

Constitution

Roogenic Pty Ltd ACN 612 354 104

(A proprietary company limited by shares)

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1 Dictionary

The Dictionary in Schedule 1:

- (a) defines some of the terms used in this constitution;
 - (b) sets out the rules of interpretation which apply to this constitution; and
 - (c) clarifies the effect of the Corporations Act on this constitution.
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2 Overview

2.1 Proprietary company

- (a) This is the constitution of Roogenic Pty Ltd ACN 612 354 104, a proprietary company limited by shares.
- (b) The company must have at least one member.
- (c) The liability of a member is limited to any amount owing on its shares.

2.2 The Corporations Act

- (a) Nothing in this constitution is intended to derogate from the Corporations Act and all provisions in this constitution are subject to the Corporations Act.
- (b) To the extent that a rule in this constitution is inconsistent with the Act then this constitution is taken to be amended so that it is consistent with the Corporations Act.

2.3 Formalities omitted

- (a) If some formality required by this constitution is inadvertently omitted or is not carried out, the omission does not invalidate anything, including any resolution, which but for the omission would have been valid unless it is proved to the satisfaction of the directors that the omission has directly prejudiced any member financially. The decision of the directors is final and binding on all members.
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3 Company's powers and restrictions

3.1 Company's powers

The company has all the powers of a natural person. These powers may be exercised by the directors unless the Corporations Act or this constitution requires the members to exercise a power at a general meeting.

3.2 Restrictions

- (a) The company must not have more than 50 non-employee members. For this purpose:
 - (i) members that acquired their shares under a crowdsourced funding offer that satisfied the requirements contained in Part 6D.3A of the Corporations Act (**CSF Offer**) do not count towards the 50-shareholder limit;

- (ii) members that acquire shares from members that were issued under a CSF Offer do not count towards the 50-shareholder limit provided that the company's shares have not started trading on a financial market in Australia or overseas;
 - (iii) joint holders of a parcel of shares are counted as one member; and
 - (iv) an employee member is:
 - (A) a member who is an employee of the company; or
 - (B) a member who was an employee of the company when they became a member.
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4 Share Capital

4.1 Shares

- (a) Subject to this constitution, the directors have the right to issue shares or grant options over shares to any person and they may do so on the conditions they think fit.
- (b) Shares referred to in rule 4.1(a) may have preferred, deferred or other special rights or special restrictions about dividends, voting, return of capital, participation in the property of the company on a winding up or otherwise, as the directors think fit.
- (c) This rule must not be construed so as to adversely affect any special rights of holders of any shares or class of shares.

4.2 Certificates

Each member is entitled without payment to receive a certificate for shares issued as required under the Corporations Act.

4.3 Preference shares

The company may issue preference shares from time to time. Preference shares have the following rights and restrictions:

- (a) **repayment of capital:** the right in priority to any other class of shares to repayment of the amount paid on the preference share:
 - (i) in a winding up or reduction of capital; and
 - (ii) in the case of a redeemable preference share, on redemption;
- (b) **dividends:** the right to payment of a cumulative preferential dividend in priority to the payment of a dividend on any other class of shares, accruing from day to day and payable on the amount paid on the preference share at the times and at the rate, which may be fixed or variable, specified or determined in the certificate for the preference share;
- (c) **accrued dividends:** the right in priority to any other class of shares to the amount of any dividend accrued but unpaid on the preference share:
 - (i) in a winding up or reduction of capital; and
 - (ii) in the case of a redeemable preference share, on redemption;

- (d) **participation in surplus assets and profits:** no rights to participate in the profits or property of the company other than as set out in this rule 4.3 whether on a winding up, reduction of capital or, in the case of a redeemable preference share, on redemption;
- (e) **attending general meetings and receiving documents:** the same right as the holder of an ordinary share to:
 - (i) receive notice of a general meeting;
 - (ii) attend the general meeting;
 - (iii) receive notices, reports and audited accounts;
- (f) **voting:** the right to vote in the following circumstances and in no other circumstances:
 - (i) on a proposal to wind up the company or reduce the share capital of the company or on a proposal for the disposal of the whole of the company's property, business and undertaking;
 - (ii) while a dividend or part of a dividend in respect of the preference share is unpaid;
 - (iii) on a resolution to approve the terms of a buy-back agreement;
 - (iv) on a proposal that affects rights attached to the preference share; or
 - (v) during the winding up of the company;
- (g) **redemption:** in the case of a redeemable preference share the right to require the company to redeem the preference share at the time and place specified in the certificate for the preference share; and
- (h) **restrictions:** the restrictions, if any, specified in the certificate for the preference share.

