



Constitution

Your Mates Brewing Company Pty Ltd
ACN 602 634 257

PROPRIETARY COMPANY LIMITED BY SHARES

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Corporations Act 2001 (Cth)

A proprietary company limited by shares

Your Mates Brewing Company Pty Ltd ACN 602 634 257 (**Company**)

1 Definitions and interpretation

1.1 General definitions

In this document, unless the context otherwise requires, terms referred to in the below table, have the meaning set out in the below table.

Term	Meaning
Acceptance Notice	has the meaning given to that term in clause 13.6
Accepting Member	has the meaning given to that term in clause 13.6
Accounting Standards	means the accounting standards issued by the Australian Accounting Standards Board and, where not inconsistent with those, accounting standards and the Corporations Act, generally accepted accounting principles and practices applied in Australia for a company similar to the Company
Affiliate	means: (a) in relation to any entity, any other entity that: (i) is a Related Body Corporate of the first mentioned entity; or (ii) Controls, is Control by, or is under common Control with the first mentioned entity; and (b) in relation to an individual, a person who is: (i) a spouse, parent, child or sibling of the individual; or (ii) an entity Controlled by the individual or a person referred to in paragraph (i); or (iii) a trust or company in which the individual or any person referred to in paragraph (i) or (ii) is a beneficiary or member.
Announcement	has the meaning given to that term in clause 21.

Bad Leaver	<p>means a Member (or their Key Person) who ceases to be employed or engaged by a Group Company as a result of his or her termination by the Company with cause, including because he or she has committed:</p> <ul style="list-style-type: none"> (a) fraud; (b) an indictable criminal offence; (c) a breach of a restrictive covenant; (d) a material breach of his or her employment or consulting agreement; (e) a material breach of rules relating to an ESOP (provided that the relevant Member received Securities under that ESOP plan) and such breach was not remedied within 14 days after the Member receiving written notice of such breach; or (f) gross or wilful misconduct.
Board	means the board of Directors for the time being of the Company.
Business	means the business operated by the Company and its subsidiaries of brewing and selling beer as well as the operation of hospitality venues that sell beer products and such other business as the Company may carry on from time to time.
Business Day	means a day that is not a Saturday, Sunday or public holiday in the Relevant State.
Business Plan	<p>means, in respect of a Financial Year, a plan for the business of the Company approved by the Board including:</p> <ul style="list-style-type: none"> (a) the strategic objectives of the Company (including staff retention and attraction) for the next Financial Year; (b) the budget for the next Financial Year (including all planned major expenditure and new product categories); and (c) business and financial forecasts for the Company for the next Financial Year.
Buy Sell Deed	means the Buy Sell Deed between the Company, Matt Hepburn and Christen McGarry executed on 7 December 2021 (as amended from time to time), annexed as Annexure B, pursuant to which the parties provide for certain matters in respect of a Founder Shareholder's Shares on the death or incapacity of that Founder's Principal.
Chairperson	means the person elected by the Board to the office of Chairperson from time to time in accordance with clause 28.8.

Change in Control	<p>means, in relation to a Member, where any of the following occurs:</p> <ul style="list-style-type: none"> (a) an entity that Controls the Member ceases to Control the Member; or (b) an entity that does not Control the Member comes to Control the Member.
Claim	means any claim, notice, demand, action, proceeding, litigation, investigation or judgment, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
Company	means Your Mates Brewing Company Pty Ltd ACN 602 634 257.
Company Accountant	means an accounting firm that is engaged by the Board to determine the Fair Value of Shares from time to time and/or any general accounting matters.
Company Proxy	has the meaning given to that term in clause 23.17.
Confidential Information	<p>means the Member Information and all information (whether written or oral) disclosed by the Company (or any Group Company) to a Member which either:</p> <ul style="list-style-type: none"> (a) relates to the customers, Business, budget, assets, accounts, financial results, contracts or affairs of the Company or any Group Company which they may have or acquire through ownership of an interest in the Company; (b) relates to the customers, business, assets or affairs of the other Parties or any member of their group which they may have or acquire through being a Member or making appointments to the Board or through the exercise of its rights or performance of its obligations under this Constitution; (c) relates to the operation or managerial aspects of the Company or any Group Company; (d) is identified as confidential by the Company or any Group Company at the time of disclosure; or (e) is of a nature which should reasonably be regarded by the Member as confidential, but does not include information.
Constitution	means this constitution as amended from time to time and a reference to a clause is a reference to a clause of this constitution.
Control	<p>means a power or control:</p> <ul style="list-style-type: none"> (a) that is direct or indirect; or

	<p>(b) that is or can be exercised as a result of, by means of or by the revocation or breach of a trust, agreement, practice or combination of any of them, whether or not they are enforceable;</p> <p>and it does not matter whether the power is express or implied, formal or informal, exercisable alone or jointly with someone else.</p>
Corporations Act or the Act	means the <i>Corporations Act 2001 (Cth)</i> .
CSF	means crowd-sourced funding within the meaning of the Act.
CSF Member	<p>means a Member that holds one or more eligible Securities in the Company as a result of:</p> <p>(a) being issued eligible Securities under a CSF Offer; or</p> <p>(b) acquiring eligible Securities that were originally issued under a CSF Offer.</p>
CSF Offer	means an offer of Securities that is made under the CSF Regime.
CSF Regime	means the statutory regime for crowd-sourced funding in Part 6D.3A of the Act regulating CSF Offers.
Deadlock	means a resolution that has been properly proposed at three consecutive Member meetings and the resolution has not been passed in accordance with this Constitution.
Defaulting Member	means a Member who commits an Event of Default that is continuing.
Director	means a person appointed or elected from time to time to the office of director of the Company in accordance with this document and includes any alternate Director duly acting as a Director.
Dispose	means to sell, agree to sell, transfer, grant any swap, option, hedge, forward, futures, derivative or similar transaction or right of first refusal, or make any offer in respect of any of the foregoing. Disposal has a corresponding meaning.
Dispute	has the meaning as set out in clause 35.
Dispute Notice	has the meaning as set out in clause 35.
Drag Along Notice	has the meaning given to that term in clause 15.1.
Drag Purchaser	has the meaning given to that term in clause 15.1.
Eligible Member	means a Member who holds at least 0.7% of the total issued share capital of the Company at the relevant time.
Employee	means an employee or contractor of the Company.

Encumbrance	means any mortgage, lien, restriction against transfer, pledge, claim, encumbrance and any third party interest.
ESOP	has the meaning as set out in clause 26.3.
Event of Default	<p>in respect of a Member, means:</p> <ul style="list-style-type: none"> (a) the Member commits a material breach of a provision of this Constitution and such breach is capable of being rectified and is not rectified within fourteen (14) days after receiving notice requiring rectification by a Non-Defaulting Member (unless the Board by Ordinary Resolution resolves to extend the rectification period and/or waive the consequences of the relevant breach); (b) the Member: <ul style="list-style-type: none"> (i) breaches a provision of this Constitution which is not capable of being rectified; (ii) was provided with a notice quantifying the loss suffered by the Non-Defaulting Members and stating that the quantified loss amount is payable to the Non-Defaulting Members within 7 days (Default Amount); and (iii) the Default Amount was not paid to the Non-Defaulting Members within 7 days after the Member received the relevant notice; (c) a Director appointed by the Member commits any act of fraud, dishonesty or serious misconduct relating to a financial or corporate matter which the Board by Special Resolution determines is damaging to the reputation of the Company or other Members; (d) the Member repeats a breach after having received written notice from the Directors warning that repetition of that breach will, or is likely to, result in the other Party regarding the Member as being in default of its obligations under this Constitution; (e) the Member becomes an Insolvent Member; (f) the Member is prohibited from being a shareholder in the Company by a change in any law;

	<p>(g) the Member or their Key Person becomes a Bad Leaver (except where that Member or their Key Person is a Founder Shareholder and/or the Board by Ordinary Resolution resolves otherwise); or</p> <p>(h) there is a Change in Control in respect of a Member which is not permitted by the terms of this Constitution or which the Board has not consented to.</p>
Excluded Issue	means any issue of Shares contemplated by clause 5.4.
Fair Value	<p>means:</p> <p>(a) the fair selling value of the Shares as determined by the Company Accountant pursuant to professional standards for valuations (Preliminary Valuation); or</p> <p>(b) if any Party objects to the Preliminary Valuation (Objecting Party), the amount determined by an Independent Valuer pursuant to clause 17 (the costs of which are paid for by the Objecting Party).</p>
Financial Indebtedness	means any indebtedness, present or future, actual or contingent, in respect of money borrowed or raised or any financial accommodation.
Financial Year	means each period of 12 months commencing on 1 July and ending on the following 30 June or such other period as the Board determines and includes the period commencing on the last 1 July before the date of termination of this document and ending on that date of termination.
Founder Director	means any Director appointed by a Founder Shareholder pursuant to clause 25.3.
Founder Shareholder	<p>means:</p> <p>(a) CBM Family Pty Ltd as trustee for Christen McGarry Family Trust (CBM); and</p> <p>(b) MWH Family Pty Ltd as trustee for MWH Family Trust (MWH).</p>
Fully Diluted Basis	means on a basis as if all Securities convertible into Ordinary Shares had been converted into Ordinary Shares.
Group Company	means any of the Company and its Subsidiaries.
Independent Valuer	means a chartered accountant, a firm of chartered accountants or an investment or merchant banker appointed under clause 17.
Insolvency Event	means the happening of any of the following events:

	<ul style="list-style-type: none"> (a) an order is made by a court appointing a liquidator, provisional liquidator in respect of a Member (or a resolution passed for any of those things); (b) an order is made by a court or any effective resolution is passed for the winding up or similar process of any Member; (c) except to reconstruct or amalgamate while solvent on terms approved by the non-insolvent Members, a Member enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any class of its creditors; (d) a controller is appointed to or over or takes possession of all or a substantial part of the assets or undertakings of a Member; (e) a Member is or is deemed or presumed by law or a court to be insolvent; (f) subject to clause 16, a Member (other than a Founder Shareholder) who is a natural person dies, becomes permanently mentally incapacitated or disabled; (g) a Member becomes a bankrupt; (h) a Member takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to any Member; or (i) anything analogous or having a substantially similar effect to any of the events specified above happens in respect of a Member under the law of any applicable jurisdiction.
Insolvent Member	in respect of a Member means an Insolvency Event occurs in relation to that Member.
Intellectual Property	<p>means all intellectual property and proprietary rights (whether registered or unregistered) owned by the Company including:</p> <ul style="list-style-type: none"> (a) business names; (b) trade marks; (c) patents, patent applications, discoveries, inventions, improvements, know-how, trade secrets, technical data or formulae;

	<p>(d) computer programs or databases;</p> <p>(e) know-how, logos or marks;</p> <p>(f) drawings, designs or design rights;</p> <p>(g) copyright or any material in which copyright exists; and</p> <p>(h) any similar industrial or intellectual property rights.</p>
Key Person	any Affiliate of a Member that is a director of a Group Company, employed by a Group Company or provides services to a Group Company (other than any person the Board has, by Ordinary Resolution, resolved to exclude).
Major Member	<p>means each Member (other than a Founder Shareholder) with a shareholding of at least 15% of the shares in the Company (Major Member Threshold).</p> <p>For the avoidance of doubt, for the purposes of assessing whether a Member meets the Major Member Threshold, the Company is to count all shares held by that Member as well as any shares held by an Affiliate of that Member.</p>
Majority Sellers	has the meaning given to that term in clause 15.1.
Managing Director	means a person appointed as managing director of the Company under clause 25.12.
Member	means any person who qualifies as a member of the Company and includes any person who is the holder of a share in the capital of the Company.
Member Information	has the meaning given to that term in clause 20.1.
Members present	means Members present at a general meeting of the Company in person or by duly appointed Representative, proxy or attorney.
New Shares	has the meaning given to that term in clause 5.1.
Non-Defaulting Member	means an Eligible Member other than a Defaulting Member.
Non-Founder Director	means any Director appointed pursuant to this Constitution except for a Founder Director.
Observer	has the meaning given to that term in clause 25.
Ordinary Resolution	means a resolution by Simple Majority Vote.
Ordinary Share	means a Share which is an ordinary share.
Participating Member	has the meaning given to that term in clause 5.1(c).

Party	means any of the Company, each Member of the Company and each Director of the Company (as applicable).
Permitted Transfer	means a transfer of Shares contemplate by clause 12.2.
Placement Threshold	means up to 2% of the issued capital of the Company immediately prior to the Strategic Placement on a Fully Diluted Basis.
Prescribed Rate	means the rate of 5% per annum or such other rate as may from time to time be fixed by the Directors.
Principal	means each of: <ul style="list-style-type: none"> (a) in respect of CBM, Christen McGarry; and (b) in respect of MWH, Matt Hepburn,
Register	means the register of Members kept by the Company in accordance with the Corporations Act.
Registered Office	means the registered office of the Company.
Related Corporate Body	has the meaning given in the Corporations Act.
Related Entity	has the meaning given in the Corporations Act.
Related Party	has the meaning given to that term in the Corporations Act.
Relevant Law Society	the law society of the Relevant State.
Relevant Proportion	means in relation to a Member the proportion that: <ul style="list-style-type: none"> (a) (where the Member's proportion is being determined relative to all Members), the number of Shares held by that Member bears to the total number of Shares on issue (and where the context permits, on a Fully Diluted Basis); and (b) (where the Member's proportion is being determined relative to some, but not all, Members (such as when an Eligible Member's proportion is being determined relative to all Eligible Members)), the number of Shares held by that Member bears to the total number of Shares held by all of those Members.
Relevant State	means the state in which the Company is incorporated.
Remaining New Shares	has the meaning given to that term in clause 5.1(f).
Reorganisation Event	means: <ul style="list-style-type: none"> (a) a bona fide bonus issue of Shares; (b) a sub-division or consolidation of Shares; or

	(c) any other reorganisation, reclassification or reconstruction of the Company's capital where the Company neither pays nor receives cash.
Representative	means a person authorised to act as a representative of a corporation under section 250D of the Corporations Act.
Seal	means the common seal of the Company (if any).
Secretary	means any person appointed to perform the duties of a secretary of the Company.
Securities	means Shares or other securities that are convertible into Shares, including, without limitation, options and convertible notes.
Share	means a share in the capital of the Company irrespective of class.
Share Payment Threshold	means up to 2% of the issued capital of the Company immediately prior to the adoption of the plan on a Fully Diluted Basis.
Simple Majority Vote	means a vote or resolution passed by: <ul style="list-style-type: none"> (a) in the case of a vote or resolution of Members, Members who together hold more than 50% of the issued Voting Shares (voting as a single class) and who are present and vote; (b) in the case of a vote or resolution of the Board, more than 50% of the votes that are entitled to be cast by the Directors present (either in person or, where proxies are allowed, by proxy) in respect of the resolution.
Special Majority	means: <ul style="list-style-type: none"> (a) in the case of a vote or resolution of the Board: <ul style="list-style-type: none"> (i) a resolution passed by the 75% of the Directors present and entitled to vote on the relevant occasion; (ii) a written resolution signed by all appointed Directors at the relevant time; or (b) in the case of a vote or resolution of Members, a resolution passed by Members who together hold more than 75% of the issued Voting Shares (voting as a single class) and who are present and vote.
Special Resolution	means a resolution by Special Majority.
Strategic Placement	has the meaning given to that term in clause 5.4.

Subsidiary	has the meaning given in Division 6 of Part 1.2 of the <i>Corporations Act</i> .
Tag Along Notice	has the meaning given to that term in clause 14.3.
Third Party	has the meaning given to that term in clause 14.1(a).
Third Party Offer	has the meaning given to that term in clause 5.1(f).
Third Party Transfer Notice	has the meaning given to that term in clause 14.2.
Third Party Transfer Shares	has the meaning given to that term in clause 14.2.
Total and Permanent Disablement	has the meaning given to it in the Buy Sell Deed.
Transfer Closing Date	has the meaning given to that term in clause 13.5.
Transfer Notice	has the meaning given to that term in clause 13.2.
Transfer Price	has the meaning given to that term in clause 13.2.
Transfer Shares	has the meaning given to that term in clause 13.2.
Transferor	has the meaning given to that term in clause 13.1.
Trigger Event	has the meaning set out in the Buy Sell Deed.
Voting Member	means each person who is registered as the holder of a Voting Share in the capital of the Company.
Voting Share	means an Ordinary Share or any other class of Share that is provided voting rights pursuant to this Constitution or the relevant terms of issue of the class of Share.

1.2 Interpretation

In this document unless the context otherwise requires:

- (a) clause and subclause headings are for reference purposes only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) reference to a person includes any other entity recognised by law and vice versa;
- (e) a reference to writing includes any method of representing words, figures or symbols in a permanent and visible form;
- (f) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (g) any reference to a person referred to in this document includes its successors and permitted assigns;

- (h) any reference to any agreement or document includes that agreement or document as amended at any time;
- (i) a reference to “\$”, “A\$” or “dollar” is a reference to Australian currency;
- (j) the use of the word **includes** or **including** is not to be taken as limiting the meaning of the words preceding it;
- (k) the expression **at any time** includes reference to past, present and future time and the performance of any action from time to time;
- (l) when a thing is required to be done or money required to be paid under this document on a day which is not a Business Day, the thing must be done and the money paid on the immediately preceding Business Day; and
- (m) reference to a statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated.

1.3 Replaceable rules

The replaceable rules in the Corporations Act do not apply to the Company except so far as they are repeated or contained in this document

2 Company type, Members and activities

2.1 Proprietary company

The Company is a proprietary company.

