entitled to vote; and
 - (iii) where a person is entitled to vote because of rule 36(b)(ii) in more than one capacity, that person is entitled only to one vote; and
- (c) on a poll in respect of a resolution, only Shareholders Present may vote and every Shareholder Present having the right to vote on the resolution has one vote for each fully paid share they hold.

37 Restriction on voting rights

A shareholder is not entitled to:

- (a) be counted for the purpose of constituting a quorum at a general meeting unless the shareholder holds at least one share upon which no Calls and no other sums are presently payable by the shareholder to the company; and
- (b) vote at a general meeting in respect of a share upon which any Calls or other sums are presently payable by the shareholder to the company.

38 Form of proxy

- (a) A shareholder who is entitled to attend and vote at a general meeting of the company may appoint a person as a proxy to attend and vote for the shareholder in accordance with the Corporations Act but not otherwise. A proxy appointed in accordance with the Corporations Act to attend and vote may exercise the rights of the shareholder on the basis and subject to the restrictions provided in the Corporations Act but not otherwise.
- (b) A form of appointment of a proxy is valid if it is in accordance with the Corporations Act or in any form (including electronic) that the Board may prescribe or accept.
- (c) Any form of appointment of a proxy under this rule 38 that is incomplete may be completed by a Secretary on the authority of the Board and the Board may authorise completion of the form by the insertion of the name of any Director as the person in whose favour the proxy is given.
- (d) Where a notice of meeting provides for electronic lodgement of proxy appointment forms, a form lodged at the electronic address specified in the notice is taken to have been received at the registered office of the company and validated by the shareholder if there is compliance with the requirements set out in the notice.

39 Number of proxies

- (a) A shareholder may appoint not more than two proxies. A proxy need not be a shareholder.
- (b) 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 of the votes.
- (c) If a shareholder appoints two proxies, neither proxy is entitled to vote on a show of hands. Otherwise, a proxy is entitled to vote on a show of hands.

40 Validity of proxies, attorneys and representatives

- (a) A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite:
 - (i) the previous death or unsoundness of mind of the principal;
 - (ii) the revocation of the instrument (or of the authority under which the instrument was executed) or the power; or
 - (iii) the transfer of the share in respect of which the instrument or power is given,if no notice in writing of the death, unsoundness of mind, revocation or transfer (as the case may be) has been received by the company at its registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.
- (b) A proxy or attorney is not revoked by the principal attending and taking part in the relevant meeting unless the principal actually votes at the meeting on a resolution for which the proxy or attorney is proposed to be used.

41 Written resolutions

- (a) The company may pass a resolution required by law without a general meeting being called or held if the resolution is set out in a document signed in the manner set out in section 249A of the Corporations Act.
- (b) A shareholders' resolution for a Shareholders' Reserved Matter is taken to have been passed by circulating resolution if:

- (i) a notice containing the resolution is sent to each shareholder who would have been entitled to vote on it, had it been proposed at a shareholders' meeting;
- (ii) shareholders holding the requisite majority of the votes entitled to be cast on the resolution signify their assent to the resolution;
- (iii) a shareholder who does not signify his or her consent by the date specified in the notice is taken to have voted against it; and
- (iv) if the required number of the shareholders assent to the resolution, the resolution is passed on the last day and at the last time at which the document was assented to by a shareholder so that the requisite majority was satisfied.

Appointment, removal and remuneration of Directors

42 Number of Directors

- (a) The number of Directors (not including alternate Directors) must not be less than two Directors and not more than eight Directors (not including alternate Directors).
- (b) If the number of Directors is reduced below the minimum required by this rule, the continuing Directors may act as the Board only:
 - (i) to appoint Directors up to that minimum number;
 - (ii) to convene a meeting of shareholders; and
 - (iii) in emergencies.

43 Appointment of Directors

- (a) The first Directors are those named in the registration of the company.
- (b) The Board may at any time appoint any person as a Director either to fill a casual vacancy or as an addition to the Board.
- (c) The Initial Shareholder may appoint one (1) Director for so long as it holds Securities.
- (d) A shareholder may appoint one (1) representative Director for so long as it holds 20% or more of the Securities in aggregate (or such other proportion as determined by Board Special Resolution from time to time).
- (e) Directors are not required to hold shares in the capital of the company.

44 Removal of Directors

- (a) A shareholder entitled to appoint a Director under rule 43 may remove and replace that Director by written notice to the company.
- (b) Directors may be removed by Board Special Resolution (other than a Director appointed by a particular shareholder under rule 43(c)).
- (c) A Director must resign (and the shareholder that appointed that Director, if applicable, must ensure that the Director does resign) by written notice to the company if:
 - (i) the shareholder that appointed that Director ceases to have the requisite number of shares in the Company for the appointment;
 - (ii) the Director becomes incapable of managing its own affairs due to a medical or mental condition (as evidenced by a certificate to that effect by a qualified medical practitioner); or

- (iii) the Director is precluded from taking part in the management of a corporation under the provisions of Part 2D of the Act.
- (d) A Director may resign from office by written notice to the Company.
- (e) The removal of a Director takes effect when the written notice of removal is received at the registered office of the Company or the requisite resolution is passed, as applicable.

45 Remuneration of Directors

- (a) The Directors (other than the Executive Directors and those who are Directors only because they are Alternates) are entitled to be paid, out of the funds of the Company, an amount of Approved Fees which:
 - (i) does not in any year exceed in aggregate the amount last fixed by ordinary resolution;
 - (ii) is allocated among them:
 - (A) on an equal basis having regard to the proportion of the relevant year for which each Director held office; or
 - (B) as otherwise decided by the Board; and
 - (iii) is provided in the manner the Board decides, which may include provision of non-cash benefits.
- (b) If the Board decides to include non-cash benefits in the Approved Fees of a Director, the Board must also decide the manner in which the value of those benefits is to be calculated for the purposes of this rule.
- (c) The Company may pay a Director (in addition to any remuneration) all reasonable expenses (including travelling and accommodation expenses) incurred by the Director:
 - (i) in attending meetings of the Company, the Board, or a committee of the Board;
 - (ii) on the business of the Company; or
 - (iii) in carrying out duties as a Director.