4.4 Joint holders of shares

Where two or more persons are registered as the holders of a share they hold it as joint tenants with rights of survivorship subject to the following provisions:

- (a) the company is not bound to register more than three of those persons as joint holders of the share;
- (b) each of those persons and their respective legal personal representatives are liable severally as well as jointly for all payments, including calls, which ought to be made in respect of the share;
- (c) subject to rule 4.4(b), on the death of any one of them the company is entitled to recognise the survivor or survivors as the only person or persons who have any title to the share;
- (d) any one of those persons may give effective receipts for any dividend, interest or other distribution or payment in respect of the share; and
- (e) the company is not bound to issue more than one certificate for the share and delivery of a certificate to any one of those persons is sufficient delivery to all of them.

4.5 Equitable interests in shares

- (a) The company may treat the registered holder of a share as the absolute owner of that share.
- (b) The company is not bound by or compelled in any way to recognise an equitable, contingent, future, partial or other right or interest in a share or unit of a share, even if the company has notice of that right or interest.
- (c) With the consent of the directors, shares held by a trustee may be marked in the register in such a way as to identify them as being held subject to the relevant trust.
- (d) Nothing in rule 4.5(c) limits rule 4.5(a).

4.6 Conversion of shares

- (a) The company may, subject to the Corporations Act, convert all or any of its shares into a larger or smaller number of shares by special resolution passed at a general meeting of members.
- (b) Any amount unpaid on shares being converted is to be divided equally among the replacement shares.

5 Calls, Forfeiture, Indemnities, Lien and Surrender

5.1 Calls

- (a) Subject to this constitution and to the terms on which any shares may be issued, the directors may make calls on the members for any money unpaid on their shares which is not by the terms of issue of those shares made payable at fixed times.
- (b) When the directors issue shares they may differentiate between the holders as to the amount of calls to be paid and the times of payment.
- (c) The directors may require a call to be paid by instalments.
- (d) On receipt of at least 14 days' notice, a member on whom a call is made in accordance with this constitution must pay to the company the amount called on that member's shares at the time or times and place specified.
- (e) A call is to be taken as having been made when the resolution of the directors authorising the call was passed.
- (f) The directors may revoke a call or postpone a call.
- (g) A call is not invalidated by the non-receipt of a notice of a call or the accidental omission to give notice of a call to any member.
- (h) If a sum called on a share is not paid in full by the day appointed for payment, the person from whom the sum is due must pay:
 - (i) interest on the unpaid amount from the date appointed for payment of the sum to the date of actual payment, at a rate determined under rule 5.9 (**Interest payable by member**); and
 - (ii) any costs, expenses or damages incurred by the company in relation to the non-payment or late payment of the sum.

- (i) Any sum unpaid on a share that, by the terms of issue of the share, becomes payable on issue or at a fixed date:
 - (i) is to be treated for the purposes of this constitution as if that sum was payable under a call duly made and notified; and
 - (ii) must be paid on the date on which it is payable under the terms of issue of the share.
- (j) The directors may, to the extent permitted by law, waive or compromise all or any part of any payment due to the company under the terms of issue of a share or under this rule 5.1.

5.2 Proceedings for recovery of calls

- (a) In an action or other proceedings 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:
 - (i) 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;
 - (ii) the resolution making the call is recorded in the minute book; and
 - (iii) notice of the call was given to the defendant in accordance with this constitution,

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.
- (b) In rule 5.2(a), "defendant" includes a person against whom a set-off or counter-claim is alleged by the company and "proceedings for the recovery of a call" is to be construed accordingly.

5.3 Payments in advance of calls

- (a) The directors may accept from a member the whole or a part of the amount unpaid on a share even though no part of that amount has been called.
- (b) The directors may authorise payment by the company of interest on the whole or any part of an amount accepted under rule 5.3(a), until the amount becomes payable, at a rate agreed between the directors and the member paying the amount.
- (c) The directors may repay to a member all or any of the amount accepted under rule 5.3(a).

5.4 Forfeiture of partly paid shares

- (a) If a member fails to pay the whole of a call or instalment of a call by the time appointed for payment of the call or instalment, the directors may serve a notice on that member requiring payment of the unpaid amount, together with any interest that has accrued and all costs, expenses or damages that may have been incurred by the company by reason of the non-payment or late payment of the call or instalment.
- (b) A notice under rule 5.4(a) must name a place and a day for payment. The day must be at least 14 days after the date of service of the notice.