2.2 Members

The number of Members of the Company must not exceed 50, excluding Employee Members, CSF Members and other Members not required to be counted towards the 50 shareholder limit by reason of the Act and counting joint holders of Shares as one Member.

2.3 Activities

The Company must not engage in any activity that would require disclosure to investors under the Corporations Act, except as authorised by the Corporations Act.

2.4 Purpose

- (a) The purpose of the Company is to deliver returns to Members whilst having an overall positive impact on society and the environment (**Purpose**).
- (b) In discharging their duties under this constitution, the Corporations Act (2001) and the general law, the Directors of the Company:
 - (i) will include in their consideration the following factors:
 - (A) the likely consequences of any decision or act of the company in the long term; and



- (B) the interests of the Company's employees; and
 - (C) the need to foster the Company's business relationships with suppliers, customers and others; and
 - (D) the impact of the Company's operations on the community and the environment; and
 - (E) the desirability of the Company maintaining a reputation for high standards of business conduct; and
 - (F) the interests of the Members of the company; and
 - (G) the ability of the Company to create an overall positive impact on society and the environment; and
- (ii) Need not give priority to a particular factor referred to in clause 2.4(b)(i) over any other factor (included in clause 2.4(b)(i) or otherwise).
- (c) A Special Resolution of Directors is required to vary the Purpose.

3 Shares

3.1 Rights of Ordinary Shares

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

- (a) the right to receive notice of and to attend and vote at all general meetings of the Company;
- (b) the right to receive dividends; and
- (c) in a winding up, the right to participate in the distribution of the assets of the Company (both capital and surplus) in accordance with clause 37, subject only to any amounts unpaid on the Ordinary Shares.

3.2 Power to issue

Subject to this Constitution (in particular clause 5) and the Corporations Act, the Board may issue or dispose of Securities to persons on the terms, at the issue price and at the times the Board determines. This includes the power to:

- (a) Issue Ordinary Shares
- (b) subject to clause 3.4, issue Shares with:
 - (i) any preferential, deferred or special rights, privileges and conditions; and
 - (ii) any restrictions in regard to dividend, voting, return of capital or otherwise;
- (c) grant options to have Shares issued;
- (d) subject to clause 3.4, issue preference Shares that are liable to be redeemed; and



- (e) reclassify any Share.

3.3 Power to buy back

The Company may, in accordance with the Corporations Act, buy back its own Shares.

3.4 Preferential rights and restrictions

- (a) The Board may only issue Shares (other than Ordinary Shares), with preferential, deferred or special rights, privileges and conditions and/or any restrictions in regard to dividend, voting, return of capital or otherwise, by Special Resolution of the Board (**Resolution to Issue Special Shares**).
- (b) The Resolution to Issue Special Shares must set out all of the preferential, deferred or special rights, privileges and conditions and/or any restrictions attaching to the relevant class of Shares.

4 Brokerage and commission

The Company may pay brokerage or commissions to a person in respect of that person or another person agreeing to take up Shares or debentures in the Company. Any brokerage or commissions paid may be made by cash, the issue of Shares, the issue of debentures, or a combination of those methods.

5 Additional capital

5.1 Additional equity funding

The Company may only issue additional Securities in accordance with this clause 5 and on the following terms:

- (a) Other than in respect of an Excluded Issue, where the Board resolves to issue or allot new Securities for the purposes of raising additional funds ("**New Shares**"), the Company must offer the New Shares to each Eligible Member on the terms provided for in paragraph (b).
- (b) An offer under paragraph (a) must:
 - (i) state the price at which the New Shares are being offered;
 - (ii) invite the Eligible Members to state the number of New Shares that they would like to subscribe for; and
 - (iii) remain open for a minimum of 10 Business Days and may be extended by resolution of the Board.
- (c) Any Eligible Member ("**Participating Member**") may by notice ("**Acceptance Notice**") to the Company accept an offer in respect of all or some of the New Shares offered by the Company under paragraph (b) by stating the number of New Shares that the Participating Member is willing to subscribe for. Acceptance Notices pursuant to this paragraph (c) must be unconditional and irrevocable.

- (d) If an Eligible Member fails to give an Acceptance Notice by no later than the time specified in the Offer, that Member will be taken to have waived its right to participate in the issue of New Shares.
- (e) If there are sufficient New Shares to satisfy all Acceptance Notices, the Company will allocate the number of New Shares requested in each Acceptance Notice. If there are insufficient New Shares to satisfy all Acceptance Notices, the New Shares will be apportioned between the Participating Members as nearly as may be in proportion to the lower of the number of New Shares specified in their Acceptance Notices and their Relevant Proportions (calculated with reference to the total number of Shares held by Eligible Members only).
- (f) If a Member does not take up all of its entitlement to New Shares, the Company may allocate the remaining New Shares to each Participating Member who requested a number of New Shares in excess of their entitlement in accordance with the lower of the number of New Shares for which that Participating Member accepted the offer and that Participating Member's Relevant Proportion (calculated with reference to the total number of Shares held by Eligible Members only).
- (g) If the Members do not accept all the New Shares offered to them under paragraph (b), then the Company may procure the subscription for the remaining New Shares ("**Remaining New Shares**") by third parties ("**Third Party Offer**") within 6 months of the date on which the offer of New Shares to Members closed, provided that the terms of the Third Party Offer are not materially more beneficial than the terms offered to Eligible Members under paragraph (a).
- (h) If the Company receives an over-subscription for the Remaining New Shares, in response to the Third Party Offer, the Company shall allocate the Remaining New Shares to those third party applicants in such proportions as the Board thinks fit.

5.2 Fractions

If any allocation process under this clause 5 would result in the allocation of a fraction of a Security, the Board will, in its absolute discretion, determine how to deal with that fraction.

5.3 No obligation to contribute additional funds

No Member will be required to subscribe for any Securities, contribute additional funds or capital, extend credit, provide any security or guarantee or otherwise make any financial accommodation available in relation to the Company.

5.4 Exceptions

Clause 5.1 does not apply in relation to an issue of Securities by the Company:

- (a) pursuant to an ESOP approved pursuant to clause 26.3 or pursuant to a share payment plan approved pursuant to clause 26.4;
- (b) pursuant to a listing on a recognised stock exchange (**IPO**);
- (c) pursuant to a bona fide reconstruction of the Company (including any Reorganisation Event) in respect of which no consideration is provided or received for the issue of Shares by the Company;

- (d) in connection with share splits or the issue of dividends which is approved by Special Resolution of the Board;
- (e) in lieu of payment in respect of the provision of services which is approved by Special Resolution of the Board in accordance with clause 26.4;
- (f) constituting all or part of the consideration for a bona-fide acquisition of assets or shares by the Company which is approved by Special Resolution of the Board;
- (g) on the conversion of Securities in accordance with their terms; or
- (h) to a Third Party where the Board considers the issue to be of strategic benefit to the Company ("**Strategic Placement**") so long as:
 - (i) the Strategic Placement has been approved by a Special Resolution of the Board and the number of Shares issued in the Strategic Placements (and any other previous Strategic Placement) does not exceed the Placement Threshold; or
 - (ii) the Strategic Placement is otherwise approved by a Special Resolution of the Members.

5.5 Resolution type

The Board may, by Ordinary Resolution, issue any additional Securities (including Shares in the capital of the Company or any convertible note), provided that the requirements pursuant to clause 3.4 and clause 5 have been satisfied or the Securities are issued pursuant to an Excluded Issue

6 Certificates

6.1 Uncertificated shares

The Directors may permit any class of shares to be held in uncertificated form and may take all steps necessary or desirable to facilitate the holding of shares in, and the transfer of shares held in, uncertificated form. In relation to any shares which are for the time being held in uncertificated form the Company:

- (a) is not required to issue any certificate but must give to each holder of such shares all statements relating to the holding of those shares;
- (b) is only required to give one copy of a statement in respect of any shares jointly held;
- (c) may cancel any statement and replace lost, destroyed or damaged statements in such manner as the directors think fit; and
- (d) the Company may charge a fee for the issue of a replacement statement, of an amount determined by the Directors but not to exceed the maximum fee (if any) prescribed under the Corporations Act.

6.2 Certificates for shares

If the Company is required by the Corporations Act to issue certificates for any shares, or if the Directors otherwise determines to issue certificates for any shares, then the Company:



- (a) must issue such certificates in accordance with the requirements of the Corporations Act and otherwise in such form as the directors think fit;
- (b) may cancel any certificates and replace lost, destroyed or damaged certificates in such manner as the directors think fit;
- (c) is only required to issue one certificate in respect of any shares jointly held; and
- (d) the Company may charge a fee for the issue of a replacement certificate, of an amount determined by the Board but not to exceed the maximum fee (if any) prescribed under the Corporations Act.

6.3 Form of Certificate

If a Certificate is required, the Certificate:

- (a) must include all information required by the Corporations Act; and
- (b) must be issued in the form determined by the Directors.

6.4 Certificate of joint holders

The delivery of a Certificate or statement of holdings in relation to a Share to the registered holder of the Share or their agent is effective delivery to all the joint holders of that Share.

6.5 Replacement certificates

If a certificate is defaced, lost or destroyed, subject to the Corporations Act, the Board must issue a new certificate to the Member entitled to the defaced, lost or destroyed certificate on such terms and conditions as the Board may decide.

7 Ownership of Shares

7.1 Non-beneficial holders

Except as required by law or as otherwise provided by this Constitution, the Company:

- (a) may treat the registered holder of a Share as the absolute owner of it; and
- (b) need not recognise any equitable, contingent, future, partial or other claim to or interest in a Share by any person other than the registered holder.

7.2 Notice

Clause 7.1 applies even if the Company has notice of the relevant claim or interest.

8 Joint holders

If the Register names two or more joint holders of a Share, they are taken to hold the Share as joint tenants with the benefits of survivorship and the person listed first in the Register is the only joint holder entitled to receive notices from the Company.

9 Variation of rights

9.1 Procedure

If there are different classes of Shares, the rights attached to any class may not, unless their terms of issue state otherwise, be varied or cancelled without the written consent of the holders of not less than 75% of the issued Shares of that class.

9.2 Effect of further or new issue

Unless otherwise provided by their terms of issue, the rights attached to a class of Shares are not treated as varied by the issue of any further or new Shares that rank equally with them.

10 Calls

10.1 Power to make calls

Subject to the terms on which any Shares have been issued, the Board may make calls from time to time upon the Members in respect of all money unpaid on their Shares. Each Member must pay the amount of each call in the manner, at the time and at the place specified by the Board. The Board may determine that calls be payable by instalments and the amount of each such instalment.

10.2 When a call is made

A call is deemed to have been made at the time when the resolution of the Board authorising the call was passed. The call may be revoked or postponed at the discretion of the Board at any time prior to the date on which payment in respect of the call is due.

10.3 Interest on the late payment of calls

If any sum payable in respect of a call is not paid on or before the date for payment, the Member from whom the sum is due must pay interest at the Prescribed Rate on the unpaid amount from the due date to the date of payment, both dates inclusive. The Board may waive the whole or part of any interest paid or payable under this clause.

10.4 Instalments

If, by the terms of an issue of Shares, any amount is payable in respect of any Shares by instalments, every instalment is payable as if it is a call duly made by the Board of which due notice had been given, and all provisions of this document with respect to the payment of calls and of interest or to the forfeiture of Shares for non-payment of calls or with respect to liens or charges apply to the instalment and to the Shares in respect of which it is payable.

10.5 Payments in advance of calls

If the Board thinks fit, it may receive from any Member all or any part of the money unpaid on all or any part of the Shares held by that Member beyond the amount 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 money advanced at the rate and on the terms agreed by the Board to the Member paying the money in advance.

10.6 Non receipt of notice of any call

The non-receipt of a notice of any call by, or the accidental omission to give notice of any call to, any Member does not invalidate the call.

10.7 Proceedings for recovery of calls

In an action or other proceeding for the recovery of a call, or interest or costs or expenses incurred in relation to the non-payment or late payment of a call, proof that:

- (a) the name of the defendant is entered in the Register as the holder or one of the holders of the Share in respect of which the call is claimed;
- (b) the resolution making the call is recorded in the minute book; and
- (c) notice of the call was given to the defendant in accordance with this document,

is conclusive evidence of the debt and it is not necessary to prove the appointment of the Directors who made the call or any other matter.

11 Forfeiture and lien

11.1 Failure to pay money

If a Member fails to pay any money payable on or in respect of any Shares, either for allotment money, calls or instalments or with respect to any loan which the Company has made to that Member to enable the Member to acquire or reclassify those Shares, on or before the day for payment, the Board may, at any time after the day specified for payment whilst any part of the money remains unpaid, serve a notice on the Member requiring that Member to pay the money together with interest accrued and all expenses incurred by the Company by reason of the non-payment.

11.2 Time and place for payment

The notice referred to in clause 11.1 must name a day on or before which the money, interest and expenses (if any) are to be paid and the place where payment is to be made. The notice must also state that, in the event of non-payment at or before the time and at the place specified, the Shares in respect of which the money is payable will be liable to be forfeited. If the notice referred to in clause 11.1 relates to a payment which has not been made with respect to any loan which the Company has made to a Member to enable that Member to acquire or reclassify any Shares, the notice may be given in accordance with the terms of the relevant loan agreement and will be deemed to have been given in accordance with this clause 11.2.

11.3 Forfeiture on non-compliance with notice

If there is non-compliance with the requirements of any notice given under clause 11.1, any Shares in respect of which notice has been given may, at any time after the day specified in the notice for payment whilst any part of allotment money, calls, instalments, interest and expenses (if any) remains unpaid, be forfeited by a resolution of the Board. The forfeiture

includes all dividends, interest and other money payable by the Company in respect of the forfeited Shares and not actually paid before the forfeiture.

11.4 Notice of forfeiture

When any Share is forfeited, notice of the resolution of the Board must be given to the Member in whose name it stood immediately prior to the forfeiture, and an entry of the forfeiture and the date of forfeiture must be made in the Register. Failure to give notice or make an entry as required by this rule does not invalidate the forfeiture.

11.5 Disposal of forfeited Shares

Any forfeited Share is deemed to be the property of the Company and the Board may sell or otherwise Dispose of or deal with the Share in any manner it thinks fit and with or without any money paid on the Share by any former holder being credited as paid up.

11.6 Annulment of forfeiture

The Board may, at any time before any forfeited Share is sold or otherwise dispose of, annul the forfeiture of the Share upon any condition it thinks fit.

11.7 Liability despite forfeiture

Any Member whose Shares have been forfeited is, despite the forfeiture, liable to pay and must immediately pay to the Company all money, interest and expenses owing upon or in respect of the forfeited Shares at the time of forfeiture, together with expenses and interest from that time until payment at the Prescribed Rate. The Board may enforce the payment or waive the whole or any part of the money paid or payable under this rule as it thinks fit.

11.8 Company's lien or charge

The Company has a first and paramount lien or charge for unpaid calls, instalments, interest due in relation to any calls or instalments and any amounts the Company is called upon by law to pay in respect of the Shares of a Member upon Shares registered in the name of the Member in respect of which the calls, instalments and interest are due and unpaid (whether presently payable or not) or in respect of which the amounts are paid and upon the proceeds of sale of the Shares. The lien or charge extends to all dividends and bonuses from time to time declared in respect of the Shares. If the Company registers a transfer of any Shares upon which it has a lien or charge without giving the transferee notice of any claim it may have at that time, the Shares are freed and discharged from the lien or charge of the Company in respect of that claim.

11.9 Sale of Shares to enforce lien

For the purpose of enforcing a lien or charge, the Board may sell the Shares which are subject to the lien or charge in any manner it thinks fit and with or without giving any notice to the Member in whose name the Shares are registered.

11.10 Title of Shares forfeited or sold to enforce lien

The following provisions apply in connection with a sale or re-allotment of Shares that have been forfeited or sold to enforce a lien or charge.

- (a) In a sale or a re-allotment of forfeited Shares or in the sale of Shares to enforce a lien or charge, an entry in the Board's minute book that the Shares have been forfeited, sold or re-allotted in accordance with this document is sufficient evidence of that fact as against all persons entitled to the Shares immediately before the forfeiture, sale or re-allotment of the Shares. The Company may receive the purchase money or consideration (if any) given for the Shares on any sale or re-allotment.
- (b) In a re-allotment, a certificate signed by a Director or the Secretary to the effect that the Shares have been forfeited and the receipt of the Company for the price of the Shares constitutes a good title to them.
- (c) In a sale, the Board may appoint a person to execute, or may otherwise effect, a transfer in favour of the person to whom the Shares are sold.
- (d) Upon the issue of the receipt or the transfer being executed or otherwise effected the person to whom the Shares have been re-allotted or sold must be registered as the holder of the Shares and is discharged from all calls or other money due in respect of the Shares prior to the re-allotment or purchase. The person is not bound to see to the regularity of the proceedings or to the application of the purchase money or consideration. The person's title to the Shares is not affected by any irregularity or invalidity in the proceedings relating to the forfeiture, sale or re-allotment.
- (e) The net proceeds of any sale or re-allotment must be applied first in payment of all costs of or in relation to the enforcement of the lien or charge or the forfeiture (as the case may be) and of the sale or re-allotment, next in satisfaction of the amount in respect of which the lien exists as is then payable to the Company (including interest) and the residue (if any) paid to, or at the direction of, the person registered as the holder of the Shares immediately prior to the sale or re-allotment or to the person's personal representative or assign upon the production of any evidence as to title required by the Board.