46 Vacation of office of Director

- (a) In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:
 - (i) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (ii) resigns by notice in writing to the company;
 - (iii) is absent without the consent of the Board from meetings of the Board held during a continuous period of six months; or
 - (iv) dies.

47 Directors may lend to the company

Any Director may lend money to the company at interest with or without security or may, for a commission or profit, guarantee the repayment of any money borrowed by the company or underwrite or guarantee the subscription of Securities or securities of any corporation in which the company may be interested without being disqualified in respect of the office of Director and without being liable to account to the company for the commission or profit.

48 Exercise of voting power in other corporations

The Board may exercise the voting power conferred by the shares in any corporation held or owned by the company as the Board determines (including the exercise of the voting power in favour of any resolution appointing the Directors or any of them directors of that corporation or voting or providing for the payment of remuneration to the directors of that corporation) and a Director may vote in favour of the exercise of those voting rights, despite the fact that the Director is, or may be about to be appointed, a director of that other corporation and may be interested in the exercise of those voting rights.

49 Alternate Directors

Subject to this Constitution, each Director may appoint any person (who, if there are other Directors, is approved by a majority of the other Directors) to act as an alternate Director in the Director's place, either for a stated period or until the happening of a specified event, whenever by absence or illness or otherwise the Director is unable to attend to duties as a Director. The appointment must be in writing and signed by the Director and a copy of the appointment must be given to the registered office of the company or to a meeting of the Board. The appointment takes effect on (if there are other Directors) approval by a majority of the other Directors or, where the approval has been granted, at any later time specified in the appointment. The following provisions apply to any alternate Director.

- (a) The appointment of the alternate Director is terminated or suspended on receipt at the registered office of the company of notice in writing from the Director by whom the alternate Director was appointed.
- (b) The alternate Director is entitled to receive notice of meetings of the Board and to attend and vote at the meetings if the Director by whom the alternate Director was appointed is not present.
- (c) The alternate Director is entitled to exercise all the powers (except the power to appoint an alternate Director) and perform all the duties of a Director, to the extent the Director by whom the alternate Director was appointed has not exercised or performed them or they have not been limited by the instrument appointing the alternate Director.
- (d) The alternate Director is not, unless the Board otherwise determines, entitled to receive any remuneration as a Director from the company, and any remuneration (not including remuneration authorised by the Board or reimbursement for expenses) paid to the alternate Director as a Director by the company is to be deducted from the remuneration of the Director by whom the alternate Director was appointed.
- (e) Unless previously terminated, the office of the alternate Director is terminated on the death of, or termination of office by, the Director by whom the alternate Director was appointed.
- (f) The alternate Director is not to be taken into account in determining the number of Directors.
- (g) The alternate Director is, while acting as a Director, responsible to the company for the alternate Director's own acts and defaults and is not the agent of the Director by whom the alternate Director was appointed.

Managing Director and powers of the Board

50 Appointment of a Managing Director

- (a) The Board may appoint one or more Directors to the office of Managing Director for the period and on the terms as it determines. Subject to the terms of any agreement entered into in a particular case, the Board may at any time revoke any such appointment, with or without cause.
- (b) If a person appointed as a Managing Director under this rule 50 ceases to be a Director, then the appointment automatically terminates.

51 Powers of the Board and Managing Director

- (a) The business of the company is managed by the Board, which may exercise all powers of the company that are not, by the law or this Constitution, required to be exercised by the company in general meeting.
- (b) The Board may, on the terms and conditions and with any restrictions as it determines, delegate to a Managing Director any of the powers exercisable by it and may at any time withdraw, suspend or vary any of those powers conferred on the Managing Director.

52 Reserved Matters

- (a) The Board must not approve or implement a Board Reserved Matter unless the matter has been approved by Board Special Resolution.
- (b) The Board must not approve or implement a Shareholder Reserved Matter unless the matter has been approved by Shareholder Special Resolution.

Proceedings of the Board

53 Proceedings of the Board

- (a) The Board may meet together for the dispatch of business and adjourn and otherwise regulate its meetings as it determines.
- (b) Until otherwise determined by the Board, two Directors form a quorum (provided that the Founder Director must be present if, and for so long as, the Founder Director continues to occupy such role at the relevant time).
- (c) A Board meeting may be called by a Director giving reasonable notice to every other Director.
- (d) Notice of meeting of the Board may be given by mail (electronic or otherwise), personal delivery, fax or other electronic means to the usual place of business or residence of the Director or at any other address given to a Secretary by the Director or by any technology agreed by all the Directors.
- (e) If a quorum is not present within 30 minutes from the scheduled start of a Board meeting:
 - (i) the meeting is adjourned to the day that is 5 Business Days after the day appointed for the original meeting; and
 - (ii) the time and place of the adjourned meeting is otherwise the same as for the original meeting. **(Reconvened Board Meeting)**.
- (f) At the Reconvened Board Meeting, a quorum is the Director(s) present at the Reconvened Board Meeting.
- (g) If a Director is prohibited from voting, a resolution of the Board may be passed by those Directors present and entitled to vote on the matter provided that the requisite majority of the remaining directors votes in favour of the relevant resolution.

54 Meetings of the Board by technology

For the purposes of the Corporations Act, each Director, by consenting to be a Director (or by reason of the adoption of this Constitution), consents to the use of audio or audio-visual communication for Board meetings by which each Director participating can hear and be heard by each other Director participating. A Board meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Directors present at the meeting is located or, if an equal number of Directors is located in each of two or more places, at the place where the chairman of the meeting is located.

55 Chair of the Board

- (a) The Board may elect a Director to chair its meetings and decide the period for which that Director holds that office. If there is no chairman of Directors or the chairman is not present at the time for which a Board meeting is called or is unwilling to act, the Directors present must elect a Director present to chair the meeting.