- (c) The notice must state that the shares on which the call was made are liable to be forfeited if the whole amount payable is not paid by the time and at the place specified in the notice.
- (d) If a member does not comply with a notice under rule 5.4(a), the shares to which the notice relates may be forfeited by a resolution of the directors. Forfeiture includes all dividends declared on the forfeited shares and not actually paid before the forfeiture.
- (e) Where a share has been forfeited:
 - (i) notice of the resolution must be given to the member in whose name the share was registered immediately before the forfeiture; and
 - (ii) an entry of the forfeiture, with the date, must be made in the register of members.
- (f) Failure to give the notice or to make the entry required under rule 5.4(e) does not invalidate the forfeiture.
- (g) The directors may:
 - (i) sell or otherwise dispose of a share which has been forfeited on the terms and in the manner the directors think appropriate;
 - (ii) at any time before a sale or disposal, cancel the forfeiture of a share on the terms the directors think appropriate; and
 - (iii) reissue a share which has been forfeited, with or without any money paid on the share by any former holder being credited as paid and on the other terms and in the manner the directors think appropriate.
- (h) A person whose shares have been forfeited ceases to be a member in respect of the forfeited shares, but remains liable to pay, and must immediately pay, to the company:
 - (i) all calls, instalments, interest, costs, expenses and damages owing in respect of the shares at the time of the forfeiture; and
 - (ii) interest on so much of the amount payable under rule 5.4(h)(i) as is unpaid from time to time, from the date of the forfeiture to the date of actual payment, at a rate determined under rule 5.9 (**Interest payable by member**).
- (i) The forfeiture of a share extinguishes all interest in, and all claims and demands against the company in respect of, the forfeited share and all other rights incident to the share, subject to this constitution.
- (j) The directors may:
 - (i) exempt a share from all or any part of this rule 5.4; and
 - (ii) waive or compromise all or any part of any payment due to the company under this rule 5.4.

5.5 Indemnity for payments by the company

- (a) A member or, if the member is dead, the member's legal personal representative, must indemnify the company against any liability which the company has under any law to make a payment for or on account of that member including in respect of:

- (i) shares held by that member, solely or jointly;
 - (ii) a transfer or transmission of shares by a member; or
 - (iii) dividends, bonuses or other money owed to the member.
- (b) Rule 5.5(a) includes, without limitation, a payment arising from:
 - (i) the death of that member;
 - (ii) the non-payment of any income tax, capital gains tax, wealth tax or other tax by that member or the legal personal representative of that member; or
 - (iii) the non-payment of any estate, probate, succession, death, stamp or other duty by that member or the legal personal representative of that member.
- (c) The member or, if the member is dead, the member's legal personal representative, must pay to the company immediately on demand:
 - (i) the amount required to reimburse the company for a payment described in rule 5.5(a); and
 - (ii) interest on any part of that amount which is unpaid from the date the company makes the payment until the date the company is reimbursed in full for that payment, at a rate determined under rule 5.9 (**Interest payable by member**).
- (d) This rule 5.5 is in addition to any right or remedy the company may have under the law which requires it to make the payment.
- (e) The directors may:
 - (i) exempt a share from all or any part of this rule 5.5; and
 - (ii) waive or compromise all or any part of any payment due to the company under this rule 5.5.

5.6 Lien on shares

- (a) The company has a first and paramount lien on:
 - (i) each partly paid share for all unpaid calls and instalments due but unpaid in respect of that share;
 - (ii) each share registered in the name of a holder for all money presently payable by the holder or the holder's estate to the company; and
 - (iii) each share for any amounts the company may be required by law to pay (and has paid) in respect of that share.
- (b) The company's lien on a share extends to all dividends payable in respect of the share and to the proceeds of sale of the share.
- (c) The directors may sell a share on which the company has a lien in any manner they think fit where:
 - (i) an amount in respect of which a lien exists under this rule 5.6 is presently payable; and

- (ii) the company has, not less than 14 days before the date of the sale, given to the registered holder of the share a notice in writing demanding payment of that amount.
- (d) A notice under rule 5.6(c) must set out the amount in respect of which the lien exists as is presently payable.
- (e) The directors may do all things necessary or desirable to protect any lien, charge or other right to which the company may be entitled under any law or under this constitution.
- (f) Registration by the company of a transfer of shares on which the company has a lien releases the company's lien in so far as it relates to sums owing by the transferor or any predecessor in title, without giving notice of its claim to the transferee.
- (g) The directors may:
 - (i) exempt a share from all or any part of this rule 5.6; and
 - (ii) waive or compromise all or any part of any payment due to the company under this rule 5.6.

5.7 Surrender of shares

- (a) The directors may accept a surrender of a share by way of compromise of any claim as to whether or not that share has been validly issued or in any other case where the surrender is within the powers of the company.
- (b) Any share surrendered under rule 5.7(a) may be sold, reissued or otherwise disposed of in the same manner as a forfeited share.

5.8 General provisions applicable to a disposal of shares under this constitution

- (a) A reference in this rule 5.8 to a disposal of shares under this constitution is a reference to:
 - (i) any sale, reissue or other disposal of a forfeited share under rule 5.4(g) or a surrendered share under rule 5.7 (**Surrender of shares**); and
 - (ii) any sale of a share on which the company has a lien under rule 5.6(c).
- (b) Where any shares are disposed of under this constitution, the directors may:
 - (i) receive the purchase money or consideration given for the shares on the disposal;
 - (ii) effect a transfer of the shares and, if necessary, execute, or appoint a person to execute, on behalf of the former holder an instrument of transfer of the shares or any other instrument for the purpose of giving effect to the disposal; and
 - (iii) register as the holder of the shares the person to whom the shares have been disposed of.
- (c) The title of a person to whom shares are disposed of under this constitution is not affected by an irregularity or invalidity in connection with that disposal.
- (d) The remedy of any person aggrieved by a disposal of shares under this constitution is limited to damages only and is against the company exclusively.