12 Transfer of Shares

12.1 Transfers

A Member must not sell, transfer or create any legal or beneficial interest in its Shares (including any interest pursuant to a derivative instrument) except in the following ways:

- (a) in the case of Ordinary Shares, in accordance with clauses 13, 14 or 16;
- (b) in accordance with clause 15;
- (c) a sale pursuant to a Permitted Transfer; or
- (d) where the Board agrees to the proposed transfer in writing after having complied with clause 12.2(g).

12.2 Permitted Transfer

A Member may sell or Dispose of legal or beneficial interest in its Shares:

- (a) to a buyer which is Controlled by the same person that controls the Member;

- (b) to a buyer who is an Affiliate of the Member.
- (c) to a trust of which the trustee is the same person that Controls the Member or is an entity which is Controlled by that person;
- (d) to a wholly-owned Subsidiary of the Member or a wholly-owned Subsidiary of the ultimate holding company of the Member;
- (e) pursuant to a Share Sale Facility (provided that the Directors have not cancelled that Share Sale Facility);
- (f) pursuant to a transfer contemplated by the Buy Sell Deed; or
- (g) following a Special Resolution of the Directors approving such transfer.

12.3 Sale Facility

The Directors may, at any time, by Special Resolution:

- (a) establish a share sale facility (or allow their Members to utilise a third party share sale facility, including a secondary market platform) pursuant to which Members can sell some or all of their Shares on terms set by the Board (**Share Sale Facility**);
- (b) modify the terms associated with any Share Sale Facility previously established; or
- (c) cancel any Share Sale Facility.

12.4 Encumbrances

A Member must not provide its Shares as security or create any Encumbrance over them in favour of any person, except with the approval of the Board.

12.5 Restrictions on transfers

If a sale or Disposal would result in the Company having to issue a disclosure document or a product disclosure statement under Chapter 6D or Chapter 7 respectively of the Corporations Act, the sale may only occur if the sale or Disposal is approved by Special Resolution of the Board.

13 Pre-emptive rights

13.1 Compliance

A Member proposing to transfer any of its Shares ("**Transferor**") may do so by complying with the procedures set out in this clause 13.

13.2 Transfer Notice

The Transferor must give the Company a written notice ("**Transfer Notice**") specifying:

- (a) the number of Shares to be transferred ("**Transfer Shares**");
- (b) the cash price per Transfer Share at which the Transferor wishes to transfer the Transfer Shares ("**Transfer Price**"); and

- (c) any other relevant terms.

13.3 Agent

The Transfer Notice constitutes the Company as agent of the Transferor to transfer the Transfer Shares at the Transfer Price on the terms of this clause 13.

13.4 Transfer Notice irrevocable

A Transfer Notice is not revocable except with the prior written consent of the Board.

13.5 Transfer offer

- (a) If the number of Transfer Shares specified in a Transfer Notice is less than 0.5% of the issued Shares then the Board may offer the Transfer Shares to any existing Member or Third Party as the Board thinks fit.
- (b) If the number of Transfer Shares specified in a Transfer Notice is equal to or is greater than 0.5% of the issued Shares then within ten Business Days of receiving a Transfer Notice, the Board must offer ("**Eligible Member Offer**") the Transfer Shares in writing to all Eligible Members other than the Transferor. The offer must specify:
- (i) all of the matters set out in the Transfer Notice; and
 - (ii) the closing date of the offer ("**Transfer Closing Date**"), which must be a date 20 Business Days from the date of the offer.

13.6 Acceptance of an Eligible Member Offer

An Eligible Member may accept an Eligible Member Offer for some or all of the Transfer Shares by giving the Company written notice ("**Acceptance Notice**") on or before the Transfer Closing Date. Each Acceptance Notice is unconditional and irrevocable. Each Eligible Member who accepts an Eligible Member Offer for a stated number of Transfer Shares ("**Accepting Member**") is also deemed to have accepted the Eligible Member Offer for a lesser number of those Shares allocated to it under this clause 13. If an Acceptance Notice is not received from an Eligible Member on or before the Transfer Closing Date, the Eligible Member will be deemed to have rejected the Eligible Member Offer.

13.7 Allocation of Transfer Shares

If there are sufficient Transfer Shares to satisfy all Acceptance Notices, the Board will allocate the number of Transfer Shares requested in each Acceptance Notice. If there are insufficient Transfer Shares to satisfy all Acceptance Notices, the Transfer Shares will be apportioned between the Accepting Members as nearly as may be in proportion to the lower of the number of Transfer Shares specified in their Acceptance Notices and their Relevant Proportions (calculated with reference to the total number of Shares held by Eligible Members less any Shares held by the Transferor).

13.8 Further Allocation

If an Eligible Member does not take up all of its entitlement to the Transfer Shares specified in an Eligible Member Offer, the Company may allocate the remaining Transfer Shares to each Accepting Member who requested a number of Transfer Shares in excess of their



entitlement in accordance with the lower of the number of the Transfer Shares for which that Accepting Member accepted the Eligible Member Offer and that Accepting Member's Relevant Proportion (calculated with reference to the total number of Shares held by Eligible Members less any Shares held by the Transferor).

13.9 Fractions

If the allocation process under clause 13.7 and/or 13.8 would result in the allocation of a fraction of a Share, the Board will, in its absolute discretion, determine how to deal with that fraction.

13.10 Notification

Within two Business Days of the Transfer Closing Date, the Company must notify the Transferor and each Accepting Member of the number of Transfer Shares allocated to each Accepting Member.

13.11 Completion

Completion of the transfer will take place at the Registered Office (or any other location agreed upon by the Transferor and Accepting Members) within 10 Business Days of the Transfer Closing Date. On completion:

- (a) each Accepting Member must purchase the Transfer Shares allocated to it under clause 13.7 and/or 13.8 and pay the Transferor the Transfer Price for those Shares;
- (b) the Transferor must transfer the Transfer Shares allocated to each Accepting Member free from any Encumbrances and deliver to each of them the relevant Share certificates and duly executed transfers; and
- (c) the Company must register the transfers.

13.12 Default

If a Transferor defaults in transferring Transfer Shares to an Accepting Member in accordance with clause 13.11:

- (a) each of the Directors is irrevocably appointed as the joint and several attorney of the Transferor to execute all documents, receive all money and do all other things on the Transferor's behalf to effect compliance of the Transferor's obligations; and
- (b) the Transferor ratifies and confirms all such actions.

13.13 Conditional Transfer Notice

If:

- (a) the Transfer Notice contained a condition that unless all Transfer Shares were sold, none of the Transfer Shares would be sold; and
- (b) all of the Transfer Shares are not allocated pursuant to clause 13.7,

the Transferor will not be obliged to transfer any Transfer Shares to an Accepting Member and clause 13.12 will not apply.

13.14 Transfer to Third Party

Subject to clause 14, if, after the procedures set out in this clause 13 have been complied with:

- (a) the Company does not receive acceptances in respect of all the Transfer Shares on or before the Transfer Closing Date; or
- (b) the Transfer Notice contains a condition of the type described in clause 13.13 and all of the Transfer Shares are not sold,

the Transferor may, within a period of 60 days after the date of the Transfer Notice, transfer the remaining Transfer Shares (or some or all of them as applicable) to any Third Party, including any Member, on terms no more favourable to that person than the terms contained in the Transfer Notice unless the Board nominates a purchaser for those Transfer Shares who is willing to acquire the Transfer Shares on the terms offered by the Transferor, in which case the Transferor shall transfer the Transfer Shares to the person nominated by the Board.

13.15 Power to refuse to register

- (a) the Directors may refuse to register any transfer of Shares, for any of the following reasons:
 - (i) the Company has a lien on the Shares the subject of the transfer;
 - (ii) a court order restricts a Member's capacity to transfer the Shares;
 - (iii) registration of the transfer would be contrary to Australian law;
 - (iv) if the transfer does not comply with the terms of any ESOP;
 - (v) the transfer does not comply with the terms of this Constitution; or
 - (vi) if otherwise permitted by the Corporations Act.
- (b) Neither the Directors nor the Company may refuse to register a transfer of Shares made under a valid exercise of an enforcement power under a mortgage of the Shares the subject of the transfer.
- (c) The Directors must notify the person who deposited the instrument of transfer of any refusal to transfer the Shares under clause 13.5(a) within five Business Days from the date the instrument of transfer is lodged.

13.16 Allocation to Affiliates

- (a) Where a Member has the right to provide an Acceptance Notice pursuant to this clause 13, the Member may, in that Acceptance Notice, nominate its Affiliate as the purchaser of any Transfer Shares that Member is allocated pursuant to this clause 13.
- (b) Where the Member nominates an Affiliate pursuant to clause 13.16, any Transfer Shares that are ultimately purchased by that Member pursuant to the relevant Acceptance Notice (and after following all of the processes contemplated by this clause 13) are to be registered in the name of that Member's nominated Affiliate.

13.17 Transaction Costs

Where the Company is required to expend funds (including but not limited to accounting fees and legal fees) in respect of a transfer of Shares by a Member (**Sale Related Costs**), the selling Member will be responsible for assuming such costs and must, prior to receiving and consideration in respect of the relevant sale of Shares, re-imburse the Company an amount equal to the Sale Related Costs associated with the particular transaction.

14 Tag along rights

14.1 Additional requirement for Third Party transfers

If, after the procedures set out in clauses 13.2 to 13.13 have been complied with:

- (a) Transferors wish to transfer any Transfer Shares not transferred to Accepting Members to a person who is not a Member or Related Entity of a Member ("**Third Party**"); and
- (b) the transfer would result in that Third Party acquiring 65% or more of the total number of Shares,

the Transferor may only transfer the Shares in accordance with this clause 14.

14.2 Third Party Transfer Notice

The Transferor must give the Company and each other Member a written notice ("**Third Party Transfer Notice**") specifying:

- (a) the number of Shares to be transferred ("**Third Party Transfer Shares**");
- (b) the cash price per Share at which the Transferor wishes to transfer them;
- (c) the proposed completion date (which must be no later than the end of the 60 day period specified in clause 13.14);
- (d) the identity of the Third Party; and
- (e) the entitlements of the other Members under this clause 14 to require the Third Party to purchase all or a proportion of their Shares.

14.3 Tag Along Notice

Within 20 Business Days of receipt of a Third Party Transfer Notice, each of the Members may give the Transferor a written notice ("**Tag Along Notice**") stating that the Member wishes to transfer the same proportion of its Shares as the Third Party Transfer Shares bear to the total number of Shares of the Transferor.

14.4 Tag Along Notice irrevocable

A Tag Along Notice is not revocable except with the prior written consent of the Board.



14.5 Tag along

If a Tag Along Notice is given, the Transferor may only transfer the Third Party Transfer Shares to the Third Party if the Transferor ensures that, at the same time, the Third Party acquires, from each of the Members who delivers a Tag Along Notice, the same proportion of its Shares as the Third Party Transfer Shares bear to the total number of Shares of the Transferor at the same price and on the same terms and conditions as the Third Party is to acquire the Third Party Transfer Shares from the Transferor.

14.6 Completion

On the completion date specified in the Third Party Transfer Notice:

- (a) the Transferor and each Member who delivered a Tag Along Notice must, in exchange for payment of the purchase price by the Third Party:
 - (i) transfer the relevant Shares to the Third Party free from any Encumbrances; and
 - (ii) deliver to the Third Party the relevant Share certificates and duly executed transfers; and
- (b) the Company must register the transfers.

14.7 Default

If any Member defaults in transferring Shares in accordance with clause 14.6:

- (a) each of the Directors is irrevocably appointed as the joint and several attorney of the Member to execute all documents, receive all money and do all other things on the Member's behalf to effect compliance of its obligations; and
- (b) the Member ratifies and confirms all such actions.

14.8 Exclusion of pre-emptive rights

A Member exercising its tag along rights under this clause 14 may transfer its Shares to the Third Party without the need to comply with the pre-emptive rights provisions in clause 13.

15 Drag along rights

15.1 Third Party buy out

If a Third Party ("**Drag Purchaser**") makes a bona fide offer to purchase all of the Shares and one or more Members decide to accept that offer in relation to Shares that comprise 65% or more of the issued Shares in the Company ("**Majority Sellers**"), the Majority Sellers must give the Company and each other Member a written notice ("**Drag Along Notice**") specifying:

- (a) the proposed cash purchase price or other consideration per Share (provided that, if the proposed consideration is not cash, the offer must provide for alternative consideration of equivalent value in the form of cash);

- (b) the proposed completion date (which must be at least 20 Business Days after the date of the Drag Along Notice);
- (c) the identity of the Drag Purchaser;
- (d) that the Majority Sellers wish to transfer their Shares to the Drag Purchaser on these terms; and
- (e) that the Drag Purchaser is entitled to compulsorily acquire the Shares of each other Member in accordance with this clause 15, subject to a Member making an alternative buy out offer in accordance with clause 15.3.

15.2 Drag Along Notice irrevocable

A Drag Along Notice is not revocable unless the Third Party withdraws its buy out offer.

15.3 Eligible Member may make alternative offer

- (a) The Board may (but is under no obligation to) by way of Special Resolution implement the process contemplated in clause 15.3(c) (**Alternative Offer Process**).
- (b) If the Board resolves by Special Resolution to implement an Alternative Offer Process, the Board may:
 - (i) specify any conditions it wishes in respect of an Eligible Member's' rights to acquire all of the Majority Sellers' Shares pursuant to clause 15.3(c); or
 - (ii) determine that some or all Eligible Members may not participate in the process contemplated in clause 15.3(c).
- (c) Where the Board has implemented an Alternative Offer Process, subject to clauses 15.3(a) and 15.3(b), an Eligible Member who has received a Drag Along Notice pursuant to clause 15.1 may, within 20 Business Days of receipt, elect by written notice to the Majority Sellers to acquire all of the Majority Sellers' Shares on the terms and conditions specified in the Drag Along Notice. The notice must be accompanied by a deposit of 20% of the consideration payable in aggregate to the Majority Sellers for their Shares, based on the terms and conditions of the Drag Along Notice.

15.4 Sale to Member

If the Board has implemented an Alternative Offer Process and one Eligible Member complies with clause 15.3:

- (a) the Majority Sellers must transfer their Shares to that Eligible Member; and
- (b) completion of the transfer must take place before the date that is 20 Business Days after the date of the Drag Along Notice.



the Board has implemented an Alternative Offer Process and more than one Eligible Member complies with clause 15.3:

- (c) the Majority Sellers must transfer their Shares to those Eligible Members in the proportions that would be determined by the pre-emptive rights allocation process set out in clause 13.7 (subject to any necessary changes); and
- (d) completion of the transfer must take place before the date that is 20 Business Days after the date of the Drag Along Notice.

15.5 Sale to Third Party

If no Eligible Member elects to acquire the Majority Sellers' Shares under clause 15.3 (including where the Board has not implemented an Alternative Offer Process or where pursuant to such process no Eligible Members are entitled to be offered the rights to acquire the Majority Sellers' Shares) and a Drag Along Notice has been issued pursuant to clause 15.1:

- (a) each Member will be deemed to have accepted the Drag Purchaser's offer and must transfer its Shares to the Drag Purchaser; and
- (b) completion of the transfer must take place on the completion date specified in the Drag Along Notice.

15.6 Completion

On completion of the transfers under clause 15.4 or 15.5:

- (a) each Member transferring Shares must, in exchange for payment of the cash purchase price or provision of the offered alternative consideration by the relevant purchaser:
 - (i) transfer the relevant Shares to the purchaser free from any Encumbrances; and
 - (ii) deliver to the purchaser the relevant Share certificates and duly executed transfers; and
- (b) the Company must register the transfers.

15.7 Default

If any Member defaults in transferring Shares in accordance with clause 15.6:

- (a) each of the Directors is irrevocably appointed as the joint and several attorney of the Member to execute all documents, receive all money and do all other things on the Member's behalf to effect compliance of its obligations; and
- (b) the Member ratifies and confirms all such actions.

15.8 Exemption from pre-emptive rights

A Member may transfer Shares to the Drag Purchaser in accordance with this clause 15 without the need to comply with the pre-emptive rights provisions in clause 13.

16 Transmission of securities

16.1 Transmission upon death

The personal representative of a deceased Member (who is not one of several joint holders) is the only person recognised by the Company as having any title to securities registered in the name of the deceased Member. However, the Board may, subject to compliance by the transferee with this document, register any transfer signed by a Member prior to the Member's death despite the Company having notice of the Member's death.

16.2 Transmission by operation of law

A person ("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 Member in respect of the securities or may (subject to the provisions in this document relating to transfers) transfer the securities. However, the Board has the same right to refuse to register the transmittee as if the transmittee was the transferee named in an ordinary transfer presented for registration.

17 Independent valuation

17.1 Application of schedule

This clause applies if the Board is required to obtain an independent valuation of Shares.

17.2 Appointment of Independent Valuer

- (a) If this clause applies, the Board by Ordinary Resolution must appoint an Independent Valuer to determine the value of each Share in accordance with this clause.
- (b) If the Board fails to agree, the Independent Valuer will be appointed by the President for the time being of the Institute of Chartered Accountants in Australia.
- (c) In determining the independence of an Independent Valuer desired to be appointed, regard must be had to the extent to which the Independent Valuer and any firm or company of which the Independent Valuer is an employee, partner, director or consultant, has had substantial business dealings with any Member in the 2 years before the proposed date of appointment.

17.3 Valuation

- (a) The Independent Valuer must be instructed to:
 - (i) determine the fair market value of the Shares by valuing the Company (including any Subsidiary of the Company) as a whole on a going concern basis as at the end of the month before the month in which the Independent Valuer is appointed under clause 17.2; and
 - (ii) perform the valuation assessment assuming a willing, but not anxious, buyer and seller.