56 Directors' voting rights and exercise of powers

- (a) Each Director has one vote. Subject to rule 56(b), questions arising at a meeting of the Board are decided by a majority of votes of Directors present and voting.
- (b) In the case of an equality of votes at a meeting of the Board, the chair of the meeting will have a casting vote.
- (c) Subject to rule 58 and the Corporations Act, a Director:
 - (i) who has an interest in a matter may vote in respect of that matter if it comes before the Board and be counted as part of the quorum;
 - (ii) may enter into contracts, or otherwise have dealings, with the company;
 - (iii) may hold any other office or place of profit in the company, except as auditor; and
 - (iv) may hold any other office or place of profit in any other company, body corporate, trust or entity promoted by the company or in which the company has an interest of any kind.
- (d) A Director is not disqualified from the Director's office by contracting with the company or any related body corporate of the company in any capacity by reason of holding the office of Director.
- (e) A Director is not liable to account to the company for any profit realised by any contract, dealings, office or place of profit contemplated by paragraph (d) by reason only of holding the office of Director or of the fiduciary relationship established by the office of Director.
- (f) Subject to the Corporations Act, a Director or any person who is an associate of a Director may participate in any issue by the company of financial products.
- (g) Despite having an interest in any contract or arrangement, a Director may participate in the execution of any document evidencing or connected with the contract or arrangement, whether by signing, sealing or otherwise.

57 Wholly-owned subsidiary

At any time when the company is a wholly-owned subsidiary of another body corporate (the **Holding Company**), each Director is authorised to act in the best interests of the Holding Company and in doing so will be taken to be acting in the best interests of the company and for a proper purpose.

58 Material personal interests of Directors

- (a) In relation to a contract or arrangement in which a Director has a material personal interest:
 - (i) the fact that the Director signed the document evidencing the contract or arrangement will not in any way affect its validity;
 - (ii) a contract or arrangement made by the company or any related body corporate with a Director may not be avoided merely because the Director is a party to the contract or arrangement or otherwise interested in it; and

- (iii) the Director will not be liable to account to the company for any profit derived in respect of the contract or arrangement merely because of the Director's office or the fiduciary relationship it entails.
- (b) If a Director has a material personal interest in a matter that relates to the affairs of the company and that interest has been disclosed in accordance with the Corporations Act or is of a type that does not require disclosure:
 - (i) the Director may vote on matters that relate to the interest;
 - (ii) any transactions that relate to the interest may proceed;
 - (iii) the Director can retain benefits from the transaction even though the Director has the interest; and
 - (iv) the company cannot avoid the transaction merely because of the existence of the interest.
- (c) If the material personal interest of a Director requires disclosure in accordance with the Corporations Act, paragraphs (b)(iii) and (b) (iv) only apply if the disclosure is made before the transaction is entered into.
- (d) Nothing in this rule 58 affects the duty of a Director:
 - (i) who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with the Director's duties or interests as a Director, to declare at a meeting of the Board the fact and the nature, character and extent of the conflict; or
 - (ii) to comply with the Corporations Act.
- (e) Paragraphs (c) and (d) do not apply to a Director who is a sole Director.

59 Committees of the Board

- (a) The Board may delegate any of its powers to committees consisting of any one or more Directors or any other person or persons as the Board thinks fit. In the exercise of delegated powers, any committee formed or person or persons appointed to the committee must conform to any regulations that may be imposed by the Board. A delegate of the Board may be authorised to sub-delegate any of the powers for the time being vested in the delegate.
- (b) The meetings and proceedings of any committee are to be governed by the provisions of this Constitution for regulating the meetings and proceedings of the Board so far as they are applicable and are not in conflict with or superseded by any regulations made by the Board under paragraph (a).
- (c) Nothing in this rule 59 limits the power of the Board to delegate.

60 Written resolutions of Directors

- (a) If all the Directors entitled to receive notice of a Board meeting and to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document, a Board resolution in those terms is passed at the time when the last Director signs.
- (b) For the purposes of rule 60(a), two or more separate documents in identical terms, each of which is signed by one or more Directors, are treated as one document.

61 Defects in appointments of Directors

All actions at any meeting of the Board or by a committee or by any person acting as a Director are, despite the fact that it is afterwards discovered that there was some defect in the appointment of any of

the Directors or the committee or the person acting as a Director or that any of them were disqualified, as valid as if every person had been properly appointed and was qualified and continued to be a Director or a member of the committee.

Secretaries and other officers

62 Secretaries

- (a) A Secretary holds office on the terms and conditions as to remuneration and otherwise as the Board decides.
- (b) The Board may at any time terminate the appointment of a Secretary.

63 Other officers

- (a) The Board may from time to time:
 - (i) create any other position or positions in the company with the powers and responsibilities as the Board may from time to time confer; and
 - (ii) appoint any person, whether or not a Director, to any position or positions created under subparagraph (i).
- (b) The Board may at any time terminate the appointment of a person holding a position created under paragraph (a)(i) and may abolish the position.

Company seals

64 Seals and their use

- (a) The company may have a common seal and a duplicate common seal. If the company has any such seal:
 - (i) it may only be used with the authority of the Board; and
 - (ii) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Board to countersign that document or a class of documents in which that document is included.
- (b) If the company has a sole Director and no Secretary, a document is taken to be duly executed by the company if it is signed by that Director.

Reserves, Dividends and interest

65 Reserves

The Board may, before paying any Dividend to shareholders:

- (a) set aside any sums as it thinks proper as a reserve which, at the discretion of the Board, may be applied for any purpose it decides, including being used in the business of the company or invested in investments selected by the Board (and the Board may vary and deal with those investments as it decides); or
- (b) carry forward any amount which the Board decides not to distribute or to transfer to a reserve; or
- (c) carry out the steps in both paragraphs (a) and (b).