- (e) The proceeds of a disposal of shares under this constitution must be applied in the payment of:
 - (i) first, the expenses of the disposal;
 - (ii) secondly, all money presently payable by the former holder whose shares have been disposed of; and
 - (iii) finally, but subject to any lien under rule 5.6 (**Lien on shares**) for money not presently payable, any remaining proceeds must be paid to the former holder as soon as practicable. The former holder must first deliver to the company the certificate for the shares that have been disposed of or any other proof of title as the directors may accept.
- (f) A statement in writing signed by a director or secretary of the company to the effect that a share in the company has been:
 - (i) duly forfeited under rule 5.4(d);
 - (ii) duly sold, reissued or otherwise disposed of under rules 5.4(g) or 5.7 (**Surrender of shares**); or
 - (iii) duly sold under rule 5.6(c),

on a date stated in the statement is conclusive evidence of the facts stated in the statement as against all persons claiming to be entitled to the share and of the right of the company to forfeit, sell, reissue or otherwise dispose of the share.

5.9 Interest payable by member

- (a) For the purposes of rules 5.1(h)(i), 5.4(h)(ii) and 5.5(c)(ii), the rate of interest payable to the company is:
 - (i) if the directors have fixed a rate, that rate; or
 - (ii) in any other case, 10% per annum.
- (b) Interest payable under rules 5.1(h)(i), 5.4(h)(ii) and 5.5(c)(ii) accrues daily and may be capitalised monthly or at other intervals the directors think fit.

6 Transfer and Transmission of Shares

6.1 Transfer of shares

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, a member may transfer all or any of the member's shares by an instrument in writing in any usual form or in any other form that the directors approve.
- (b) A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register of members in respect of the shares.
- (c) The company must not charge a fee for the registration of a transfer of shares.
- (d) An instrument of transfer referred to in rule 6.1(a) must be signed by or on behalf of both the transferor and the transferee unless the transfer:

- (i) relates only to fully paid shares and signature by the transferee has been dispensed with by the directors; or
 - (ii) is a sufficient transfer of marketable securities for the purposes of the Corporations Act.
- (e) An instrument of transfer referred to in rule 6.1(a) must be duly stamped if required by law to be stamped.
- (f) An instrument of transfer referred to in rule 6.1(a) must be lodged for registration at the registered office of the company, or at such other place as the directors determine, accompanied by any evidence which the directors require to prove the title of the transferor or the transferor's right to the shares including the share certificate, if any, and to prove the right of the transferee to be registered as the owner of the shares.
- (g) Subject to the powers vested in the directors under rules 6.3 (**Power to decline registration of transfers**) and 6.4 (**Power to suspend registration of transfers**), where the company receives an instrument of transfer complying with rules 6.1(d), 6.1(e) and 6.1(f), the company must register the transferee named in the instrument as the holder of the shares to which it relates.
- (h) The company may retain any registered instrument of transfer received by the company under rule 6.1(f) for any period as the directors think fit.
- (i) Except in the case of fraud, the company must return any instrument of transfer received under rule 6.1(f) which the directors decline to register to the person who deposited it with the company.
- (j) The directors may, to the extent permitted by law, waive all or any of the requirements of this rule 6.1.

6.2 Restriction on transfers

Despite any other provision of this constitution, a member may not transfer its shares, (other than those shares issued under a CSF Offer, provided the company's shares have not started trading on a financial market in Australia or overseas), if that transfer would result in the company having more than 50 members.

6.3 Power to decline registration of transfers

- (a) Subject to any special rights conferred on the holders of any shares or class of shares, the directors may, in their absolute discretion, decline to register any transfer of shares.
- (b) Notwithstanding rule 6.3(a) (or any other provision in this constitution), the directors must not decline to register any transfer of shares where such transfer is made to:
 - (i) a person entitled to the benefit of a Security Interest (whether or not as agent, trustee or nominee for a person entitled to the benefit of the Security Interest); or
 - (ii) a person who purchases the shares from the holder of those shares or a person entitled to the benefit of the Security Interest (or a person acting as agent, trustee or nominee on its behalf),

pursuant to, or in connection with, the enforcement of that Security Interest in respect of the shares.