- (b) The fair market value of each Share will be the proportionate amount of the value of the Company, without any regard to any premium for control.

17.4 Access to information

The Board must ensure that the Independent Valuer has a right of access at all reasonable times to the accounting records and other records of the Company (including any Subsidiary of the Company) and is entitled to require from any officer of the Company such information and explanation as the Independent Valuer requires to value the Company.

17.5 Period of determination

The Board must use its reasonable endeavours to ensure that the Independent Valuer makes a determination as soon as practicable and in any event within 20 days after receiving instructions.

17.6 Process

In determining a value for the Shares under this clause, the Independent Valuer:

- (a) will act as an expert and not as an arbitrator;
- (b) may obtain or refer to any documents, information or material and undertake any inspections or enquiries as they determine appropriate;
- (c) must provide the Board with a draft of their determination and must give the Board an opportunity to comment on the draft determination before it is finalised; and
- (d) may engage such assistance as they reasonably believe is appropriate or necessary to make a determination.

17.7 Final and binding

The Independent Valuer's determination will be final and binding on the Board and all Members.

18 Defaulting Members

18.1 Consequence of default

If any Event of Default occurs in respect of a Member ("**Defaulting Member**"), at the election of any other Member by giving written notice to all Members:

- (a) all rights attaching to Shares held by the Defaulting Member will be suspended indefinitely; and
- (b) the Defaulting Member will be deemed to have notified the Board that it wishes to transfer all of the Shares held by it in accordance with clause 13 and the relevant price in respect of the transfer of Shares will be:
 - (i) Fair Value of the Defaulting member's Shares less a discount of 15%, in respect of any Event of Default (other than death or permanent disability or mental incapacity of a Member who is a natural person).

- (ii) Fair Value of the Defaulting member's Shares where the Event of Default is the death or permanent disability or mental incapacity of a Member who is a natural person.

18.2 Right of first refusal

On receiving the determination of Fair Value, the Board must offer the Shares held by the Defaulting Member to all other Eligible Members at a price equal to the Fair Value of the Shares in accordance with the procedure set out in clause 13.

19 Power of attorney

19.1 Purpose

The appointments of attorney in clause 19.2:

- (a) are for the purposes only of any of the transactions contemplated by clauses 13, 14, 15 and 18; and
- (b) take effect from the date set for completion of a transfer of Shares.

19.2 Power of attorney

- (a) Each Member irrevocably appoints each Director severally as its attorney for the purpose of clauses 13, 14, 15, 18 and 19.3 to complete and sign any documents under hand or under seal, on its behalf which the attorney requires to give effect to a transaction under clauses 13, 14, 15, 18 and 19.3.
- (b) Each attorney may exercise or concur in exercising its powers even if the attorney has a conflict of duty in exercising powers or has a direct or personal interest in the means or result of that exercise of powers.
- (c) Each appointor agrees to ratify and confirm whatever the attorney lawfully does under the appointment or causes to be done under the appointment.
- (d) Each appointor agrees to indemnify the attorney against any Claim, arising directly or indirectly from the attorney's lawful exercise of a power under that appointment.
- (e) Each appointor must give to the Company on demand by the Company any power of attorney, instrument of transfer or other instruments as the Company requires for the purposes of any of the transactions contemplated by clauses 13, 14, 15, 18 and 19.3.

19.3 Lock-up or escrow arrangements in an IPO

If at any time the Board resolves by Special Resolution in favour of an IPO, each Member must:

- (a) accept any lock-up or escrow requirements imposed, under which the Member's rights to Transfer their Shares (or Shares in any special purpose holding company formed for the purpose of the IPO) are limited for a period of time regardless of the lock-up or escrow period imposed by a recognised stock exchange or requested by any financial adviser or underwriter to the IPO; and

- (b) sign any lock-up or escrow agreements at the request of the company.

20 Confidentiality

20.1 Rights to information

Subject to clause 20.2, each Member is entitled to copies of information in relation to the Business and the Company as provided for in clause 31.2 ("**Member Information**").

20.2 Confidentiality

The Confidential Information is confidential and each Member must:

- (a) keep confidential the Confidential Information;
- (b) use the Confidential Information solely in relation to or in the best interests of the Business; and
- (c) may disclose any Confidential Information in respect of which it has an obligation of confidentiality under clause 20.2(a) only:
 - (i) to its Related Bodies Corporate, its officers, employees or advisers who:
 - (A) have a need to know for the purposes of this document and the transactions contemplated by it; and
 - (B) undertake to that Member a corresponding obligation of confidentiality to that undertaken by that Member under clause 20.2(a);
 - (ii) if required to do so by law or the rules of any securities exchange (whether in Australia or elsewhere); or
 - (iii) with the prior written approval of the Board.

20.3 Exceptions

The obligations of confidentiality under this document do not extend to information that:

- (a) is disclosed to a Member under this document, but at the time of disclosure is rightly known to that Member and is not subject to an obligation of confidentiality on that Member;
- (b) at the time of disclosure is within the public domain or after disclosure comes into the public domain other than by a breach or breaches of any obligation under this clause; or
- (c) is required by law or the rules of any securities exchange (whether in Australia or elsewhere) to be disclosed and the Member required to make the disclosure ensures that information is disclosed only to the extent required.

21 Publicity

No Member will make or authorise a press release or public announcement relating to the Business, or the Company ("**Announcement**") unless:

- (a) it is required to do so by law or rules of any securities exchange (whether in Australia or elsewhere) and before it is made, that Member has:
 - (i) notified the Board; and
 - (ii) given the Board a reasonable opportunity to comment on the contents of, and the requirement for, the Announcement; or
- (b) it has the prior written consent of the Board.

22 General meetings

22.1 Convening of general meetings of Members

The Board may call a general meeting at any time. The ability of Members to:

- (d) request that the Board call a general meeting; and
- (e) call and arrange to hold a general meeting themselves,

is limited to the powers set out in the Corporations Act.

22.2 Notice

Subject to the requirements of sections 249H and 249L of the Corporations Act, a notice of a general meeting may be given by the Board in the form, in the manner and at the time the Board thinks fit. The non-receipt of a notice of a general meeting by, or the accidental omission to give notice to, any person entitled to notice does not invalidate any resolution passed at that meeting.

22.3 Venue

- (a) Despite any other rule, the Company may hold a general meeting of Members at 2 or more venues using technology that gives the Members as a whole a reasonable opportunity to participate in the meeting.
- (b) If technology is used and fails part way through the general meeting:
 - (i) that part of the general meeting that is not affected by the technology failure is valid; and
 - (ii) that part of the general meeting affected by the technology failure is valid unless a Member did not have a reasonable opportunity to participate in the meeting.

23 Proceedings at general meetings

23.1 Quorum

- (a) No business may be transacted at any general meeting unless a quorum is present at the commencement of the meeting.
- (b) A quorum for a Members meeting is constituted by the attendance (by any means including by way of technology) of:
 - (i) at least two Members; and
 - (ii) one of the persons in attendance must be a Founder Shareholder or an appointed representative of a Founder Shareholder, except where all Founder Shareholders:
 - (A) are incapacitated or of unsound mind;
 - (B) have waived the right to attend in writing); or
 - (C) are subject to a Cessation of Founder Shareholder Rights.
- (c) For the purpose of determining whether a quorum is present:
 - (i) if a Member has appointed more than one Representative, proxy or attorney, only one of those persons may be counted; and
 - (ii) if an individual is attending both as a Member and as a Representative, proxy or attorney, the individual may only be counted once.
- (d) If a quorum is not present within 15 minutes after the time appointed for a general meeting, the general meeting, if called upon a requisition, is dissolved, but in any other case, is adjourned to the date, time and place the Directors specify, and if at the adjourned meeting a quorum is not present with 30 minutes after the time specified (or otherwise determined under this clause 23.1(d)) for holding the meeting, the meeting is dissolved. If the Directors do not specify one or more of those things, the meeting is adjourned to:
 - (i) if the date is not specified - the same day in the next week;
 - (ii) if the time is not specified - the same time; and
 - (iii) if the place is not specified - the same place.

23.2 Business at general meetings

- (a) The business of a general meeting is to receive and consider the accounts and reports (if such consideration is required by the Corporations Act at the relevant time), to elect Directors (in accordance with clause 25.4 of this Constitution), when relevant to appoint an auditor, and to transact any other business which, under this Constitution or any law, is required to be transacted at any annual general meeting.
- (b) All other business transacted at an annual general meeting and all business transacted at other general meetings is deemed to be special. Except with the approval of the Board or of the Chairperson or pursuant to the Corporations Act, no

person may move at any meeting any resolution or any amendment of any resolution of which notice has not been given under clause 22.2.

23.3 Persons entitled to attend a general meeting

The persons entitled to attend a general meeting are:

- (a) the Members;
- (b) the Directors and the Secretary;
- (c) the Company's auditor; and
- (d) any other person approved by the Chairperson.

23.4 Chairperson

If the Directors have elected one of their number as Chairperson of Directors' meetings that Director must if willing preside as Chairperson at every general meeting. Where a general meeting is held and a Chairperson has not been so elected, or the Chairperson is not present within 15 minutes after the time appointed for the holding of the general meeting or is unwilling to act, the Directors present must elect one of their number to be Chairperson of the general meeting, but failing an election by the Directors, the Voting Members present must elect one of their number to be Chairperson of the general meeting.

23.5 Adjournment

The Chairperson may, with the consent of the general meeting, and must, if so directed by the general meeting, adjourn the general meeting from time to time and from place to place. No business may be transacted on the resumption of any adjourned general meeting other than the business left unfinished at the general meeting from which the adjournment took place.

23.6 Notice of resumption of adjourned general meeting

When a general meeting is adjourned for 30 days or more, notice of the resumption of the meeting must be given in the same manner as for the original general meeting. When a general meeting is adjourned for less than 30 days, notice of any adjournment or of the business to be transacted on the resumption of the adjourned general meeting need not be given.

23.7 Voting rights

Subject to restrictions on voting from time to time affecting any class of securities, at general meetings of Members:

- (a) subject to clause 23.7(b), on a show of hands, each Voting Member present has one vote;
- (b) where a Voting Member has appointed more than one person as Representative, proxy or attorney for that Voting Member, none of the Representatives, proxies or attorneys is entitled to vote on a show of hands;
- (c) on a poll, each Voting Member present:

- (i) has one vote for each fully paid Voting Share held; and
- (ii) for each other Voting Share held has a fraction of a vote equivalent to the proportion which the amount paid (not credited) bears to the total amounts paid and payable (excluding amounts credited) for the Voting Share. When calculating this proportion, amounts paid in advance of a call are to be ignored.

23.8 Voting - show of hands

At any general meeting a resolution put to the vote of the general meeting must be decided on a show of hands unless a poll is demanded in accordance with clause 23.10.

23.9 Results of voting

Unless a poll is so demanded, a declaration by the Chairperson that a resolution has on a show of hands been carried or carried unanimously or by a particular majority, or lost is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

23.10 Poll

A poll may be demanded before a vote is taken or before or immediately after the declaration of the result of a resolution decided on a show of hands by:

- (a) the Chairperson of the general meeting;
- (b) any Founder Shareholder (subject to clause 25.15); or
- (c) any one or more Voting Members who are together entitled to at least 5% of the votes that may be cast on the resolution.

23.11 Manner of taking poll

If a poll is duly demanded, it must be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chairperson directs, and the result of the poll must be the resolution of the general meeting at which the poll was demanded. A poll demanded on the election of a Chairperson or on a question of adjournment must be taken immediately.

23.12 Meeting may continue

A demand for a poll does not prevent the continuation of the general meeting for the transaction of other business.

23.13 Voting by joint holders

In the case of joint holders of securities, the vote of the senior holder who tenders a vote, whether in person or Representative, proxy or attorney must be accepted to the exclusion of the votes of the other joint holders and, for this purpose, seniority is determined by the order in which the names stand in the Register.



23.14 Member under disability

If a Voting Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the Voting Member's personal representative or such other person as properly has the management of the Voting Member's estate may exercise any rights of the Voting Member in relation to a general meeting as if the personal representative or other person were the Voting Member.

23.15 Payment of calls

A Voting Member is not entitled to any vote at a general meeting in relation to securities with respect to which all calls and other sums presently payable by the Voting Member have not been paid. Nothing in this rule prevents such a Voting Member from voting at a general meeting in relation to any other securities held by that Voting Member provided all calls and other sums payable by the Voting Member have been paid on those other securities.

23.16 Objection to voting

An objection may be raised to the qualification of a voter only at the general meeting or adjourned general meeting at which the vote objected to is given or tendered. Any such objection must be referred to the Chairperson of the general meeting, whose decision is final. A vote not disallowed pursuant to such an objection is valid for all purposes.

23.17 Proxies

- (a) A Voting Member who is entitled to attend and cast a vote at a general meeting of the Company may appoint a person as a proxy to attend and vote for the Voting Member in accordance with the Corporations Act but not otherwise. A proxy appointed to attend and vote in accordance with the Corporations Act may exercise the rights of the Voting Member 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) which the Board may prescribe or accept.
- (c) The Board may issue with any notice of general meeting of Members or any class of Voting Members forms of proxy for use by the Voting Members. Each form may include the names of any of the Directors or of any other persons as suggested proxies.
- (d) Voting instructions given by a Voting Member to a Director or employee of the Company who is held out by the Company in material sent to Voting Members as willing to act as proxy and who is appointed as proxy ("**Company Proxy**") are valid only if contained in the form of appointment of the Company Proxy. If a Voting Member wishes to give a Company Proxy appointed by the Voting Member new instructions or variations to earlier instruction, the new instructions or variations are only valid if received at the Registered Office at least 24 hours before the meeting or adjourned meeting by a notice in writing signed by the Voting Member or validated by the Voting Member in a form acceptable to the Board.

23.18 Validity and revocation of proxies

- (a) The validity of any resolution is not affected by the failure of any proxy or attorney to vote in accordance with instructions (if any) of the appointing Voting Member.



- (b) A vote given in accordance with the terms of a proxy or power of attorney is valid despite, prior to the relevant meeting, the death or mental incapacity of the appointing Voting Member, revocation of the proxy or power of attorney or transfer of the Shares in respect of which the vote is given, unless notice in writing of the death, mental incapacity, revocation or transfer has been received at the Registered Office at least 48 hours before the relevant meeting or adjourned meeting.
- (c) A proxy is not rendered ineffective by reason only of the adjournment of the meeting in respect of which the proxy is appointed.
- (d) A proxy is not revoked by the appointing Voting Member attending and taking part in the meeting, unless the appointing Voting Member votes at the meeting on the resolution for which the proxy is proposed to be used.

23.19 Attorneys of Members

By properly executed power of attorney, any Member may appoint an attorney to act on the Member's behalf at all or certain specified meetings of the Company. Before the attorney is entitled to act under the power of attorney, the power of attorney or proof of the power of attorney to the satisfaction of the Board must be produced for inspection at the Registered Office or any other place the Board may determine together, in each case, with evidence of the due execution of the power of attorney as required by the Board. The attorney may be authorised to appoint a proxy for the Member granting the power of attorney.

23.20 Special meetings

All the provisions of this document as to general meetings apply to any special meeting of any class of Members which may be held under the operation of this document or the Corporations Act so far as they are capable of application except that the necessary quorum will be 2 persons holding or representing by proxy one-third of the issued Shares of that class and that any holder of Shares of the class present in person or by proxy may demand a poll. Where there is only one Member holding Shares in that class, that Member will constitute a quorum.

23.21 Members' circulating resolution without a general meeting

- (a) The Members may pass a resolution without a general meeting being held if all of the Members entitled to vote on the resolution sign a document (including by electronic means) containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of the of documents may be used for signing by Members if the wording of the resolution and statement is identical in each copy.
- (c) The resolution made under this clause 23.21 is passed when the resolution is signed by the last Member.

23.22 No annual general meetings

Unless required by the Corporations Act, any other applicable law or this Constitution, while the Company is a proprietary company the Company is not required to hold an annual general meeting.

24 Management of the Company

24.1 Management

Except as otherwise specified in this document or the Corporations Act, the Board will be responsible for the overall management of the Company and will have full power to do so.

24.2 Approval of Business Plan

In each Financial Year, the Board must prepare and approve a draft Business Plan and budget by no later than two (2) months from the start of that Financial Year (**Approved Business Plan**).

24.3 Amendment of Business Plan

- (a) The Board must review the Business Plan at least once each Financial Year.
- (b) The Board by Ordinary Resolution may either before or during the Financial Year to which a Business Plan relates amend the relevant Business Plan (**Amended Business Plan**).

24.4 Compliance with Business Plan and budget

- (a) During a Financial Year the Company must so far as is practicable conduct its business in accordance with the Business Plan approved by the Board for that Financial Year.
- (b) The Board is under no obligation to undertake any activities or conduct contemplated by the Business Plan if the Board, at the relevant time, considers that such activities or conduct are not in the financial interest (and/or best interests) of the Company.

24.5 Distribution of Business Plan

- (a) As soon as practicable, each Director and Observer is to be provided with all draft Business Plans, Approved Business Plans and/or Amended Business Plans.
- (b) Within 10 Business Days of any request by a Major Member and/or Founder Shareholder, that Major Member or Founder Shareholder must be provided with copies of any Approved Business Plan or Amended Business Plan.

25 The Directors

25.1 Number of Directors

The minimum number of Directors is two and the maximum number of Directors is 5 unless otherwise determined by the Board by unanimous resolution of Directors (**Maximum Director Threshold**).