66 Power to declare or determine Dividends and pay interest

- (a) Subject to any special rights or restrictions attached to any shares, the Board may from time to time declare or determine that a Dividend is payable.
- (b) The Board may fix the amount, the time for payment and the method of payment of a Dividend. The method of payment may include the payment of cash, the issue of Securities, the grant of options and the transfer of assets, including securities in another corporation (or any combination of them).
- (c) No Dividend bears interest against the company.

67 Crediting of Dividends

- (a) Subject to any special rights or restrictions attached to any shares, every Dividend on a share in the company is to be paid as follows, unless otherwise determined by the Board:
 - (i) if the share to which a particular Dividend relates is fully paid and was fully paid during the whole period in respect of which the Dividend is to be paid, that Dividend is equal to the Dividend paid on each other share which was fully paid during the whole period in respect of which the Dividend is to be fully paid; and
 - (ii) if the share to which a particular Dividend relates is partly paid, or is fully paid but was not fully paid during the whole of the period in respect of which the Dividend is to be paid, that Dividend is apportioned and paid proportionately to the amounts paid (not credited) on the share in respect of which the Dividend is to be paid with respect to the issue price of the share (excluding amounts credited) during any part or parts of the period in respect of which the Dividend is to be paid.
- (b) An amount paid on a share in advance of a Call is not taken for the purposes of paragraph (a)(ii) to be paid on the share.
- (c) Subject to any special rights or restrictions attached to any shares, the Board may from time to time resolve that Dividends are to be paid out of a particular source or particular sources, and in those circumstances the Board may in its absolute discretion:
 - (i) allow each or any shareholder to elect from which specified sources that particular shareholder's Dividend may be paid by the company; and
 - (ii) where elections are permitted and any shareholder fails to make an election, identify the particular source from which Dividends are payable.

68 Deduction of unpaid amounts

The Board may apply any part of any Dividend otherwise payable to a shareholder towards satisfaction of all sums of money presently payable by the shareholder to the company on account of Calls or otherwise in relation to shares in the company.

69 Distributions in kind

If the Board has declared or determined to pay a Dividend or if the company is to reduce its capital wholly or partly by the distribution of specific assets (including by the issue of Securities or other financial products or by the transfer of securities or financial products), the Board may do one or more of the following:

- (a) if a difficulty arises in regard to that distribution, settle the matter as it determines and fix the value for distribution of the specific assets or any part of those assets;

- (b) decide that cash payments may be made, and make the payments to any shareholders on the basis of the value fixed by the Board in order to appropriately adjust the rights of all shareholders as the Board determines in its discretion;
- (c) vest any specific assets in trustees;
- (d) sell or cause to be sold any specific assets distributed (or which, save for the operation of this rule 69, would otherwise have been distributed) to any shareholders (or group of shareholders) determined by the Board in any way and on such terms as the Board determines in its discretion, including by transferring the assets to a nominee or agent determined by the Board to sell those assets on behalf of such shareholders, and distributing to such shareholders their proportion of the net proceeds of that sale (as determined by the Board);
- (e) authorise any person to make, on behalf of all the shareholders entitled to any Securities or financial products, an agreement with the company (or other relevant body corporate) providing for the issue or transfer to them of any further Securities or financial products and, in executing the document, the person acts as agent and attorney for the shareholders;
- (f) if the Dividend or reduction of capital is by way of a distribution of shares or other securities in another corporation, then each shareholder is taken to have agreed to become a shareholder or security holder of that corporation and to have agreed to be bound by the constitution of that corporation. Each shareholder also appoints each Director and each Secretary their agent and attorney to:
 - (i) agree to the shareholder becoming a shareholder or security holder of that corporation;
 - (ii) agree to the shareholder being bound by the constitution of that corporation; and
- (g) execute any transfer of shares or securities, or other document required to give effect to the distribution of shares or other securities to that shareholder.

Nothing in any of paragraphs (a) to (g) above limits anything in any of those other paragraphs.

70 Payment of distributions

- (a) Any Dividend, interest or other money payable in cash in respect of Securities may be paid in any manner and by any means determined by the Board, at the sole risk of the intended recipient. Without limiting any other means of payment which the Board may adopt, any payment may be made:
 - (i) by cheque sent through the post directed to:
 - (A) the address of the Security holder as shown in the Securities register or, in the case of joint holders, to the address shown in the Securities register as the address of the joint holder first named in that Securities register; or
 - (B) any other address as the Security holder or joint holders in writing directs or direct; or
 - (ii) by electronic funds transfer to an account with a bank or other financial institution nominated by the Security holder or joint holders in writing and acceptable to the company.
- (b) Without limiting paragraph (d), if the Board decides to make a payment by electronic funds transfer under paragraph (a) and an account is not nominated by the shareholder or joint holders in accordance with the requirements of paragraph (a), the company may hold the amount payable in a separate account of the company until the holder or joint holders nominate an account in accordance with the requirements of paragraph (a).

- (c) Payments of Dividends and other distributions by the company may be made in Australian dollars or any other currency determined by the Board in its discretion. Payments in different currencies may be made to different Security holders as determined by the Board in its discretion. If a payment is made in a currency other than Australian dollars, the Board may determine in its discretion the appropriate exchange rate and the time of calculation to calculate the amount payable in the relevant currency. The determinations of the Board are, in the absence of manifest error, final.
- (d) Subject to law, all Dividends unclaimed may be invested or otherwise used by the Board for the benefit of the company until claimed or otherwise disposed of according to law.