6.4 Power to suspend registration of transfers

- (a) Subject to rule 6.4(b), the directors may suspend the registration of a transfer of shares at the time and for the period the directors think fit, but the period of suspension must not exceed a total of 30 days in any 12 month period.
- (b) Notwithstanding rule 6.4(a), (or any other provision of this constitution), the directors must not suspend the registration of a transfer of shares where such transfer is made to:
 - (i) a person entitled to the benefit of a Security Interest (whether or not as agent, trustee or nominee for a person entitled to the benefit of the Security Interest); or
 - (ii) a person who purchases the shares from the holder of those shares or a person entitled to the benefit of the Security Interest (or a person acting as agent, trustee or nominee on its behalf),pursuant to, or in connection with, the enforcement of that Security Interest in respect of the shares.

6.5 Transmission of shares

- (a) In the case of the death of a member, the only persons the company will recognise as having any title to the member's shares or any benefits accruing in respect of those shares are:
 - (i) the legal personal representative of the deceased where the deceased was a sole holder; and
 - (ii) the survivor or survivors where the deceased was a joint holder.
- (b) Nothing in rule 6.5(a) releases the estate of a deceased member from any liability in respect of a share, whether that share was held by the deceased solely or jointly with other persons.
- (c) A person who becomes entitled to a share as a result of a Transmission Event may elect:
 - (i) to be registered as the holder of the share by signing and serving on the company a notice in writing stating that election; or
 - (ii) to have some other person nominated by that person registered as the transferee of the share by executing or otherwise effecting a transfer of the share to that other person,after producing any evidence the directors require to prove that person's entitlement to the share, including the certificate for the share.
- (d) The provisions of this constitution relating to the right to transfer, and the registration of transfers of, shares apply, so far as they can and with the changes as are necessary, to any transfer under rule 6.5(c)(ii) as if the relevant Transmission Event had not occurred and the transfer were executed or effected by the registered holder of the share.
- (e) If two or more persons become jointly entitled to a share under a Transmission Event, on registration as the holders of the share, those persons are taken to hold the share as joint tenants subject to this rule 6.5.

- (f) Despite rule 6.5(a), the directors may register a transfer of shares signed by a member before a Transmission Event even though the company has notice of the Transmission Event.

7 Pre-emption rights on new shares

7.1 Pre-emption rights

- (a) This rule 7.1 does not apply to an Excluded Issue.
- (b) If the company wishes to issue new shares, it must first offer all the new shares (**Issue Shares**) to the members who hold at least 20% of the shares in the capital of the company (**Eligible Members**) by written notice (**Issue Notice**):
- (c) The Issue Notice must specify:
 - (i) the terms of issue of the Issue Shares;
 - (ii) the total number of Issue Shares available for subscription; and
 - (iii) the subscription price of each Issue Shares.
- (d) An Eligible Member wishing to subscribe for Issue Shares (**Accepting Shareholder**) must, within ten business days after receipt of the Issue Notice, notify the board in writing of the number of Issue Shares it would like to subscribe for (**Acceptance Notice**).
- (e) If the company receives Acceptance Notices for a number of Issue Shares equal to or less than the total number of Issue Shares, each Accepting Shareholder will be allocated the amount of Issue Shares set out in its Acceptance Notice.
- (f) If the company receives Acceptance Notices for a number of Issue Shares greater than the total number of Issue Shares, each Accepting Shareholder will be allocated the lesser of:
 - (i) the number of Issue Shares set out in its Acceptance Notice; and
 - (ii) its proportion that the aggregate number of shares held by that Eligible Member bears to the aggregate number of shares held by all Eligible Members at the relevant time of the Issue Shares (**Eligible Member Proportion**).
- (g) Any Issue Shares which remain unallocated must be re-offered to those remaining Accepting Shareholders who specified a number of Issue Shares greater than their Eligible Member Proportion in their Acceptance Notice.
- (h) The process in rules 7.1(d) to 7.1(g) (inclusive) will be repeated until:
 - (i) all Issue Shares have been allocated; or
 - (ii) every Accepting Shareholder offered Issue Shares has rejected the offer.
- (i) As soon as practicable after the determination of the allocation of each Accepting Shareholder, the company must give each Accepting Shareholder a notice setting out its allocation and the date for completion of the issue of the Issue Shares (**Subscription Date**).
- (j) On the Subscription Date:

- (i) each Accepting Shareholder must pay to the company the subscription moneys for the Issue Shares it has been allocated; and
- (ii) the company must issue to each Accepting Shareholder its Issue Shares.

7.2 Issue of new shares to Third Party

- (a) If there are any unallocated Issue Shares after the procedure set out in rule 7.1 has been followed, the company may issue those Issue Shares to one or more Third Parties provided that:
 - (i) each Third Party has been approved by the Board; and
 - (ii) the issue is on terms no more favourable than those set out in the Issue Notice.
- (b) If the company does not issue all Issue Shares within sixty business days of the date of the Issue Notice, it may not issue those Issue Shares without complying again with this rule 7.