25.2 Appointment and removal by Major Members

- (a) Subject to clause 25.1, Major Member may, at any time, by written notice addressed to the Company, appoint a Director.
- (b) Each Major Member may, at any time, by written notice addressed to the Company, remove the Director it had appointed pursuant to clause 25.2(a) and may in that same notice, or in a subsequent notice, appoint a replacement Director.

25.3 Appointment of Directors by Founders

- (a) Subject to clause 25.1, each Founder Shareholder may, at any time, by written notice addressed to the Company, appoint:
 - (i) two Directors, where at the relevant time that Founder Shareholder holds 20% or more of the share capital of the Company on a Fully Diluted Basis; or
 - (ii) one Director, where at the relevant time that Founder Shareholder holds more than 5% of the share capital of the Company on a Fully Diluted Basis.
- (b) Each Founder Shareholder may, at any time, by written notice addressed to the Company, remove any Director that it had appointed pursuant to clause 25.3(a) and may (subject to the thresholds in 25.3(a)) in that same notice, or in a subsequent notice, appoint a replacement Director.

25.4 Appointment of Directors by Members or Directors

- (a) Subject to clause 25.1 the Members may by Ordinary Resolution:
 - (i) appoint a person to be a Director;
 - (ii) remove a Director from office; and
 - (iii) appoint another person in a Director's place.
- (b) Subject to clause 25.1 the Directors may by Ordinary Resolution appoint a person to be a Director.
- (c) In addition to the rights to appoint and remove Directors pursuant to clause 25.4(b), the Directors may by Ordinary Resolution appoint or remove a person to act as an Observer (the **Observer**) at each and any meeting of the Board and that person shall be entitled to reasonable notice of and to attend and speak at all meetings of the Board (and of each and any committee of the Board and any Subsidiary Board or any committees thereof) and of any subsidiary's board (or committees thereof) but will not be entitled to vote.
- (d) The Directors may by Special Resolution remove any person (other than a Director appointed by the Founder Shareholders or Major Members) from the office of Director (or the office of Observer).

25.5 Termination of office of Director

- (a) If a Director:

- (i) is the first Director appointed by a Founder Shareholder pursuant to clause 25.3 and the appointor Founder Shareholder is subject to a Cessation of Founder Shareholder Rights;
- (ii) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (iii) becomes of unsound mind or a person whose person or estate is administered under laws relating to mental health; or
- (iv) is absent for more than 6 months, without permission of the Board, from meetings of the Board held during that period;;

the Board may remove that Director by Special Resolution.

(b) The office of a Director is automatically terminated if the Director:

- (i) is appointed pursuant to clause 25.2 and the appointor ceases to be a Major Member;
- (ii) is absent for more than 6 months, without permission of the Board, from meetings of the Board held during that period, or where the Director fails to attend 3 consecutive meetings of the Board without written permission of the Board;
- (iii) ceases to be a Director by virtue of any provision of the Corporations Act;
- (iv) is the most recent Director appointed by Members or Directors pursuant to clause 25.4 and a Major Member (pursuant to clause 25.2) or Founder Shareholder (pursuant to clause 25.3) wish to appoint a Director but are prevented from doing so due to the Maximum Director Threshold;
- (v) becomes prohibited from being a Director by reason of any order made pursuant to the Corporations Act;
- (vi) is appointed by a Major Member pursuant to clause 25.2 and the appointor Major Member is subject to a Cessation of Major Member Rights;
- (vii) is the second Director appointed by a Founder Shareholder and that Founder Shareholder that appointed the relevant Founder Director ceases to hold 20% or more of the share capital of the Company on a Fully Diluted Basis;
- (viii) dies;
- (ix) resigns the Director's office by notice in writing to the Company; or
- (x) is removed from office in accordance with the Corporations Act.

25.6 Alternate Directors

A Director may appoint any person, previously approved by the Board, to be an alternate Director in the place of the Director during such period as the Director thinks fit and the following provisions apply with respect to any alternate Director:

- (a) the alternate Director is entitled to notice of Directors' meetings and, if the alternate Director's appointor Director is not present at such a Directors' meeting, the alternate Director is entitled to attend and vote in the place of the absent Director;
- (b) the alternate Director may exercise any powers that the alternate Director's appointor Director may exercise, and the exercise of any such power by the alternate Director is deemed to be the exercise of the power by the alternate Director's appointor Director;
- (c) the alternate Director is not required to hold any Shares in the capital of the Company;
- (d) the alternate Director's appointment may be terminated at any time by the alternate Director's appointor Director despite the period of the appointment of the alternate Director not having expired, and the appointment must terminate in any event if the alternate Director's appointor Director vacates office as a Director; and
- (e) the appointment or the termination of an appointment of an alternate Director must be effected by a written notice signed by the Director who made the appointment given to the Company.

For the avoidance of doubt, where the Board provides consent for the purposes of this clause 25.6, such consent is treated as standing consent and is irrevocable.

25.7 Observers

The Board may permit an observer to attend meetings of the Board and receive materials distributed in connection with such meetings. An observer will not be entitled to vote on matters brought before the meeting.

25.8 Remuneration

Subject to the Act, the remuneration of the Directors will from time to time be determined by the Board by Ordinary Resolution, unless the Board by Ordinary Resolution:

- (a) establishes a remuneration committee; and
- (b) delegates the power to determine remuneration of Directors to the relevant remuneration committee (in which case the Board must specify how that remuneration committee is to determine the remuneration of Directors).

25.9 No Share qualification

A Director is not required to hold any Shares in the capital of the Company.

25.10 Interests of Directors

- (a) A Director is not disqualified from holding any other office or place of profit with the Company or any company in which the Company is a member or otherwise

interested and the Director will not be liable to account to the Company for any profit arising from that office or place of profit.

- (b) If a Director has a material personal interest in a matter that relates to the affairs of the Company, the Director must disclose the nature and extent of the interest in accordance with the Corporations Act at a meeting of the Board and:
 - (i) the Director may vote on matters that relate to that material personal interest;
 - (ii) unless the other Directors determine otherwise, the Director may be present at any meeting which considers matters that relate to that material personal interest.
- (c) Subject to clause 26.1, if the disclosure is made before the transaction is entered into:
 - (i) the Director may retain benefits under the transaction even though the Director has the interest; and
 - (ii) the Company cannot avoid the transaction merely because of the existence of the interest.
- (d) A Director who has any personal interest in a matter that relates to the affairs of the Company may execute (whether by attesting the affixing of the Seal or by signature) any document relating to that matter.
- (e) It is the duty of the Secretary to record in the minutes of each meeting any disclosures made or notices given by an interested Director.

25.11 Appointments prior to the adoption of this Constitution

Any person or persons appointed as Director prior to the date that this Constitution is adopted by the Members, maintain that position following the adoption of this Constitution and are to be considered as having been appointed as Directors pursuant to clause 25.2.

As of 31 October 2014, each of Matt William Hepburn and Christen Brian McGarry have assumed directorships of the Company and are to continue to assume such positions until they resign and/or are removed in accordance with this Constitution. The appointment of each Director is to be considered an appointment, pursuant to clause 25.3, by the relevant Founder Shareholder associated with that Director.

25.12 Appointment of Executive Directors

- (a) The Directors by Special Resolution:
 - (i) may appoint one or more Directors to the office of Managing Director or to any other executive office for a period and on the terms (including as to remuneration) as the Directors see fit;
 - (ii) may remove and/or replace any Managing Director or any other executive director;
 - (iii) may confer on a Managing Director or other executive Director any of the powers that the Directors may exercise by way of Ordinary Resolution; and

- (iv) subject to the terms of appointment, may revoke or vary:
 - (A) the appointment of the Managing Director or other executive Director; or
 - (B) any of the powers conferred on the Managing Director or other executive Director.

25.13 Consequence of cessation as Director or executive Director

- (a) A person ceases to be Managing Director or other executive Director if they cease to be a Director.
- (b) A person ceases to be a Director if they cease to be the Managing Director or other executive Director unless the Board determines otherwise.

25.14 Delegation by the Directors

- (a) Subject to the Corporations Act, the Directors may delegate any of their powers that they may exercise by Ordinary Resolution to:
 - (i) a committee of Directors;
 - (ii) a Director;
 - (iii) the chief executive officer of the Company;
 - (iv) the chief operations officer of the Company
 - (v) an employee of the Company; or
 - (vi) any other person.
- (b) The delegate must exercise the powers delegated to it under any directions of the Directors.
- (c) The effect of the delegate exercising a power is the same as if the Directors exercised it.
- (d) The Directors may at any time revoke or vary any delegation to a person or committee.

25.15 Cessation of Founder Shareholder's Rights

- (a) Where a Founder Shareholder holds less than 5% of the Shares on a Fully Diluted Basis or a Trigger Event in respect of a Founder Shareholder occurs, all special rights applicable to that Founder Shareholder pursuant to this Constitution are to cease (**Cessation of Founder Shareholder Rights**).
- (b) Where a Cessation of Founder Shareholder Rights occurs, any rights, obligations or powers described in this Constitution as being subject to approval or involvement of that Founder Shareholder are to be read as if such approval or involvement is not required.



25.16 Cessation of Major Member Rights

- (a) Where a person was at any time classified as a Major Member and that person no longer meets the Major Member Threshold, all special rights applicable to that Major Member pursuant to this Constitution are to cease (**Cessation of Major Member Rights**).
- (b) Where a Cessation of Major Member Rights occurs, any rights, obligations or powers described in this Constitution as being subject to approval or involvement of that Major Member are to be read as if such approval or involvement is not required.

26 Decision making

26.1 Voting generally

Except as otherwise specified in this document (including pursuant to clause 26.2 and/or 26.5) or the Corporations Act, all decisions of the Members and all decisions of the Board will be made by Ordinary Resolution

26.2 Board decisions

A resolution of Directors with respect to a matter set out in Schedule 1, must be passed by a Special Resolution of Directors.

26.3 Employee Share Plan

- (a) At any time, the Board may, by Ordinary Resolution:
 - (i) establish one or more formal written share or option ownership plans to issue Securities (including Shares) to eligible service providers (including employees, directors or other persons as approved by the Board) that together result in the issue of Securities equating to 2.5% or less of the share capital of the Company on a Fully Diluted Basis at any time (each individual plan being an **ESOP Plan**); and/or
 - (ii) amend or vary any ESOP Plan.
- (b) The total number of Securities (including Shares) issued under all ESOP Plans (collectively, known as the **ESOP**) may only be increased to an amount equating to more than 2.5% of the share capital of the Company on a Fully Diluted Basis following a Special Resolution of Shareholders.
- (c) The ESOP will authorise the Directors to issue Securities under the ESOP to eligible service providers in their discretion. For the avoidance of doubt, at the Board's discretion, any Securities obtained pursuant to an ESOP may be subject to special rights, obligations and restrictions (including with respect to vesting conditions).
- (d) Any issue of Securities under the ESOP will be an Excluded Issue.



26.4 Share Payments

Any payment plan under which the Company is permitted to pay key staff, Directors, contractors, service providers and advisers with Shares or Options in lieu of cash up to a maximum of the Share Payment Threshold, may only be adopted if the resolution is approved by a by Special Resolution of the Board. For the avoidance of doubt any such issue of Shares or Options pursuant to this clause 26.4 is in addition to any plan that may be established pursuant to clause 26.3.

26.5 Member decisions

- (a) A resolution, dealing with a matter referred to in Schedule 2, must be resolved by an Ordinary Resolution of Members.
- (b) A resolution, dealing with a matter referred to in Schedule 3, must be resolved by an Special Resolution of Members.
- (b) When required by Chapter 2E and section 738ZK, the Company must obtain approval from Members before giving a financial benefit to a Related Party of the Company.

26.6 Seal

The Company may have a Seal and a duplicate common seal which are to be used by the Company as determined by the Board.

26.7 Deadlocks

If there is a Deadlock in respect of a resolution put to the Members, any Member may refer the matter for resolution in accordance with clause 35 by treating the matter as a Dispute. If a Notice of Dispute is not served by the applicable Member within 20 Business Days after the last vote on the resolution which produced the applicable Deadlock, the resolution may not be referred pursuant to clause 35 unless otherwise resolved by Ordinary Resolution of the Board or there is a subsequent Deadlock in respect of the same resolution (and an applicable Notice of Dispute is served within 20 Business Days thereafter).

27 Secretary

27.1 Appointment

Subject to the Corporations Act, the Board must appoint one or more persons to be Secretary. The appointment may be made for a specified period or without specifying a period and the Board may remove the Secretary from office at any time.

Any Secretary appointed by the Board prior to the adoption of this Constitution is to remain in such position until they retire or are removed from the position pursuant to this Constitution.

27.2 Terms

The appointment of a Secretary will be on the terms and at the remuneration that the Board determines.

27.3 Cessation of appointment

A person automatically ceases to be a Secretary if:

- (a) the person is not permitted by the Corporations Act (or an order made under the Corporations Act) to be a Secretary;
- (b) the person becomes bankrupt or enters into or becomes subject to any arrangement or composition with one or more of its creditors;
- (c) the person becomes mentally incapable or a person whose estate or property is liable to be dealt with in any way under any law relating to mental health;
- (d) the person resigns by notice in writing to the Company;
- (e) the person is removed from office under clause 27.1; or
- (f) the term for which the person was appointed expires.

28 Proceedings of directors

28.1 Board meetings

- (a) At least 4 meetings of the Board must take place each Financial Year.
- (b) Any Director may at any time by written request, and a Secretary must, whenever requested in writing to do so by one or more Directors, call additional Directors' meetings.
- (c) Meetings of the Board, other than those conducted as described in clause 28.4, will be held in Sunshine Coast unless the majority of the Directors entitled to attend the relevant meeting have agreed to hold the meeting at another location.
- (d) If a Board meeting is being convened for the purpose of voting on any matter requiring a Special Resolution of the Directors present at the Board meeting and entitled to vote, at least 14 days' notice of that Board meeting must be given to all Directors either by personal telephone contact or in writing, unless all Directors agree to receive shorter notice of that Board meeting.
- (e) If a Board meeting is being convened for the purpose of voting on any matter requiring a Ordinary Resolution of the Directors present at the Board meeting and entitled to vote, at least 3 days' notice of that Board meeting must be given to all Directors either by personal telephone contact or in writing, unless all Directors agree to receive shorter notice of that Board meeting.
- (f) The agenda for Board meetings must be determined by the Chairperson, except for Board meetings convened at the request of a Director where the agenda may be determined by that Director.
- (g) No resolution of the Board can be passed in respect of any matter of which notice was not given in the agenda for that meeting, unless otherwise agreed by approval of the Directors.

28.2 Quorum

A quorum for a meeting of the Board is constituted by:

- (a) if there are 2 Directors appointed, all Directors being present (in person or via technology) at all times during the meeting;
- (b) if there are more than 2 Directors appointed:
 - (i) at least 50% of appointed Directors being present (in person or via technology); and
 - (ii) must, subject to clause 28.2(c), include at least 1 Director appointed by a Founder Shareholder (unless all Founder Shareholders, by notice in writing addressed to the Company, have consented to the meeting taking place without one of their appointed Directors).
- (c) If at the relevant time there are no Directors appointed by the Founder Shareholder, 28.2(b)(ii) will be automatically satisfied.

28.3 Quorum not present

If a quorum is not present within 30 minutes of the time specified for a meeting of the Board the meeting will be adjourned to a date and time 7 days after the original time of the meeting and at the same place as the original meeting by written notice to all Directors. Any Directors in attendance (in person or by alternate) at that adjourned meeting will constitute a quorum.

28.4 Meetings by telephone or other means of communication

The Board may meet either in person or by telephone, audio visual link or by using any other technology consented to by all Directors. A consent may be a standing one. A meeting conducted by telephone or other means of communication is considered to be held at the place agreed on by the Directors attending the meeting if at least one of the Directors present at the meeting was at that place for the duration of the meeting.

28.5 Procedure at meetings

The Directors may meet together for the dispatch of business and adjourn and, subject to this clause 28, otherwise regulate the Directors' meetings as they think fit.

28.6 Votes

Each Director appointed in accordance with this document has one vote.

28.7 Continuing Directors may act

In the event of a vacancy in the office of a Director, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum, or in order to call a general meeting of the Company.

28.8 Chairperson

- (a) The Board may, by Special Resolution of the Board, elect (and/or remove) from among their number a Chairperson and determine the period for which each is to hold office.
- (b) As and from 13 October 2020, Matt Hepburn has assumed the role of Chairperson and will continue to assume such role until he resigns or is removed pursuant to this Constitution.
- (c) If no Chairperson is elected or if at any meeting the Chairperson is not present at the time specified for holding the meeting, the Directors present may choose one of their number to be chair the meeting (**Replacement Chair**).
- (d) In case of an equality of votes on a resolution at a Board meeting,
 - (i) where there are any Non-Founder Directors, the Chairperson will have a second or casting vote on that resolution in addition to any vote the Chair has in his or her capacity as a Director in respect of that resolution; and
 - (ii) where there are no Non-Founder Directors, the Chairperson will not have a second or casting vote on that resolution.

For the avoidance, if the Chairperson is not in attendance at the relevant meeting and a Replacement Chair is chosen pursuant to 28.8(c), that Replacement Chair will not have a casting vote.

28.9 Written resolutions passed by multiple Directors

The Directors may pass a resolution without holding a Board meeting if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Director signs.

28.10 Written resolutions passed by a single Director

If the Company only has one Director, that Director may pass a resolution without holding a Board meeting by recording it and signing it.

28.11 Signing written resolutions

For the purposes of clause 28.9, the Company may accept a copy of a signed document sent by facsimile or electronic means.

28.12 Valid proceedings

Each resolution passed or other thing done by or with the participation of a person acting as a Director or member of a committee is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or doing that thing.