Capitalisation of profits

71 Capitalisation of profits

- (a) The company in general meeting or the Board may resolve:
 - (i) to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account, profit and loss account or otherwise available for distribution to Security holders; and
 - (ii) that the sum referred to in subparagraph (i) be applied, in any of the ways mentioned in paragraph (b), for the benefit of Security holders in full satisfaction of their interest in the capitalised sum, in the proportions to which those Security holders would have been entitled in a distribution of that sum by way of Dividend or, if there is no proportional entitlement, as the Board determines.
- (b) The ways in which a sum may be applied for the benefit of Security holders under paragraph (a) are:
 - (i) in paying up any amounts unpaid on Securities held by Security holders;
 - (ii) in paying up in full unissued Securities to be issued to Security holders as fully paid;
 - (iii) partly as mentioned in subparagraph (i) and partly as mentioned in subparagraph (ii); or
 - (iv) any other application permitted by law.
- (c) Where the conditions of issue of a partly paid Security provide, the holder is entitled to participate in any application of a sum under paragraph (b) to a greater extent than would have been the case had those funds been distributed by Dividend but not to any greater extent than permitted by the terms of issue.
- (d) The Board may do all things that it considers necessary to give effect to the resolution and, in particular, to the extent it considers necessary to adjust the rights of the Security holders amongst themselves, may:
 - (i) fix the value for distribution of the specific assets or any part of those assets;
 - (ii) issue fractional certificates or make cash payments in cases where Securities become issuable in fractions or determine that fractions may be disregarded or that any fractional entitlements are to be increased to the next whole number;
 - (iii) vest any cash or specific assets in trustees on trust for the persons entitled as it determines; and
 - (iv) authorise any person to make, on behalf of all the Security holders entitled to any further Securities on the capitalisation, an agreement with the company providing for the issue to them, credited as fully paid up, of any further Securities or for the payment by the company on their behalf the amounts or any part of the amounts remaining

unpaid on their existing Securities by the application of their respective proportions of the sum resolved to be capitalised and any agreement made under that authority is effective and binding on all the Security holders concerned.

Company Records, Financial Reporting and Auditing

72 Share Register

- (a) The Board must cause the company to keep and maintain a Share Register and any other registers required by the Corporations Act.
- (b) Except as required by law, the company is not required to recognise a person as holding any share on any trust, or any other interest in, or any other right in respect of, any share except an absolute right of ownership in the registered holder, whether or not the company has notice of the trust, interest or right.

73 Financial reporting

- (a) While the company has one or more shareholders who acquired their shares in connection with a CSF Offer it must:
 - (i) prepare an annual financial report and directors' report in accordance with accounting standards (**Annual Reports**);
 - (ii) lodge the Annual Reports with ASIC in accordance with the Corporations Act; and
 - (iii) subject to rule 73(b), make the Annual Reports readily accessible on its website.
- (b) Where the Company is a Large Proprietary Company as defined in the Corporations Act, it must:
 - (i) notify each shareholder in writing on at least one occasion of the alternative ways to receive or access the Annual Reports—being either in hard copy or electronic copy free of charge, or accessed on the company's (or another specified) website;
 - (ii) distribute copies of the company's Annual Reports or a concise report to shareholders in the format elected by the shareholder, as required under the Corporations Act; and
 - (iii) make a copy of its Annual Reports or a concise report readily accessible on its website (if a shareholder does not elect to receive a copy) and must also notify the shareholder in writing that the report is accessible on the website.

74 Appointment of Auditor

- (a) Except where the company is a Large Proprietary Company and subject to the Corporations Act, the company will not have its financial accounts audited unless it has:
 - (i) one or more shareholders who acquired their shares in connection with a CSF Offer; and
 - (ii) raised at least \$3 million from all CSF Offers it has made,

in which case it must:

- (b) appoint an auditor within one month of the company raising \$3 million from its CSF Offers and ensure that an Auditor remains appointed at all times until it is no longer required to appoint an Auditor;
- (c) have its financial report audited and include the auditor's declaration of independence in the directors' report; and

- (d) lodge the Auditor's report with ASIC (together with the financial report and directors' report) in accordance with the Corporations Act.

Service of documents

75 Service of documents

In this rule 75, a reference to a document includes a notice. Subject to the Corporations Act:

- (a) a document may be given by the company to any Security holder by, in the company's discretion:
 - (i) serving it on the Security holder personally;
 - (ii) sending it by post to the Security holder or leaving it at the Security holder's address as shown in the Securities register or the address nominated by the Security holder to the company for the giving of documents;
 - (iii) sending it to the fax number nominated by the Security holder to the company for the giving of documents;
 - (iv) sending it to the electronic address nominated by the Security holder to the company for the giving of documents or by other electronic means nominated by the Security holder;
 - (v) if a Security holder nominates any electronic means by which the Security holder may be notified that documents are available and may access documents, sending a notification that the document is available for access, in each case by the relevant electronic means; or
 - (vi) serving it in any manner contemplated in this paragraph (a) on a Security holder's attorney as specified by the Security holder in a notice given under paragraph (b).
- (b) By written notice to a Secretary left at or sent to the registered office of the company or the company's Securities registry, a Security holder may request that all documents to be given by the company or the Board be served on the Security holder's attorney at an address, or by the electronic means, nominated in the notice and the company may do so in its discretion.
- (c) A document may be sent to a Security holder whose address for documents is outside Australia by airmail, air courier, or fax or otherwise be sent or made available electronically (including as contemplated by subparagraph (a)(v)).
- (d) Any document will be conclusively taken to be duly given or made:
 - (i) in the case of delivery in person, when delivered;
 - (ii) in the case of delivery by post, two business days after the date of posting (if posted to an address in the same country) or seven business days after the date of posting (where posted to an address in another country);
 - (iii) in the case of fax, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax machine number and or name of recipient indicating that the transmission has been made without error; or
 - (iv) if by email, on the earlier of the sender receiving an automated message confirming delivery or, provided no automated message is received stating that the email has not been delivered, three hours after the time the email was sent by the sender, such time to be determined by reference to the device from which the email was sent,

but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or at a time that is later than 5pm in the place to which the Notice is sent, it will be conclusively taken to have been duly given or made at the start of business on the next business day in that place.