8 Employee Share Scheme

The Members agree that:

- (a) at any time, the board may implement an employee incentive plan to issue shares to eligible service providers (including directors, employees and contractors) that results in the issue of that number of shares up to a maximum amount of 10% of the fully diluted share capital of the company as at the completion of the company's first round of CSF Offers (**Share Plan**); and
- (b) the Share Plan will authorise directors to issue shares under the Share Plan at their discretion.

9 General Meetings

9.1 Convening of general meetings

- (a) A general meeting may be convened by:
 - (i) the directors by resolution of the board; or
 - (ii) members or the court in accordance with sections 249E, 249F and 249G of the Corporations Act.
- (b) A general meeting must be convened by the directors in accordance with section 249D of the Corporations Act.
- (c) Subject to rule 9.1(e), the directors may postpone, cancel or change the venue for a general meeting by giving notice not later than five business days before the time at which the general meeting was to be held to each person who is at the date of the notice:
 - (i) a member;
 - (ii) a director; or
 - (iii) an auditor of the company.

- (d) A notice postponing or changing the venue for a general meeting must specify the date, time and place of the general meeting.
- (e) A general meeting convened under section 249D of the Corporations Act may not be postponed beyond the date by which section 249D requires it to be held and may not be cancelled without the consent of the member or members who requested it.

9.2 Notice of general meetings

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, notice of a general meeting must be given within the time limits prescribed by the Corporations Act and in the manner authorised by rule 19.1 **(Notices by the company to members)** to each person who is at the date of the notice:
 - (i) a member;
 - (ii) a director; or
 - (iii) an auditor of the company.
- (b) A notice of a general meeting must specify the date, time and place of the meeting and state the general nature of the business to be transacted at the meeting and any other matters required under the Corporations Act.
- (c) A person may waive notice of any general meeting by notice in writing to the company.
- (d) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this rule 9.2 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
 - (i) the non-receipt or failure occurred by accident or error; or
 - (ii) before or after the meeting, the person:
 - (A) has waived or waives notice of that meeting under rule 9.2(c); or
 - (B) has notified or notifies the company of the person's agreement to that act, matter, thing or resolution by notice in writing to the company.
- (e) A person's attendance at a general meeting:
 - (i) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
 - (ii) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

9.3 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business and remains present throughout the meeting.

- (b) A quorum consists of:
 - (i) if the number of members entitled to vote is two or more - two of those members; or
 - (ii) if only one member is entitled to vote - that member,

present at the meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (i) where the meeting was convened by, or at the request of, a member or members, the meeting must be dissolved; or
 - (ii) in any other case:
 - (A) the meeting stands adjourned to the day, and at the time and place, as the directors determine or, if no determination is made by the directors, to the same day in the next week at the same time and place; and
 - (B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

9.4 Chair of general meetings

- (a) The chair of directors must preside as chair at each general meeting if present within 15 minutes after the time appointed for the meeting and willing to act.
- (b) The directors present at a general meeting may elect a person present to chair the meeting if:
 - (i) there is no chair of directors;
 - (ii) the chair of directors is not present within 15 minutes after the time appointed for the meeting; or
 - (iii) the chair of directors is present within that time but is not willing to act as chair of the meeting.
- (c) Subject to rules 9.4(a) and 9.4(b), if at a general meeting:
 - (i) a chair has not been previously elected by the directors; or
 - (ii) a previously elected chair is not available or is not willing to act as a chair of the meeting (or part of the meeting),

the members present must elect as chair of the meeting another person who is present and willing to act.

9.5 Conduct of general meetings

- (a) Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chair of the meeting, whose decision is final.
- (b) The chair of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be

transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

- (c) It is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

9.6 Decisions at general meetings

- (a) Except in the case of any resolution which as a matter of law requires a special majority, questions arising at a general meeting are to be decided by a majority of votes cast by the members present at the meeting and that decision is for all purposes a decision of the members.
- (b) In the case of an equality of votes upon any proposed resolution:
 - (i) the chair of the meeting does not have a second or casting vote; and
 - (ii) the proposed resolution is taken as having been lost.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded before a vote by show of hands is taken or before or immediately after the declaration of the result of the show of hands:
 - (i) by the chair of the meeting; or
 - (ii) by any member present and entitled to vote on the relevant resolution.
- (d) A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chair of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it will be taken when and in the manner the chair of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (g) A poll cannot be demanded at a general meeting on the election of a chair of the meeting.
- (h) The demand for a poll may be withdrawn.