29 Dividends

29.1 Determination of dividend

Subject to the requirements of section 254T of the Corporations Act, the Board may (at its sole discretion) by Special Resolution determine that a dividend (including an interim dividend on account of the next forthcoming dividend) is payable and fix the amount, time for payment and method of payment. The methods of payment may include the payment of cash, the issue of securities, the grant of options and the transfer of assets.

29.2 Apportionment of dividends

Any dividend or interim dividend is payable on each Share on the basis of the proportion which the amount paid or agreed to be considered to be paid bears to the amount of total issue price for the time being paid or agreed to be considered as paid or payable in respect of the Share. The dividend may be fixed at a rate per annum in respect of a specified period but no amount paid on a Share in advance of calls is to be treated as paid on the Share.

29.3 Effect of transfer of Share

A transfer of a Share only passes the right to any dividend determined but not paid on the Share at the time of transfer if the transfer is effected by the relevant record date.

29.4 Retention of dividends

The Board may retain the dividends payable on Shares which any person is under this document entitled to transfer until the person becomes registered as a Member in respect of the Shares or properly transfers them. All unclaimed dividends may be invested or otherwise made use of by the Board for the benefit of the Company until claimed or otherwise Disposed of according to law.

29.5 How dividends are payable

Payment of any dividend may be made in any manner and by any means as determined by the Board. Without affecting any other method of payment which the Board may adopt, payment of any dividend may be made to the Member entitled to the dividend or, in the case of joint holders, to the Member whose name appears first in the Register in respect of the joint holding.

30 Capitalisation

30.1 Capitalisation

The Board may resolve that the whole or any portion of any sum forming part of the undivided profits, any reserve or other account of the Company and which is available for distribution, be capitalised and distributed to Members in the same proportions in which they would be entitled to receive it if distributed by way of dividend or in accordance with either the terms of issue of any Shares or the terms of any employee share plan and that all or any part of the sum be applied on their behalf either in paying up the amounts for the time being unpaid on any issued Shares held by them, or in paying up in full unissued Shares or other securities of the Company to be issued to them accordingly, or partly in one way and partly in the other.

30.2 Determining entitlements

The Board may specify the manner in which any fractional entitlements and any difficulties relating to distribution are to be dealt with and, without limitation, may specify that fractions are to be disregarded or that any fractional entitlements are to be increased to the next whole number or that payments in cash instead of fractional entitlements be made.

30.3 Appropriations

The Board may make all necessary appropriations and applications of the amount to be capitalised under clause 30.1 and all necessary issues of fully paid Shares or debentures.

30.4 Contracts

Where required, the Board may appoint a person to sign a contract on behalf of the Members entitled on a capitalisation to any Shares or debentures, which provides for the issue to them, credited as fully paid, of any further Shares or debentures or for the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing Shares by the application of their respective proportions of the sum resolved to be capitalised.

31 Accounts and audit

31.1 Accounts and records

The Board must ensure that the accounts, records and accounting information of the Company are:

- (a) maintained in accordance with the Corporations Act and all other applicable laws;
- (b) if required by the Corporations Act, audited annually by the Company's auditor; and
- (c) reflect the Accounting Standards.

31.2 Reporting

- (a) Subject to clause 31.2(b), the Board must make available on its website its:
 - (i) annual financial report or a concise report within 180 days after the end of each Financial Year; and
 - (ii) reports which are required to be provided under section 314 of the Corporations Act within the time limits expressed by section 315 of the Corporations Act.
- (b) The Board is only required to make the reports contemplated by clause 31.2(a)(i) and/or 31.2(a)(ii) available on its website if, at the relevant time, the Company is required to publish such reports on its website by the Corporations Act and/or any other law and/or regulation.

32 Indemnities, insurance and access

32.1 Indemnities

- (a) The Company must indemnify each officer of the Company out of the assets of the Company to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer.
- (b) Where a Director is employed by or provides services to the Company in some capacity other than that of Director, nothing in this clause will limit or affect the liability of that Director to the Company and the indemnity contained in this clause will not apply to that Director in any other capacity

32.2 Documentary indemnity

Where the Board considers it appropriate, the Company may execute a documentary indemnity in any form in favour of any officer of the Company.

32.3 Insurance

Where the Board considers it appropriate, and to the extent to which the Company is not precluded by law from doing so, the Company may:

- (a) make payments of amounts by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the Company against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer; and
- (b) bind itself in any contract or deed with any officer of the Company to make the payments.

32.4 Access to board papers

Where the Board considers it appropriate, the Company may:

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

33 Intellectual Property

33.1 Creation of Intellectual Property

The Members must only use Company Intellectual Property on behalf of the Company. If a Member creates any Company Intellectual Property, it must:

- (a) promptly disclose to the Company full details of that Company Intellectual Property;
- (b) not publicise details of that Company Intellectual Property;



- (c) at the request of the Company, do all things, at the expense of the Company, necessary to:
 - (i) vest all right and title to and interest in that Company Intellectual Property in the Company absolutely as legal and beneficial owner; and
 - (ii) secure and preserve full protection in respect of that Company Intellectual Property in favour of the Company.

33.2 Ownership of IP

All Intellectual Property rights owned by the Company are and must remain the property of the Company and must not be used, in any way, by any Member unless otherwise agreed in writing by the Company (following a Special Resolution of the Board).

34 Restriction on activities

34.1 Restriction

Each Member agrees and undertakes that, except as agreed by the Board, it will not and each of its Related Parties will not:

- (a) directly;
- (b) by themselves or jointly with or on behalf of any other person, corporation or trust;
- (c) through an agent, independent contractor or employee; or
- (d) on any account or pretext or by any means whatsoever;

conduct any of the Restricted Activities within the Restriction Area for the Restriction Period.

34.2 Restricted Activities

The Restricted Activities are:

- (a) carrying on, assisting, promoting or otherwise being engaged or concerned in any business or activity which is or may be competitive with the Core Business or any material part of it (whether as a Member, option holder, unitholder, director, adviser, direct financier, contractor, manager, employee, proprietor, , trustee or beneficiary) **(Competition Restriction)**;
- (b) canvassing, soliciting, inducing, or encouraging any employee, contractor, supplier or customer of the Business to:
 - (i) leave the employment of or to terminate their engagement, contract or dealings with the Business; or
 - (ii) reduce the amount of business that the person would normally do with the Business,

or accepting an approach from any employee, contractor, supplier or customer of the Business that would have the same effect;

- (c) engaging or employing any person who at any time during the preceding 12 months was employed or engaged in the Business; and
- (d) interfering with the relationship between the Company and its employees, contractors, suppliers or customers.

34.3 Restriction Area

Subject to clause 34.5, the Restriction Area is any of the following areas:

- (a) Australia; or (if that geographical area is held by a court to be unreasonable)
- (b) Western Australia, Queensland, Victoria and New South Wales; or (if that geographical area is held by a court to be unreasonable)
- (c) Queensland, Victoria and New South Wales; or (if that geographical area is held by a court to be unreasonable);
- (d) Queensland and New South Wales; or (if that geographical area is held by a court to be unreasonable);
- (e) Queensland; or (if that geographical area is held by a court to be unreasonable);
- (f) The Sunshine Coast.

34.4 Restriction Period

Subject to clause 34.5, the Restriction Period is any of the following periods:

- (a) from the date the Member becomes a Member until 24 months after the Member ceases being a Member; or (if that duration is held by a court to be unreasonable)
- (b) from the date the Member becomes a Member until 12 months after the Member ceases being a Member; or (if that duration is held by a court to be unreasonable)
- (c) from the date the Member becomes a Member until six months after the Member ceases being a Member; or (if that duration is held by a court to be unreasonable)
- (d) from the date the Member becomes a Member until 3 months after the Member ceases being a Member.

34.5 Effective Restriction Area and Restriction Period

Unless the resulting covenants and restrictions are or become invalid or unenforceable for any reason, the Restriction Area and Restriction Period that will be effective between the parties in relation to any Restricted Activity will be those referred to in clauses 34.3(a) and 34.4(a). If a covenant and restriction is or becomes invalid or unenforceable because the Restriction Area or Restriction Period applying to a Restricted Activity is considered unreasonably large or long, the Restriction Area or Restriction Period will be reduced to the subsequent areas or periods listed in clause 34.3 or 34.4.

34.6 Severability

In this clause 34:

- (a) each of the restrictions resulting from the various combinations of a Restricted Activity, Restriction Area and Restriction Period has effect as a separate and independent covenant and restriction; and
- (b) if any of those covenants and restrictions are or become invalid or unenforceable for any reason, they will be severed from this document without affecting the validity or enforceability of any other covenant and restriction.

34.7 Competition Restriction

The Competition Restriction only applies to a Member (and the Related Parties of that Member) if the Member is a Restrained Member.

34.8 Exceptions

- (a) Nothing in this clause 34 will prevent a Member holding up to five per cent (in aggregate) of the share capital or any debentures or other securities of any company the shares of which are listed on a securities exchange.
- (b) Nothing in this clause 34 will prevent a Member recruiting a person through a recruitment agency (except if the agency targets employees of the Company) or in response to a newspaper, web page or other public employment advertisement.
- (c) Unrestrained Members are not subject to the Competition Restriction.
- (d) A Member will not be considered to have breached its obligations under the Competition Restriction if the activities undertaken by the Member relate to an Ongoing Involvement of the Member. Whilst such conduct in respect of an Ongoing Involvement may not amount to a breach of the Competition Restriction, any Member who undertakes conduct that, but for the conduct relating to an Ongoing Involvement, would be considered Competing Conduct, is under a separate and distinct obligation to provide the Company with notice setting out the details and extent of their involvement in the Competing Conduct and must update the Company if there are any changes to the extent of their involvement in the Competing Conduct.

34.9 Definitions applicable to this clause 34

For the purposes of this clause 34:

- (a) **Core Business** means:
 - (i) the wholesale production of beer or beer related products; and/or
 - (ii) the operation of a brew-pub or other similar business (but not a hospitality business without beer or alcohol manufacturing capabilities).
- (b) **Restrained Member** means a:
 - (i) Founder Shareholder; or



- (ii) any Member (other than a Member who is a Professional Investor) who:
 - (A) is an Eligible Member; or
 - (B) was an employee or contractor of the Company at the time the member obtained options or Shares (including, but not limited to, where the Member received such options or Shares pursuant to the ESOP).
- (c) **Professional Investor** means an early-stage venture capital limited partnership, a financial institution, merchant bank, managed fund, venture capital firm or any other person or entity that conducts a business in respect of investing capital on behalf of others.
- (d) **Involvement** means association with a business or company, including:
 - (i) employment with that business or company;
 - (ii) assumption of a directorship of that business or company; or
 - (iii) ownership of an interest in that business or company.
- (e) **Ongoing Involvement** means Involvement with a company or business other than the Business, which is ongoing at the time of a potential breach of this Constitution and commenced prior to the earlier of:
 - (i) the date this Constitution is adopted; or
 - (ii) the date upon which the Member first acquired Shares in the Company.
- (f) **Competing Conduct** means conduct that, if a person was subject to the Competition Restriction, would breach the Competition Restriction.
- (g) **Unrestrained Member** means any Member who is not a Restrained Member.

34.10 Acknowledgements

Each Member agrees and acknowledges that:

- (a) each covenant and restriction in this clause 34 is reasonable in the circumstances and necessary to protect the goodwill of the Business; and
- (b) monetary damages may not be a sufficient remedy for a breach of this clause 34 and that the Company or another Member may seek and is entitled to remedies such as injunctive relief to prevent the breach and orders of specific performance to compel compliance.

34.11 Termination

If the Company ceases to trade, is wound-up or is deregistered, this clause 34 will cease to operate.

35 Dispute Resolution

35.1 Dispute

A dispute relating to or arising out of this Constitution (**Dispute**) exists when a Party gives notice (**Dispute Notice**) to the other parties (together, the **Disputing Parties**) to the dispute that there is a Dispute, setting out in detail the matter which is the subject of the Dispute.

35.2 Procedure

When a Dispute exists:

- (a) During the twenty-one day period after receipt of a notice given under this clause (or longer period agreed in writing by the parties to the dispute) each Disputing Party must use its best efforts to resolve the dispute by meeting in person or by audio-visual link up; and
- (b) if there is no resolution of the Dispute within the twenty-one (21) day period (above) or such longer period as agreed in writing by the parties after the Dispute Notice has been given to all parties (**Notice Date**) then the Dispute must be referred to mediation in accordance with, and subject to, The Institute of Arbitrators and Mediators Australia Rules for the Mediation of Commercial Disputes.

35.3 Place and process of mediation

- (a) If a matter is referred to mediation pursuant to clause 35.2, at first instance the Disputing Parties may agree on the appointment of a mediator. If the Disputing Parties cannot agree on whom the mediator should be, any Director may ask the Relevant Law Society, to appoint a mediator.
- (b) The mediation shall be conducted by the Australian Commercial Disputes Centre (ACDC) in accordance with the ACDC Guidelines for Commercial Mediation which are operating at the time the matter is referred to ACDC.
- (c) The ACDC Guidelines set out the procedures to be adopted, the process of selection of the mediator and the costs involved. The terms of the Guidelines are hereby deemed incorporated into this Constitution.
- (d) Any attempts made by the Disputing Parties to resolve a dispute will be without prejudice to any other rights or entitlements of the Disputing Parties under this Constitution, by law or in equity.
- (e) Unless all Disputing Parties to the dispute agree otherwise, any mediation must be held in the Sunshine Coast.

35.4 Application to court

- (a) A Disputing Party must not start court proceedings in respect of a dispute arising out of this Constitution unless it has complied with clause 35.2 and, where applicable, mediation has concluded.
- (b) If there is no resolution of the Dispute by way of the steps set out in 35.2, then any Disputing Party may commence legal proceedings in any court or tribunal in respect of any matter that is the subject of a Dispute.



- (c) Despite anything in this clause 35, a Party at any time may commence court proceedings in relation to any dispute, deadlock or claim arising in connection with this Constitution where that Party seeks urgent interlocutory relief.

35.5 Costs of dispute resolution

- (a) The costs and disbursements of the mediator will be paid equally by the Disputing Parties.
- (b) Each Member will pay its own costs and disbursements in respect of any procedure referred to in clause 35.2.

35.6 Continuing obligations

Notwithstanding the foregoing provisions of this clause 35, pending the resolution of any Dispute the Members must without delay continue to perform their respective obligations under this Constitution except, provided that a Member has acted reasonably and bona fide in relation to the Dispute (including without limitation in respect to its subject matter and the circumstances giving rise to it), to the extent that the matter the subject of the Dispute and matters necessarily dependent on it cannot be proceeded with until the Dispute has been determined.

36 Notices

36.1 Notices

A notice may be given by the Company to any Member, or in the case of joint holders to the Member whose name appears first in the Register, personally, by leaving it at the Member's registered address or by sending it by prepaid post or facsimile transmission addressed to the Member's registered address or by other electronic means determined by the Board and previously notified to Members. If the notice is signed, the signature may be original or printed.

36.2 When notice taken to be served

- (a) Any notice sent by post is taken to have been served at the end of 24 hours after the envelope containing the notice is posted and, in proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted. Any notice served on a Member personally or left at the Member's registered address is taken to have been served when delivered. Any notice served on a Member by facsimile or other electronic transmission is taken to have been served when the transmission is sent.
- (b) Where a given number of days' notice or notice extending over any other period is required to be given the day of service and the day of the notified event are not to be counted in the number of days or other period.

36.3 Member not known at registered address

Where a Member does not have a registered address or where the Company has reason to believe that a Member is not known at the Member's registered address, all future notices are taken to be given to the Member if the notice is exhibited in the Registered Office for a period of 48 hours (and is taken to be served at the commencement of that period) unless and until the Member informs the Company of a registered place of address.



36.4 Notice to transferor binds transferee

Every person who, by operation of law, transfers or by any other means becomes entitled to be registered as the holder of any Shares is bound by every notice which, prior to the person's name and address being entered in the Register in respect of those Shares, was properly given to the person from whom the person derives title to those Shares.

36.5 Service on deceased Members

A notice served in accordance with this document is (despite the fact that the Member is then dead and whether or not the Company has notice of the Member's death) taken to have been properly served in respect of any registered Shares, whether held solely or jointly with other persons by the Member, until another person is registered in the Member's place as the holder or joint holder. The service is sufficient service of the notice or document on the Member's personal representative and any person jointly interested with the Member in the Shares.

37 Winding-up & distribution of capital

37.1 Distribution of assets

Subject to the terms of issue of Shares, if the Company is wound up, the liquidator may, with the sanction of a Special Resolution of the Company:

- (a) divide the surplus assets of the Company remaining after payment of its debts among the Members in proportion to the number of Shares held by them (with partly paid Shares counted as fractions of fully paid Shares);
- (b) for that purpose, fix the value of assets and determine how the division is to be carried out between the Members and different classes of Members; and
- (c) vest assets of the Company in trustees on any trusts determined by the liquidator for the benefit of the contributories.

37.2 Distribution in kind

If the Company is wound up, whether voluntarily or otherwise, the liquidator may divide among all or any of the contributories as the liquidator thinks fit in specie or kind any part of the assets of the Company, and may vest any part of the assets of the Company in trustees on any trusts for the benefit of all or any of the contributories as the liquidator thinks fit.

37.3 Variation of rights of contributories

If thought expedient, any division may be otherwise than in accordance with the legal rights of the contributories and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part, but in case any division otherwise than in accordance with the legal rights of the contributories is determined, any contributory who would be prejudiced by the division has a right to dissent and ancillary rights as if the determination were a Special Resolution passed under the Corporations Act relating to the sale or transfer of the Company's assets by a liquidator in a voluntary winding up.