- (e) Every person who, by operation of law, transfer or any other means, becomes entitled to be registered as the holder of any Securities is bound by every document that, prior to the person's name and address being entered in the Securities register in respect of the Securities, was properly given to the person from whom the person derived title to those Securities.
- (f) A document served in accordance with this Constitution is (despite the fact that the Security holder is then dead and whether or not the company has notice of the Security holder's death) conclusively considered to have been properly served in respect of any registered Securities, whether held solely or jointly with other persons by the Security holder, until some other person is registered in the Security holder's place as the holder or joint holder. The service is sufficient service of the document on the Security holder's personal representative and any persons jointly interested with the Security holder in the Securities.

Events of Default

76 Events of Default

- (a) An Event of Default occurs in relation to a shareholder if:
 - (i) **change in law:** that shareholder is prohibited from being a shareholder due to a change in any law; or
 - (ii) **material breach:** that shareholder breaches this Constitution and that breach is incapable of remedy or, if capable of remedy, is not remedied within 20 Business Days after written notification from the company; or
 - (iii) **Insolvency Event:** an Insolvency Event occurs in respect of that shareholder;
 - (iv) **Change of Control:** that shareholder undergoes a change in Control, without the prior written consent of the Board; or
 - (v) **disposal of Shares:** that shareholder transfers, or purports to transfer, any Securities in breach of this Constitution.
- (b) If an Event of Default occurs in respect of a shareholder, that shareholder must give the company written notice of that fact as soon as possible.
- (c) A shareholder in respect of whom an Event of Default occurs is referred to as the Seller in this rule 76.

77 Effect of an Event of Default

- (a) An Event of Default will be deemed to have occurred on the earlier of:
 - (i) the date on which the Seller provides a notice under rule 76; and
 - (ii) the date on which it is resolved by ordinary resolution of the Directors that the Event of Default occurred. The Seller, or the Director appointed by the Seller where applicable, must abstain from voting on the resolution.
- (b) From the date on which an Event of Default is deemed to have occurred, unless the Board determines otherwise by Board Special Resolution:
 - (i) all rights attached to the Seller's Securities are suspended until all of the Seller's Securities are transferred;

- (ii) any Director appointed by the Seller is deemed to have provided a resignation notice to the Company, is automatically removed from the Board and has no further right to participate in the business or management of the Company; and
 - (iii) the Seller is deemed to have provided the Board with a sale notice to the Company and the Initial Shareholder on the following terms (**Sale Notice**):
 - (A) the number of Securities to be offered for sale is all of the Seller's Securities; and
 - (B) the price per Security is 70% of the fair market value.
- (c) The Board will determine by Board Special Resolution the fair market value of the Securities and will notify the Seller within 5 Business Days of such determination. If the Board is unable to determine the Fair Market Value by required Resolution, the Board must appoint an independent expert to determine the Fair Market Value.
- (d) The Board may, in its absolute discretion:
 - (i) buy-back all or part of the Seller's Securities on the terms set out in the Sale Notice and in accordance with the Corporations Act; or
 - (ii) invite the Initial Shareholder to purchase any Seller's Securities not bought- back by the company (or such other amount as the Board and the Initial Shareholder determine) per the terms of the Sale Notice.
 - (iii) The Seller must, on written notice from the Company and for a period of at least six months, irrevocably offer to sell any Securities which were not purchased under this rule 77 to a person or persons nominated by the Company.
 - (iv) The transfer of the Seller's Securities under this rule 77 must complete within 60 days of an acceptance to purchase the Seller's securities.
 - (v) The shareholders and the Company must do everything necessary to facilitate the transfer of the Seller's Securities in accordance with this rule 77.
 - (vi) If a shareholder defaults on its obligations under this rule 77 then it irrevocably appoints the Directors of the company as its attorney to sign all documents and do all things to effect the sale of Securities contemplated by this rule 77.

Winding up

78 Winding up

In a winding up of the company, the liquidator may distribute in specie the whole or any part of the company's property among the shareholders.

79 Indemnity

- (a) Subject to and so far as permitted by the Act, the Competition and Consumer Act 2010 (Cth) and any other applicable law:
 - (i) the company must indemnify every officer of the company and its wholly owned subsidiaries and may indemnify its auditor against any Liability incurred as such an officer or auditor to a person (other than the company or a related body corporate) including a Liability incurred as a result of appointment or nomination by the company or subsidiary as a trustee or as an officer of another corporation, unless the Liability arises out of conduct involving a lack of good faith; and

- (ii) the company may make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by an officer or employee or auditor in defending an action for a Liability incurred as such an officer, employee or auditor or in resisting or responding to actions taken by a government agency or a liquidator.

In this rule, Liability means a liability of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages and expenses, including costs and expenses incurred in connection with any investigation or inquiry by a government agency or a liquidator.

80 Insurance

Subject to the Act and any other applicable law, the company may enter into, and pay premiums on, a contract of insurance in respect of any person.

81 Former officers

The indemnity in favour of officers under rule 79 is a continuing indemnity. It applies in respect of all acts done by a person while an officer of the company or one of its wholly owned subsidiaries even though the person is not an officer at the time the claim is made.

82 Deeds

Subject to the Act, the Competition and Consumer Act 2010 (Cth) and any other applicable law, the company may enter into an agreement with or execute a deed in favour of a person who is or has been an officer of the company or any of the company's subsidiaries, to give effect to the rights of the person under rule 79 on any terms and conditions that the Board thinks fit.