9.7 Voting rights

- (a) Subject to this constitution and to any rights or restrictions attached to any shares or class of shares, at a general meeting:
 - (i) on a show of hands, every member present has one vote;
 - (ii) on a poll, every member present has:
 - (A) one vote for each fully paid share held by the member and in respect of which the member is entitled to vote; and

- (B) a fraction of a vote for each partly paid share held by the member and in respect of which the member is entitled to vote, equivalent to the proportion which the amount paid (not credited) on the share bears to the total amounts paid and payable (excluding amounts credited) on the share; and
- (iii) for the purposes of rule 9.7(a)(ii)(B), an amount paid on a share in advance of a call is to be ignored.
- (b) Where a person present at a general meeting represents personally or by proxy, attorney or Representative more than one member the following rules apply to a vote taken on a show of hands:
 - (i) the person is entitled to one vote only despite the number of members the person represents; and
 - (ii) the person's vote will be taken as having been cast for all the members the person represents.
- (c) A joint holder may vote at any meeting in person or by proxy, attorney or Representative as if that person was the sole holder. If more than one joint holder tenders a vote, only the vote of the holder whose name appears first in the register of members counts.
- (d) The parent or guardian of an infant member may vote at a general meeting on evidence being produced of the relationship or of the appointment of the guardian as the directors may require and any vote so tendered by a parent or guardian of an infant member must be accepted to the exclusion of the vote of the infant member.
- (e) A person entitled to a share as a result of a Transmission Event may vote at a general meeting in respect of that share in the same manner as if that person were the registered holder of the share if, before the meeting, the directors have:
 - (i) admitted that person's right to vote at that meeting in respect of the share; or
 - (ii) been satisfied of that person's right to be registered as the holder of, or to transfer, the share under rule 6.5(c),
 and any vote tendered by that person must be accepted to the exclusion of the vote of the registered holder of the share.
- (f) Where a member holds any share on which any call due and payable to the company has not been duly paid:
 - (i) that member is only entitled to be present at a general meeting and vote if other shares are held by that member on which no call is then due and payable; and
 - (ii) upon a poll, that member is not entitled to vote in respect of that share but may vote in respect of any other shares held upon which no call is then due and payable.
- (g) An objection to the qualification of a person to vote at a general meeting:
 - (i) must be raised before or immediately after the result of the motion on which the vote objected to is given or tendered; and
 - (ii) must be referred to the chair of the meeting, whose decision is final.

- (h) A vote not disallowed by the chair of a meeting under rule 9.7(g) is valid for all purposes.

9.8 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:
 - (i) in person or, where a member is a body corporate, by its Representative;
 - (ii) by proxy or, if the member is entitled to cast two or more votes at the meeting, by not more than two proxies; or
 - (iii) by not more than two attorneys.
- (b) A proxy, attorney or Representative may be a member of the company but does not have to be a member.
- (c) A proxy, attorney or Representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Unless otherwise provided in the Corporations Act or in the appointment, an appointment of a proxy, attorney or Representative is taken to confer authority:
 - (i) to agree to a meeting being convened by shorter notice than is required by the Corporations Act or by this constitution;
 - (ii) to speak to any proposed resolution on which the proxy, attorney or Representative may vote;
 - (iii) to demand or join in demanding a poll on any resolution on which the proxy, attorney or Representative may vote;
 - (iv) even though the appointment may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions:
 - (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (B) to vote on any procedural motion, including any motion to elect the chair, to vacate the chair or to adjourn the meeting; and
 - (C) to act generally at the meeting; and
 - (v) even though the appointment may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (e) The chair of a meeting may require any person purporting to act as a proxy, attorney or Representative to establish to the satisfaction of the chair that the person has been validly appointed as a proxy, attorney or Representative and is the person named in the relevant instrument of appointment, failing which the person may be excluded from attending or voting at the meeting.

- (f) Where a member appoints two proxies or attorneys to vote at the same general meeting and the authority of one is not conditional on the other failing to attend or vote, the following rules apply:
 - (i) where the appointment does not specify the proportion or number of the member's votes each proxy or attorney may exercise, each proxy or attorney may exercise half of the member's votes;
 - (ii) on a show of hands, neither proxy or attorney may vote; and
 - (iii) on a poll, each proxy or attorney may only exercise the voting rights the proxy or attorney represents.
- (g) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.
- (h) A proxy or attorney may not vote at a general meeting or adjourned meeting unless the instrument appointing the proxy or attorney, and the original or a certified copy of the power of attorney or other authority (if any) under which the instrument is signed, are received:
 - (i) at the registered office of the company, at the fax number at its registered office or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting; and
 - (ii) by the time specified in the notice of meeting.
- (i) Unless the company has received written notice of the matter by the time and at the place or in the manner set out in rules 9.8(h)(i) and 9.8(h)(ii), a vote cast by a proxy or attorney is valid even if, before the proxy or attorney votes:
 - (i) a Transmission Event occurs in relation to the appointer; or
 - (ii) the member revokes the proxy's or attorney's appointment; or
 - (iii) the member revokes the authority under which a third party appointed the proxy or attorney; or
 - (iv) the member transfers the share in respect of which the proxy or attorney was appointed.
- (j) The authority of a proxy or attorney to speak and vote for a member at a general meeting is suspended while the member is present at the meeting.