37.4 Liability to calls

If any Shares to be divided in accordance with clause 37.2 involve a liability to calls or otherwise, any person entitled under the division to any of the Shares may by notice in writing within ten business days after the passing of the Special Resolution, direct the liquidator to sell the person's proportion and pay the person the net proceeds and the liquidator is required, if practicable, to act accordingly.

38 Application of Buy Sell Deed

- (a) The terms of Annexure A apply to any and all Shares held by the Founder Shareholders.
- (b) Any clauses contained in the body of this Constitution that apply upon the occurrence of the death of a Principal associated with a Founder Shareholder or the Total and Permanent Disablement of a Principal associated with a Founder Shareholder, are superseded by the terms of the Buy Sell Deed; and
 - (i) if there is any inconsistency between the terms of the body of this Constitution and the terms of Annexure A, the terms of Annexure A apply; and
 - (ii) if there is any inconsistency between the terms of this Constitution (including Annexure A) and the terms of the Buy Sell Deed, the terms of the Buy Sell Deed prevails as between the parties to the extent of the inconsistency and the parties agree to exercise their rights as holders of Shares and take any steps which are necessary to ensure that this document is consistent with the Buy Sell Deed.

Schedule 1 – Resolutions of the Directors which require approval by Special Resolution

In addition to any other decisions that must be made by Director's by Special Resolution pursuant to the terms of this Constitution and/or under any law, a Directors' resolution by Special Majority is required for the following decisions with respect to the Company or its Subsidiaries:

- (a) entering into, amendment or termination of employment agreements which provide for a share in profits or turnover or a salary over \$250,000 per annum (subject to subclause (ee) of this Schedule 1);
- (b) entering into, amendment or termination of an agreement with a Founder Shareholder or Affiliate of a Founder Shareholders which provide for a share in profits or turnover or a salary or consulting fees of over \$200,000 per annum (subject to subclause (ee) of this Schedule 1);
- (c) the determination that a relevant act of fraud, dishonesty or serious misconduct relating to a financial or corporate matter by a Director appointed by a Member is damaging to the reputation of the Company or other Members, for the purposes of the definition of Event of Default;
- (d) the issue of Shares pursuant to a share split or the issue of dividends as contemplated by clause 5.4(d);
- (e) the issue of Shares pursuant to a payment in respect of the provision of services as contemplated by clause 5.4(e);
- (f) the issue of Shares constituting all or part of the consideration for a bona-fide acquisition of assets or shares by the Company as contemplated by clause 5.4(f);
- (g) the issue of Shares pursuant to a Strategic Placement pursuant to clause 5.4(h)(i);
- (h) the approval of a transfer of Shares (and/or designation of that transfer as being a Permitted Transfer) for the purposes of clause 12.2(g) or any decisions with respect to a sale facility for the purposes of clause 12.3;
- (i) any decision with respect to clause 12.5 or 2.4(c);
- (j) the removal of a Director pursuant to clause 25.4 or 25.5;
- (k) the appointment (and/or removal) of a Managing Director or any executive Director;
- (l) the entry into any agreement, for the purposes of clause 26.4, whereby Shares or Options are to be issued in lieu of cash;
- (m) purchase or sale (or agreement for the purchase or sale) of an asset (excluding trading stock) with a value equal to or more than \$100,000 (subject to subclause (ee) of this Schedule 1);
- (n) entering into any loan arrangements as borrower or lender or otherwise incurring any Financial Indebtedness which exceeds \$150,000 (subject to subclause (ee) of this Schedule 1);

- (o) giving any securities over or guaranteeing a debt of another person or incurring any other liabilities for the benefit of third parties, where the value is more than \$100,000 (subject to subclause (ee) of this Schedule 1);
- (p) the acquisition, sale or encumbrance of real property and rights which are similar to real property (other than a lease), as well as entering into obligations to undertake such transactions;
- (q) commencement of legal proceedings in respect of claims with a value of equal to, or more than, \$100,000 (subject to subclause (ee) of this Schedule 1);
- (r) the establishment, acquisition or sale of companies or the acquisition, sale or encumbrance of shareholdings in companies, provided the relevant transaction is material with a value of at least \$100,000 (subject to subclause (ee) of this Schedule 1);
- (s) entering into contracts with Members, members of the Board or their affiliates or any other related party transactions (provided that any requirements under the Corporations Act and all other applicable laws have also been satisfied);
- (t) the grant of a licence of all or substantially all of the Intellectual Property of the Company to a third party;
- (u) the sale of all or a substantial part of the Business of the Company or any Subsidiary;
- (v) any decision with respect to lock ups or escrow arrangements for the purposes of clause 19.3;
- (w) declaration, determination and payment of dividends as contemplated by clause 29;
- (x) appointment or removal of a chief executive officer of the Company;
- (y) the issuing of any Shares with preferential rights and restrictions as contemplated by clause 3.4;
- (z) granting any Encumbrance in respect of all or any material part of the Company's undertaking, property, assets or the issuance of any guarantee in favour of the obligations of a third party, where the value is more than \$100,000 (subject to subclause (ee) of this Schedule 1);
- (aa) entering into (or terminating) any material partnership, joint venture, profit-sharing agreement, technology licence or collaboration;
- (bb) appointing an external administrator, liquidator or receiver;
- (cc) entering into any D&O insurance policy for the board and the Company's senior executives;
- (dd) the appointment or removal of a Chairperson; and
- (ee) any amendment (including any increase or decrease to the monetary thresholds contemplated by this Schedule 1);





Schedule 2 - Resolutions of the Members which require approval by Ordinary Resolution

In addition to any other decisions that must be made by Members' by Simple Majority Vote pursuant to the terms of this Constitution and/or under law, a Member's resolution by Simple Majority Vote is required for the following decisions with respect to the Company or its Subsidiaries:

- (a) The appointment and/or removal of Directors pursuant to clause 25.4(a);



Schedule 3 - Resolutions of the Members which require approval by a Special Resolution

In addition to any other decisions that must be made by Members' by Special Resolution pursuant to the terms of this constitution and/or under law, a Member's resolution by Special Majority is required for the following decisions with respect to the Company or its Subsidiaries:

- (a) The increase of number of Securities that may be issued under an ESOP to an amount greater than 2.5% of the fully diluted share capital of the Company;
- (b) the issue of Securities pursuant to a Strategic Placement pursuant to clause 5.4(h)(ii);
- (c) any reorganization, reclassification, reconstruction, consolidation or subdivision of the capital of the Company or the creation of any different class of securities in the capital of the Company;
- (d) any buy-back, redemption, reduction or cancellation of Shares or share capital;
- (e) any amendments to the constitution; and
- (f) the winding up of the Company.

Annexure A – Buy Sell Arrangements

1) Definition

For the purpose of this Annexure C, capitalised terms have the meaning given to them in the body of the Constitution. In addition to those terms defined in the body of the Constitution, the following capitalised terms have the meaning set out below:

- (a) **Buy Option** has the meaning set out in the Buy Sell Deed.
- (b) **Sell Option** has the meaning set out in the Buy Sell Deed.
- (c) **Option Share** has the meaning set out in the Buy Sell Deed
- (d) **Further Option** has the meaning set out in the Buy Sell Deed.
- (e) **Further Share** has the meaning set out in the Buy Sell Deed
- (f) **Remaining Shareholders** has the meaning set out in clause 3 of this Annexure A.
- (g) **Replacement Shareholder** means any one or more persons nominated by the Board.

Further Share Price has the meaning set out in clause 3 of this Annexure A.

2) Treatment of Shares on Exercise of Buy Option or Sell Option

If the Buy Option or Sell Option is exercised pursuant to the Buy Sell Deed, the Board shall effect the transfer of the Option Shares as a buy-back of those Option Shares at a cash price per Option Share as determined under the Buy Sell Deed.

3) Treatment of Shares on exercise of Further Option

If the Further Option is exercised pursuant to the Buy Sell Deed, the Board may elect to Transfer the Further Shares in any one or more of the following ways:

- (a) to any one or more persons nominated by the Board;
- (b) to the other Shareholders (**Remaining Shareholders**) in accordance with clause 13 of this Constitution; or
- (c) to the Company under a buy-back of those Further Shares,

at a cash price per Further Share as determined under the Buy Sell Deed (**Further Share Price**).

4) Pre-emptive provisions not to apply

For the avoidance of doubt, the pre-emptive right provisions in clause 13 of this Constitution do not apply to a Transfer of Option Shares or Further Shares completed pursuant to this Annexure A unless stated otherwise.

5) Transfer to Remaining Shareholders

If the Board makes an election under clause 2 of this Annexure A:



- (a) the Company shall be entitled issue a Transfer Notice under clause 13 of this Constitution on behalf of the relevant Founder Shareholder:
 - (i) for such number of Further Shares as it determines are subject to the notice; and
 - (ii) at the Further Shares Price; and
- (b) clause 13 of this Constitution (except clauses 13.2(b) and 13.14) applies, with appropriate changes necessary to apply it to these circumstances, to any transfer to the Remaining Shareholders under this clause 5 of Annexure A.

6) Further election for buy-back

If:

- (a) the Board makes an election under clauses 3(a) or 3(b) of this Annexure A, or both, and the Replacement Shareholders or the Remaining Shareholders, or both, do not agree to buy all of the relevant Further Shares; or
- (b) the Board makes an election under clause 3(c) of this Annexure A,

the Board may transfer all of the Further Shares to the Company under a buy-back of those Further Shares at the Further Share Price.

7) Implementation of buy-back under Buy Sell Deed

If the Board makes an election to buy back any Shares the subject of an option exercised under the Buy Sell Deed, each party must take all reasonable steps to:

- (a) comply with all requirements under the Act to authorise the implementation of the buy-back, including convening a general meeting of the Company on short notice for the purpose of considering and passing a resolution, or the passing of a written resolution, to authorise the Company to effect the buy-back;
- (b) ensure that all necessary filings are made with ASIC; and
- (c) seek and obtain any necessary third party consents.



Annexure B – Buy Sell Deed

Buy sell deed

Your Mates Brewing Company Pty Ltd

Your Mates Brewing Company Pty Ltd ACN 602 634 257

Matt Hepburn

Christen McGarry



TALBOT SAYER

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Buy Sell Deed

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Details

Date **7 December 2021**

Parties

Name Your Mates Brewing Company Pty Ltd
ACN 602 634 257
Short form name **Company**

Notice details Attention The Directors
 Address MH Private Pty Ltd, Level 15, 344 Queen Street, Brisbane QLD 4000
 Email matt@yourmatesbrewing.com

Name Matt Hepburn
Short form name **Matt**

Notice details Address 22 Harrier Street, Aroona QLD 4551
 Email matt@yourmatesbrewing.com

Name Christen McGarry
Short form name **Christen**

Notice details Address 19 Coolibah Street, Mudjimba QLD 4564
 Email christen@yourmatesbrewing.com

Background

- A The Principals directly or indirectly control the operation of the Company.
- B This document records the parties' agreement about what will happen if a Trigger Event occurs to any of the Principals.

Agreed terms

1. Defined terms and interpretation

1.1 Defined terms

In this document:

Term	Definition
Affected Principal	means a Principal who suffers a Trigger Event.
Business Day	means a day that is not a Saturday, Sunday, public holiday or a day on which banks are closed for business in Brisbane, Queensland.
Buy Option	means the option to buy the Option Shares granted under clause 3.
Completion	means completion of the transfer of the relevant Sale Shares under this document.
Defaulting Party	has the meaning give to it under clause 10.1.
Effective Date	means the date determined in accordance with clause 6.2.
Encumbrance	means any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, title retention or conditional sale agreement, hire or hire purchase agreement, option, restriction as to transfer, use or possession, easement, subordination to any right of any other person and any other encumbrance or security interest or adverse interest whatsoever.
Further Option	means the option granted under clause 5.
Further Shares	means the Sale Shares determined in accordance with clause 7.3.
Government Agency	means any government or any governmental, semi-governmental or administrative department, entity, agency, authority, commission, corporation or body (including those constituted or formed under any statute) where the department, entity, agency, authority, commission, corporation or body is subject to the control or direction of any government.
Insurance Policies	means any insurance policy obtained by a Principal for the purposes of this document, including any replacement policy obtained from time to time, and at the date of this



Term	Definition
	document means the insurance policies set out in Schedule 1 and Insurance Policy means any one of them.
Insurance Proceeds	means the proceeds payable under an Insurance Policy payable if a Trigger Event happens in relation to a Principal.
Legal Personal Representative	has the meaning set out in the <i>Income Tax Assessment Act 1997</i> (Cth).
Market Value	has the same meaning as set out in the Shareholders Deed.
Nominated Buyer	means any entity or individual nominated by the Company to buy some or all of the Shares of an Affected Principal, which may include an existing shareholder of the Company or a third party (as permitted by the Shareholder's Deed).
Option Notice	means the notice set out in Schedule 2.
Option Shares	means the Sale Shares determined in accordance with clause 7.2.
Options	means either or all (as the context requires) of the Buy Option, the Sell Option and the Further Option.
Paying Party	has the meaning given to it in clause 10.1.
Perfected	has the meaning given to that term by the PPSA.
Personal Property	has the meaning given to that term by the PPSA.
PPSA	means <i>Personal Property Securities Act 2009</i> (Cth).
Principals	means Matt and Christen and Principal means either of them.
Purchase Price	means the amount determined in accordance with clause 8.1.
Related Shareholder	means in relation to: <ul style="list-style-type: none">(a) Matt, MWH Family Pty Ltd ACN 627 633 738 as trustee for MWH Family Trust; and(b) Christen, CBM Family Pty Ltd ACN 627 633 729 as trustee for Christen McGarry Family Trust.
Sale Shares	means the Option Shares and/or the Further Shares (as the context permits) following exercise of the relevant Option.



Term	Definition
Security Interest	in relation to any Personal Property has the meaning given to that term by the PPSA and in relation to any other property means any security for the payment of money or performance of obligations including a mortgage, charge, lien, pledge, trust, power, or title retention or flawed deposit arrangement.
Sell Option	means the option to sell the Option Shares granted under clause 4.
Sellers	means the Affected Principal and its Related Shareholder who are selling the relevant Sale Shares, as the context requires.
Shares	means the ordinary shares in the Company held by the relevant Affected Principal and its Related Shareholder.
Shareholders Deed	means the shareholders deed between the shareholders of the Company dated on or about the date of this document governing the conduct of the Company and the relationship between each of them.
Total and Permanent Disablement	has the meaning given to the term 'total and permanent disability' in any Insurance Policy obtained by the Principals from time to time.
Trigger Event	means an event defined in clause 6.1.
Unrelated Parties	means: <ul style="list-style-type: none">(a) for each Share, the Principal other than the Principal who is (or whose Related Shareholder is) the owner of that Share; and(b) for each Related Shareholder, the Principal other than the Principal to whom the Related Shareholder is related.

1.2 Interpretation

In this document:

- (a) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this document and references to this document include any schedules or annexures;
- (b) a reference to a party to this document or any other document or agreement includes the party's successors, executors, permitted substitutes and permitted assigns;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;

- (d) a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced;
- (e) a reference to this document includes the agreement recorded by this document;
- (f) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (g) if any day on or by which a person must do something under this document is not a Business Day, then the person must do it on or by the next Business Day;
- (h) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity;
- (i) a reference to '\$' or 'dollar' is to Australian currency; and
- (j) the meaning of any general language is not restricted by any accompanying example, and the words 'includes', 'including', 'such as', or 'for example' (or similar phrases) do not limit what else might be included.

2. Overview

2.1 Options

Subject to clause 3, if a Principal becomes an Affected Principal, then:

- (a) the Affected Principal and their Related Shareholder grants to the Company an option to buy the Option Shares of the Affected Principal on the terms of this document and the Shareholders Deed;
- (b) the Company grants to the Affected Principal and their Related Shareholder an option to require the Company to buy the Option Shares of the Affected Principal on the terms of this document; and
- (c) the Company grants to the Affected Principal and their Related Shareholder an option to require the Company to buy the Further Shares of the Affected Principal on the terms of this document.

2.2 Sale of Shares

If an Option is exercised the Sellers must sell the relevant Shares to the Company (or its Nominated Buyer) and the Company must (or ensure its Nominated Buyer must) buy the relevant Shares from the Sellers on the terms of this document.

2.3 Insurance

- (a) Each Principal or their Related Shareholder must take out and maintain an Insurance Policy over the life of that Principal.
- (b) The beneficial owners of an Insurance Policy over a Principal must be:

- (i) that Principal; or
 - (ii) a superannuation fund of which the Principal is a member.
- (c) Each Principal must ensure that the Insurance Proceeds of any Insurance Policy of that Principal will be paid to either:
 - (i) that Principal; or
 - (ii) the Legal Personal Representatives of that Principal.
- (d) Each Principal must take all reasonable steps to ensure their Insurance Policy remains valid and that the Insurance Proceeds will be paid.
- (e) A Principal must not assign, mortgage, charge or in any way encumber their interest in an Insurance Policy.

2.4 Reimbursement

- (a) Subject to clause 2.4(b), the parties will procure that the Company reimburses each Principal or their Related Shareholder (as applicable) for premiums properly incurred by the Principal or Related Shareholder in connection with this clause 2.3.
- (b) The Principal or Related Shareholder must:
 - (i) provide receipts or other evidence of payment and the purpose of each payment in a form reasonably required by the Company to support each claim for reimbursement; and
 - (ii) keep those records of expenses reasonably required by the Company to meet income tax, fringe benefits tax and other statutory entitlements.