Schedule 1 – Pre-emptive rights on new issues

1 Pre-emption rights

- (a) This schedule 1 does not apply to an Excluded Issue.
- (b) If the company wishes to issue new Securities, it must first offer all of the new Securities (**Issue Securities**) to the following shareholders (**Eligible Shareholders**) by written notice (**Issue Notice**):
 - (i) the shareholders who hold at least 5% of the shares in the capital of the company; and
 - (ii) the Initial Shareholder for so long as it holds any shares in the capital of the company.
- (c) The Issue Notice must specify:
 - (i) the terms of issue of the Issue Securities;
 - (ii) the total number of Issue Securities available for subscription; and
 - (iii) the subscription price of each Issue Security.
- (d) An Eligible Shareholder wishing to subscribe for Issue Securities (**Accepting Shareholder**) must, within 10 Business Days after receipt of the Issue Notice, notify the Board in writing of the number of Issue Securities it would like to subscribe for (**Acceptance Notice**).
- (e) If the company receives Acceptance Notices for a number of Issue Securities equal to or less than the total number of Issue Securities, each Accepting Shareholder will be allocated the amount of Issue Securities set out in its Acceptance Notice.
- (f) If the Company receives Acceptance Notices for a number of Issue Securities greater than the total number of Issue Securities, each Accepting Shareholder will be allocated the lesser of:
 - (i) the number of Issue Securities set out in its Acceptance Notice; and
 - (ii) its Eligible Shareholder Proportion of the Issue Securities.
- (g) Any Issue Securities which remain unallocated must be re-offered to those remaining Accepting Shareholders who specified a number of Issue Securities greater than their Eligible Shareholder Proportion in their Acceptance Notice.
- (h) As soon as practicable after the determination of the allocation of each Accepting Shareholder, the Company must give each Accepting Shareholder a notice setting out its allocation and the date for completion of the issue of the Issue Securities (**Subscription Date**).
- (i) On the Subscription Date:
 - (i) each Accepting Shareholder must pay to the company the subscription moneys for the Issue Securities it has been allocated; and
 - (ii) the company must issue to each Accepting Shareholder its Issue Securities.

2 Issue of new Securities to Third Party

- (a) If there are any unallocated Issue Securities after the procedure set out in clause 1 of this schedule 1 has been followed, the Company may issue those Issue Securities to one or more third parties provided that:
 - (i) each third party has been approved by the Board; and
 - (ii) the issue is on terms no more favourable than those set out in the Issue Notice.
- (b) If the company does not issue all Issue Securities within 60 Business Days of the date of the Issue Notice, it may not issue those Issue Securities without complying again with this Schedule 1.

Schedule 2 – Restrictions on transfer of Securities and security interests

1 Restriction on Security Interests over shares

A shareholder must not create or permit to exist any Security Interest over all or any of its Securities unless approved by the Board at its discretion and on whatever terms the Board considers appropriate.

2 Restrictions on transfer of Securities

A shareholder must not transfer Securities, except pursuant to:

- (a) clause 3 of this schedule (Permitted transfers to Affiliates);
 - (b) clause 4 of this schedule (Pre-emptive rights on transfer);
 - (c) a transfer approved by the Board by way of Board Special Resolution,
- (each a **Permitted Transfer**).

3 Permitted transfers to Affiliates

A shareholder may transfer its Securities to an Affiliate on the condition that the Securities must be transferred back to such shareholder if the transferee ceases to be an Affiliate of the shareholder.

4 Pre-emptive rights on transfer

- (a) If a shareholder wishes to transfer its Securities otherwise than as a Permitted Disposal, the shareholder (**Seller**) must give the company notice stating:
 - (i) the number and class of shares it is proposing to sell (**Sale Shares**);
 - (ii) the price at which it is prepared to sell the Sale Shares (**Specified Price**); and
 - (iii) any other terms of the sale of the Sale Shares.
- (b) A shareholder may only give one Transfer Notice in any given six month period.
- (c) The company must give to each Eligible Shareholder (other than the Seller) (**Offeree**) a notice in writing (**Transfer Notice**) stating:
 - (i) the date of the Transfer Notice;
 - (ii) the Specified Price (which must be the same for each Offeree);
 - (iii) the terms and conditions of the Sale Shares (which must be the same for all Offerees);
 - (iv) the total number of Sale Shares;
 - (v) the Eligible Shareholder's Eligible Shareholder Proportion; and
 - (vi) any other matters which the Company wishes to include in the Transfer Notice.
- (d) Within 10 Business Days after receiving a Transfer Notice (**Offer Period**), each Offeree must give notice to the Company stating:
 - (i) whether it wishes to purchase all or a specified number of the Sale Shares contained in the Transfer Notice and, if so, the number of Sale Shares it wishes to purchase (the **Requested Sale Shares**); and
 - (ii) if it wishes to purchase a greater number of Sale Shares than the number specified in the Transfer Notice, the specified number of those Sale Shares not purchased by the other Offerees (the **Unallocated Sale Shares**) that it wishes to purchase (the **Additional Requested Sale Shares**),

(an **Acceptance Notice**).

- (e) If an Offeree does not give an Acceptance Notice to the company within the Offer Period of its acceptance or rejection of the offer to purchase shares, that Offeree is taken to have rejected its offer and will have no further right to purchase the Sale Shares.
- (f) As soon as reasonably practicable after the end of the Offer Period, the company must give to the Seller written notice of:
 - (i) the aggregate number of Sale Shares that Offerees have applied to acquire under Acceptance Notices;
 - (ii) whether the total number of Sale Shares applied for by Offerees is greater or less than the number of Sale Shares that the Seller wishes to sell; and
 - (iii) the options that the Seller has under clause 4(h) of this schedule.
- (g) If the Offerees in aggregate are willing to acquire all of the Sale Shares, then the Seller must sell the Sale Shares to the Offerees in accordance with this schedule.
- (h) If the Offerees in aggregate are willing to acquire less than all of the Sale Shares, then within five Business Days of notice under clause 4(f) of this schedule the Seller may elect in writing by notice to the Company to:
 - (i) revoke the Transfer Notice so that no Sale Shares are sold to the Offerees and retain the Sale Shares; or
 - (ii) sell the Sale Shares the subject of the Acceptance Notices to the Offerees and either:
 - (A) retain the remaining Sale Shares; or
 - (B) sell the remaining Sale Shares under clause 6(b) of this schedule.
- (i) If no such election is given to the Company, then the Seller is deemed to have revoked the Transfer Notice so that no Sale Shares are sold and the Sale Shares are retained by the Seller.

5 Allotment of Sale Shares to shareholders

- (a) If the company receives Acceptance Notices agreeing to purchase an amount equal to the number of Sale Shares available to be acquired by Offerees, the number of Sale Shares allocated to each Offeree is the number of Sale Shares that each Offeree has offered to purchase as set out in the Offeree's Acceptance Notice.
- (b) If the company receives Acceptance Notices agreeing to purchase more Sale Shares than the number of Sale Shares available to be acquired by Offerees, the number of Sale Shares allocated to each Offeree is to be determined by the Board as follows:
 - (i) the Requested Sale Shares of the Offeree; and
 - (ii) in respect of the Unallocated Sale Shares, the number of the Unallocated Sale Shares as determined by the Board having regard to the Eligible Shareholder Proportion (as at the date of the Transfer Notice) of those Offerees that have requested Additional Requested Sales Shares.
- (c) If the company receives Acceptance Notices from Offerees agreeing to purchase an amount less than the total number of Sale Shares specified in the Sale Notice and the Seller has elected under this schedule to sell the Sale Shares the subject of Acceptance Notices to Offerees, then each Offeree shall be allocated the number of Sale Shares specified in their Acceptance Notice.
- (d) As soon as reasonably practicable after the determination of the allocation of the Sale Shares to Offerees under this schedule, the company must send a written notice to each Offeree which has accepted an Offer under this schedule setting out:
 - (i) the number of Sale Shares which have been allocated to that Offeree;

- (ii) the total consideration payable in respect of the Sale Shares which have been allocated to that Offeree; and
- (iii) the date on which the consideration for the Sale Shares is to be paid to the Seller, which must not be less than five Business Days from the end of the Offer Period.

6 Completion of sale of Sale Shares

- (a) On the completion date of the sale of the Sale Shares to Offerees:
 - (i) each Offeree which has accepted an offer to purchase Sale Shares must pay to the Seller in cleared funds the consideration for the Sale Shares it has been allocated;
 - (ii) the Seller must deliver to each Offeree duly executed transfer forms in respect of the Sale Shares and any documents of title; and
 - (iii) the company must record the relevant shareholder as the owner of the Sale Shares in the applicable register.
- (b) If any Sale Shares are not acquired by Offerees pursuant to an Acceptance Notice (**Unaccepted Sale Shares**), then the Seller may enter into an agreement to sell such Unaccepted Sale Shares to a buyer (or buyers) within three months from the end of the Offer Period provided the price of the Sale Shares is not less than the price specified in the Transfer Notice.

Schedule 3 – Drag along and Tag Along

1 Drag Along Event

- (a) If shareholders who alone or together with other shareholders hold in aggregate 60% or more of the shares (calculated assuming all Shares have converted into ordinary shares) (**Majority Shareholders**) make or receive a bona fide offer in writing on arm's length terms to sell all of their shares (**Majority Sale Offer**) to a third party buyer of shares and the terms of the Majority Sale Offer provide that the buyer offers to acquire all of the shares (**Drag Along Event**), this schedule 3 applies.
- (b) The Majority Shareholders may issue to all of the remaining shareholders a notice (**Drag Along Notice**) requiring each other shareholder to sell all of their Securities to the third party in accordance with the Majority Sale Offer and on the terms and conditions specified in the Drag Along Notice.
- (c) The Drag Along Notice must specify:
 - (i) the details of the purchaser;
 - (ii) the price payable for each security; and
 - (iii) any other key terms and conditions upon which the other shareholders' Securities will be purchased.
- (d) The terms on which the Majority Shareholders require the other shareholders to sell their Securities must be no less favourable than the terms on which the Majority Shareholders are selling their securities.
- (e) Each other shareholder must, within 10 Business Days after the date of the Drag Along Notice, transfer all of its Securities to the third party purchaser in accordance with the terms and conditions specified in the Drag Along Notice, provided that the other shareholders will not be obliged to transfer their Securities if the Majority Shareholders do not transfer their Securities to the purchaser on the terms and conditions set out in the Drag Along Notice.

2 Tag Along Offer

- (a) If Majority Shareholders make or receive a bona fide offer in writing on arm's length terms to sell more than 60% of the shares to a buyer and a Majority Sale Notice has not been issued in respect of that sale (**Tag Offer**), clause 2 of this schedule applies.
- (b) If a Tag Offer is made or received, the Majority Shareholders must give a copy of the Tag Offer to each other shareholder together with a notice in writing inviting each other shareholder to sell its shares at the same time to the buyer on the same terms as the Tag Offer (**Tag Along Invitation**).
- (c) Any shareholder that receives a Tag Along Invitation may give a notice (**Tag Along Notice**) to the Majority Shareholders, with a copy to the Company, within 10 Business Days of the date of the Tag Along Invitation specifying that the shareholder wishes to sell its shares to the buyer on the same terms as the Tag Offer.
- (d) If on expiry of the 10 Business Day period referred to in 2(c), the Majority Shareholders have not received any Tag Along Notice, those Majority Shareholders may proceed to complete the transaction contemplated by the Tag Offer on the terms of the Tag Offer (but not on any other terms).
- (e) If on expiry of the 10 Business Day period referred to in 2.3, the Majority Shareholders have received any Tag Along Notices:

- (i) the Majority Shareholders may only sell their shares to the buyer if the buyer simultaneously purchases all shares specified in each Tag Along Notice on the same terms as the Tag Offer; and
- (ii) each shareholder that has given a Tag Along Notice must do all things necessary, and execute all documents as are reasonably required by the Majority Shareholders or by the buyer, to effect the transaction contemplated by the Tag Along Notice.

3 Power of Attorney

If a shareholder defaults on its obligations under this schedule, then it irrevocably appoints the Directors of the company as its attorney to sign all documents and do all things to effect the transaction contemplated by the Drag Along Notice or the Tag Along Notice (as applicable).