2.5 Effect of exercise of Options

- (a) If a Buy Option or Sell Option is exercised, any subsequent exercise of a Sell Option or Buy Option (respectively) obliging the Affected Principal and their Related Shareholder to sell their Shares has no effect.
- (b) The Further Option can only be exercised in conjunction with or following the exercise of either of the Sell Option or the Buy Option.

2.6 Contract of sale

The terms of the contract resulting from the exercise of a Buy Option, a Sell Option or a Further Option are contained in clauses 3 to 9 (inclusive).

2.7 Alteration of Shares

Each Option shall continue to have force and effect despite any increase, reduction, consolidation, subdivision or variation of any of the Shares or any part of the Shares after the date of this document.

2.8 Share certificates

Each certificate on issue for a Share:

- (a) may be held by the Principals jointly on behalf of the Unrelated Parties for that Share; and
- (b) if held by the Principals jointly under clause 2.8(a), is acknowledged to be in the possession of the Unrelated Parties for whom it is held, within the meaning of 'possession' under the PPSA.

2.9 Attorney

Each Related Shareholder:

- (a) appoints its Unrelated Parties as its attorneys with power to do anything on the Related Shareholder's behalf if the Related Shareholder fails to comply with its obligations under clause 9, including power to:
 - (i) sign all documents required to transfer the Related Shareholder's Shares;
 - (ii) receive purchase money and hold it on trust for that Related Shareholder; and
 - (iii) sign a receipt for the purchase money as a good discharge of the transferee's obligations;
- (b) declares that it is bound by, and will ratify and confirm, anything done by the Unrelated Parties under this power of attorney;
- (c) warrants that the Related Shareholder has the capacity to enter into the documents and has good title to all its Shares, free from any Encumbrance;
- (d) declares that this power of attorney is given for valuable consideration and is irrevocable; and
- (e) acknowledges that the combined effect of this clause and clause 2.8 is to give each Unrelated Parties control of its Shares that are shares within the meaning of 'control' under the PPSA, whether or not the Shares are evidenced by certificates.

2.10 Registration of Security Interest

- (a) The Company may:
 - (i) cause a notification of any Security Interest granted by this document to be registered or recorded under the PPSA, to the extent it is applicable; and
 - (ii) file or record any other notice or documents in any jurisdiction as may be required or permitted by any applicable law, to Perfect any Security Interest granted by this document.
- (b) In order to comply with clause 2.10(a), each Principal authorises the Company to:
 - (i) file all financing statements and other documents; and
 - (ii) do all things,which are necessary to Perfect, continue and realise any Security Interests granted by this document.

3. Buy Option

3.1 Grant

If a Trigger Event happens to a Principal, then that Affected Principal and their Related Shareholder irrevocably grants to the Company an option to buy the Option Shares of the Affected Principal on the terms of this document.

3.2 Exercise of Buy Option

The Company may exercise the Buy Option by giving a completed and signed Option Notice to the Affected Principal within 120 days of the Effective Date.

3.3 Sale of Option Shares under the Buy Option

If the Buy Option is exercised:

- (a) the Sellers must sell the Option Shares to the Company; and
- (b) the Company must buy the Option Shares from the Sellers,

on the terms of this document.

3.4 Sale of Option Shares treated as a share buyback

The parties agree that the purchase of the Option Shares on exercise of the Buy Option will be treated as a share buyback for the purposes of the Corporations Act and each party shall provide all necessary assistance to allow the Company to comply with its obligations under the Corporations Act to give effect to such buyback.

4. Sell Option

4.1 Grant

If a Trigger Event happens to a Principal, then the Company irrevocably grants to the Affected Principal and their Related Shareholder an option to require the Company to buy the Option Shares of the Affected Principal on the terms of this document.

4.2 Exercise of Sell Option

An Affected Principal and their Related Shareholder (if any) may exercise the Sell Option by giving a completed and signed Option Notice to the Company within 120 days of the Effective Date.

4.3 Sale of Shares under Sell Option

If the Sell Option is exercised:

- (a) the Sellers must sell the Option Shares to the Company; and
- (b) the Company must buy the Option Shares from the Sellers,

on the terms of this document.

4.4 Sale of Option Shares treated as a share buyback

The parties agree that the purchase of the Option Shares on exercise of the Buy Option will be treated as a share buyback for the purposes of the Corporations Act and each party shall provide all necessary assistance to allow the Company to comply with its obligations under the Corporations Act to give effect to such buyback.

5. Further Option

5.1 Grant

If a Trigger Event happens to a Principal, and conditional upon exercise of either a Buy Option or a Sell Option, then the Company irrevocably grants to the Affected Principal and their Related Shareholder an option to require the Company to buy the Further Shares of the Affected Principal on the terms of this document.

5.2 Exercise of Further Option

An Affected Principal and their Related Shareholder (if any) may exercise the Further Option by giving a completed and signed Option Notice to the Company within 12 months of the Effective Date (but not before exercise of either the Buy Option or Sell Option has occurred).

5.3 Sale of Shares under Sell Option

If the Further Option is exercised:

- (a) the Seller must sell the Further Shares to the Company (or its Nominated Buyer); and
- (b) the Company must (or must ensure its Nominated Buyer must) buy the Further Shares from the Seller,

on the terms of this document.

5.4 Sale of Further Shares treated as a share buyback

The parties agree that the purchase of the Further Shares on exercise of the Further Option may be structured as a share buyback for the purposes of the Corporations Act and each party shall provide all necessary assistance to allow the Company to comply with its obligations under the Corporations Act to give effect to such buyback.

6. Trigger Event and Effective Date

6.1 Trigger Event

A Trigger Event happens on:

- (a) the death of a Principal; or
- (b) the Total and Permanent Disablement of a Principal.

6.2 Effective Date

The Effective Date for a Trigger Event is:

- (a) for death, the date of the Principal's death; and
- (b) for Total and Permanent Disablement, the date the Principal satisfies the definition of 'Total and Permanent Disablement' under this document and the other parties have been notified in writing to that effect.

7. Determination of number of Option Shares and Further Shares

7.1 Aggregate Market Value

Within a reasonable period following the occurrence of a Trigger Event (being not later than 60 days following the Effective Date), the parties will determine the Market Value of all of the Shares held by the Sellers using the mechanism set out in the Shareholders Deed (**Aggregate Market Value**).

7.2 Determination of number of Option Shares

If the Aggregate Market Value:

- (a) exceeds the Insurance Proceeds, the Options Shares shall be such proportion of the Shares held by the Sellers whose Market Value equals the Insurance Proceeds; and
- (b) is equal to or lower than the Insurance Proceeds, the Option Shares shall equal the total of all Shares held by the Sellers.

7.3 Determination of number of Further Shares

The number of Further Shares shall equal such number of Shares (if any) that remain from the total of all of the Shares held by the Seller, after deducting the number of Option Shares determined in accordance with clause 7.2.

8. Purchase Price

8.1 Purchase Price

- (a) The consideration for the Option Shares shall be the Market Value of the Option Shares as adjusted pursuant to clause 8.2.
- (b) The consideration for the Further Shares (if any) shall be the Market Value of the Further Shares.

8.2 Adjustment to Purchase Price for Option Shares

- (a) The Purchase Price payable by the Company for the Option Shares shall be adjusted by reducing the Purchase Price by the amount of the Insurance Proceeds received by the Affected Principal or their nominated beneficiary from the date of commencement of this deed whether received at the time of the Triggering Event or any earlier date), save that any such adjustment shall not be deemed to have adjusted the Purchase Price to an amount less than zero.
- (b) If, through any act, omission or non-disclosure on the part of the Principal or its Related Shareholder under the Insurance Policy, the Insurance Proceeds are not paid, an adjustment

will be made to the Purchase Price payable at Completion by the amount of the proceeds of the Insurance Policy which would have been received had the act, omission or non-disclosure not occurred.

8.3 Insurance Proceeds exceed Purchase Price for Option Shares

If the Insurance Proceeds received exceeds the Purchase Price for the Option Shares and any liability to stamp duty or CGT arising from the sale of the Option Shares, then the Affected Principal may keep any excess Insurance Proceeds.

8.4 Payment of Purchase Price for Further Shares

The Company must pay the Purchase Price with respect to the Further Shares on the earlier of:

- (a) the third anniversary of Completion of the Further Option; and
- (b) the date 10 Business Days following which the Company receives from its Nominated Buyer(s) any payment for the Further Shares in cleared funds, provided that if such payment is less than the aggregate Purchase Price for the Further Shares or is otherwise paid in instalments, the Company shall only be required to pay the amounts actually received under this clause up to the Purchase Price with the remaining balance (if any) paid under subclause (a).

8.5 CGT and stamp duty

For the avoidance of doubt, any liability of the Affected Principal or its Related Shareholder to CGT arising out of a sale of the Sales Shares pursuant to an Option shall be for the account of the Affected Principal or its Related Shareholder.

9. Completion

9.1 Time and place

Completion must take place on the Completion Date at a time and place agreed between the parties or, failing agreement, at a time and place nominated by the Company.

9.2 Completion Date

The date for Completion shall be:

- (a) with respect to the sale of the Option Shares, 60 days after the first exercise of the Sell Option or the Buy Option; or
- (b) with respect to the sale of the Further Shares, the earlier of:
 - (i) 36 months of the exercise of the Option; and
 - (ii) completion of the transfer of the Further Shares to a third party pursuant to the terms of the Shareholders Deed.



9.3 Sellers' warranties

Each Seller represents and warrants to the Company as at the time the Option is exercised and at Completion that:

- (a) the Sale Shares are free from any Encumbrance;
- (b) beneficial ownership in the Sale Shares will pass to the Company (or its Nominated Buyer) at Completion; and
- (c) the Sale Shares are not subject to any other pre-emptive rights or restriction on dealing other than in those acknowledged and waived under this document.

9.4 Sellers' obligations

At Completion the Sellers must give the Company (or its Nominated Buyer) absolute ownership of and title to the Sale Shares free from any Encumbrance.

9.5 Company's obligations

On Completion, the Company must sign all documents and do all acts required by this document to be done or signed by the Company at Completion to accept an assignment of the Sale Shares.

9.6 Delivery of documents by Sellers

At Completion the Sellers must give the Company (or the relevant Nominated Buyer):

- (a) signed and completed documents necessary to transfer the Sale Shares to the Company (or the relevant Nominated Buyer), in registrable form;
- (b) any instruments of title for the relevant Sale Shares;
- (c) any other document reasonably required by the Company to vest full ownership, title and benefit of the Sale Shares in the Company (or the relevant Nominated Buyer); and
- (d) if the Trigger Event is Total and Permanent Disablement, an acknowledgment by the Affected Principal that they have no claim of any kind against the Company (except for statutory entitlements in respect of employment).

9.7 Meetings to be held on Completion

At Completion the parties must ensure appropriate meetings of the Company are held to pass resolutions to approve the transfer of the Shares from the Sellers to the Company (or the relevant Nominated Buyer) and record any retirement of the Affected Principal as a director or other officeholder of the Company.

9.8 Other obligations

At Completion, in addition to any documents to be delivered by the Sellers to the Company under clause 9.6, the parties must do all other things reasonably required by each other to vest the full benefit of and title to the Sale Shares in the Company (or the relevant Nominated Buyer).

9.9 Release of liabilities and indemnity

- (a) The Company must use its best endeavours to obtain a release of the Sellers from any Encumbrance or guarantee given or granted by the Sellers for liabilities of the Company before Completion (**Release**).
- (b) If the Company has not obtained the Release under clause 9.9(a) at the date of Completion then until the Release has been obtained, the Company indemnifies the Affected Principal and their Related Shareholder in relation to the Encumbrances or guarantees.

9.10 Interdependent obligations

Except to the extent the events in clauses 9.3 to 9.9 occur before Completion:

- (a) the obligations of the Sellers and the Company under clause 9 are interdependent, so that no action under clause 9 is effective until all of the obligations of the Company and Sellers under clause 9 are complied with; and
- (b) all actions required to be performed under clause 9 are taken to have occurred simultaneously at Completion.

9.11 Each party to bear own costs

- (a) Each party bears its own costs of transferring the Sale Shares pursuant to this document.
- (b) The Company bears all duty, registration fees and other outgoings necessary to transfer the Sale Shares pursuant to this document.

10. Non-payment

10.1 Consequences of default

If a party to this document fails to pay any money under this document when due (**Defaulting Party**), then:

- (a) any other party (**Paying Party**) may elect to pay all or part of that amount on behalf of the Defaulting Party;
- (b) the Defaulting Party must pay interest on the amount paid by the Paying Party from the date the payment was made until the date the amount is fully repaid; and
- (c) the amount paid by the Paying Party is a debt owing by the Defaulting Party to the Paying Party and is payable on demand.

10.2 Interest

The parties agree that interest will be payable on any amounts payable by a Defaulting Party under this document at the benchmark rate paid by the Company on their bank overdraft from time to time.

11. Tax

If any party incurs a tax liability with respect to its share of the Insurance Proceeds, that party is solely responsible for the tax liability.

12. Legal advice

Each party warrants:

- (a) it has read and understood this document; and
- (b) it has had the opportunity to obtain independent financial and legal advice about its terms.

13. General

13.1 Amendments

This document may only be amended by written agreement between all parties.

13.2 Assignment

Unless otherwise expressly authorised under this document, a party may only assign this document or a right under this document with the written consent of the other parties.

13.3 Counterparts

This document may be signed in any number of counterparts. All counterparts together make one instrument.

13.4 No merger

The rights and obligations of the parties under this document do not merge on completion of any transaction contemplated by this document.

13.5 Entire agreement

- (a) This document supersedes all previous agreements about its subject matter. This document embodies the entire agreement between the parties.
- (b) To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion, is withdrawn and has no effect except to the extent expressly set out or incorporated by reference in this document.
- (c) Each party acknowledges and agrees that it does not rely on any prior conduct or representation by the other party in entering into this document.

13.6 Further assurances

Each party must do all things necessary to give effect to this document and the transactions contemplated by it.

13.7 No waiver

- (a) The failure of a party to require full or partial performance of a provision of this document does not affect the right of that party to require performance subsequently.
- (b) A single or partial exercise of or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.
- (c) A right under this document may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.

13.8 Governing law and jurisdiction

- (a) Queensland law governs this document.
- (b) Each party irrevocably submits to the exclusive jurisdiction of the Queensland courts and courts competent to hear appeals from those courts.

13.9 Severability

- (a) A clause or part of a clause of this document that is illegal or unenforceable may be severed from this document and the remaining clauses or parts of the clause of this document continue in force.
- (b) If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction, it is to be treated as being severed from this document in the relevant jurisdiction, but the rest of this document will not be affected.

13.10 Costs

Each party bears its own costs in relation to the preparation and signing of this document.

14. Notice**14.1 Method of giving notice**

A notice, consent or communication under this document is only effective if it is:

- (a) in writing in English, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) given as follows:
 - (i) delivered by hand to that person's address;
 - (ii) sent to that person's address by prepaid mail or by prepaid airmail, if the address is overseas; or
 - (iii) sent by email to that person's email address.

14.2 When is notice given

A notice, consent or communication given under clause 14.1 is given and received on the corresponding day set out in the table below. The time expressed in the table is the local time in the place of receipt.

If a notice is	It is given and received on
Delivered by hand	(a) That day, if delivered by 5.00pm on a Business Day; or (b) The next Business Day, in any other case.
Sent by email	At the time of departure from the sender's mail server unless the sender receives an automated message generated by the recipient's mail server (Failure Message) that the email has not been delivered within two hours. For the avoidance of doubt any response generated by or at the instigation of the recipient (including an 'out of office' message) will not be a Failure Message.
Sent by post	(a) Three Business Days after posting, if sent within Australia; or (b) Seven Business Days after posting, if sent to or from a place outside Australia.

14.3 Address for notices

A person's address and email address are those set out in this document, or as the person otherwise notifies the sender.



Schedule 1 - Insurance Policies

Insurance Policy Owner	Life Insured	Type of Cover	Policy Number	Insurer	Amount of Cover
Matt Hepburn	Matt Hepburn	Life Total and Permanent Disability (TPD) Own Occupation	1007350684	OnePath	\$2,500,000
Christen McGarry	Christen McGarry	Life Total and Permanent Disability (TPD) Own Occupation	1007350672	OnePath	\$2,500,000

Schedule 2 – Option Notice

Option Notice (clauses 3, 4 and 5)

To: [insert name of party to whom notice is to be served]

[Insert name of exercising party] gives notice under the Buy Sell Deed dated 7 December 2021 of their decision to exercise the [Buy/Sell/Further] Option as stated in the deed.

Executed by:

[insert relevant execution clause]



Signing page

EXECUTED as a deed.


**Executed by Your Mates Brewing Company
602 634 257:**



Signature of director

MATT HEPBURN

Name of director (print)



Signature of director/company secretary
(Please delete as applicable)

CHRISTEN MCGARRY

Name of director/company secretary (print)

**Executed by CBM Family Pty Ltd ACN 627 633
729 as trustee for Christen McGarry Family
Trust:**



Signature of director

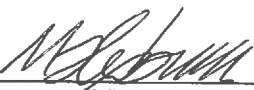
CHRISTEN MCGARRY

Name of director (print)

Signature of director/company secretary
(Please delete as applicable)

Name of director/company secretary (print)

**Executed by MWH Family Pty Ltd ACN 627
633 738 as trustee for MWH Family Trust:**



Signature of director

MATT HEPBURN

Name of director (print)

Signature of director/company secretary
(Please delete as applicable)

Name of director/company secretary (print)