9.9 Resolutions without meetings

- (a) Subject to rule 9.9(c), the company may pass a resolution without a general meeting being held, if all of the members 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.
- (b) For the purposes of rule 9.9(a):
 - (i) the document may be sent to members in any manner described in rule 19 (**Notices**);

- (ii) the resolution is passed when the last member signs;
 - (iii) separate copies of a document may be used for signing by members if the wording of the resolution and statement is identical in each copy;
 - (iv) a signature of a member transmitted to the company by facsimile is sufficient evidence of signature;
 - (v) where a share is held jointly, each joint member must sign.
- (c) Rule 9.9(a) does not apply to a resolution to remove an auditor.
 - (d) Where a document is signed in accordance with rule 9.9(a) the document is to be taken as a minute of the passing of the resolution.

9.10 Resolutions of single member company

If the company has only one member, the company may pass a resolution by the member recording it and signing the record. That record is to be taken as a minute of the passing of that resolution.

10 Directors

10.1 Appointment and removal of directors

- (a) There must be:
 - (i) at least one director; and
 - (ii) subject to rule 10.1(c), not more than 10 directors.
- (b) The directors in office on the date that this constitution was adopted by the company continue in office but on the terms and conditions set out in this constitution.
- (c) The company may, with the written consent of all the Founders, by resolution:
 - (i) increase or reduce the maximum number of directors; and
 - (ii) appoint or remove a director.
- (d) The directors may appoint any natural person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but the total number of directors must not at any time exceed the maximum number allowed under this constitution.
- (e) A Founder Entity may nominate any person as a director of the Company for so long as the Founder Entity holds any number of issued share in the capital of the Company.
- (f) Subject to rule 10.2 (**Vacation of office**) and to the terms of any agreement entered into between the company and the relevant director, a director holds office until the director dies or is removed from office pursuant to rule 10.1(c)(ii).

10.2 Vacation of office

The office of a director becomes vacant:

- (a) in the circumstances prescribed by the Corporations Act;

- (b) if the director becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; or
- (c) if the director resigns by notice in writing to the company.

10.3 Remuneration of directors

- (a) Each director is entitled to the remuneration out of the funds of the company as the directors determine, but if the company in general meeting has fixed a limit on the amount of remuneration payable to the directors, the aggregate remuneration of directors must not exceed that limit.
- (b) The remuneration of directors:
 - (i) may be a stated salary or a fixed sum for attendance at each meeting of directors or both; or
 - (ii) may be a share of a fixed sum determined by the company in general meeting to be the remuneration payable to all directors which is to be divided between the directors in the proportions agreed between them or, failing agreement, equally,

and if it is a stated salary under rule 10.3(b)(i) or a share of a fixed sum under rule 10.3(b)(ii), is taken to accrue from day to day.
- (c) In addition to their remuneration under rule 10.3(a), the directors are entitled to be paid all travelling and other expenses properly incurred by them in connection with the affairs of the company, including attending and returning from general meetings of the company or meetings of the directors or of committees of the directors.
- (d) If a director renders or is called on to perform extra services or to make any special exertions in connection with the affairs of the company, the directors may arrange for a special remuneration to be paid to that director, either in addition to or in substitution for that director's remuneration under rule 10.3(a).
- (e) Nothing in rule 10.3(a) restricts the remuneration to which a director may be entitled as an officer of the company or of a related body corporate in a capacity other than director, which may be either in addition to or in substitution for that director's remuneration under rule 10.3(a).
- (f) The directors may, subject to the Corporations Act:
 - (i) at any time after a director dies or otherwise ceases to hold office as a director, pay to the director or a legal personal representative, spouse, relative or dependant of the director, in addition to the remuneration of that director under rule 10.3(a), a pension or lump sum payment for past services rendered by that director; and
 - (ii) cause the company to enter into a contract with the director for the purpose of providing for or giving effect to that payment.
- (g) The directors may establish or support, or assist in the establishment or support of, funds and trusts to provide pension, retirement, superannuation or similar payments or benefits to or in respect of the directors or former directors.

10.4 Director need not be a member

- (a) A director is not required to hold any shares in the company to qualify for appointment.

- (b) A director is entitled to attend and speak at general meetings even if he or she is not a member of the company.

10.5 Interested directors

- (a) A director may hold any other office or place of profit, other than auditor, in the company or a related body corporate in conjunction with his or her directorship. A director may be appointed to that office or place of profit on the terms as to remuneration, tenure of office and otherwise as the directors think fit.
- (b) A director of the company may be a director or other officer of:
 - (i) a related body corporate;
 - (ii) a body corporate promoted by the company; or
 - (iii) a body corporate in which the company is interested, as shareholder or otherwise,or be otherwise interested in any of those bodies corporate. A director is not accountable to the company for any remuneration or other benefits received by the director as a director or officer of that body corporate or from having an interest in that body corporate.
- (c) The directors may exercise the voting rights conferred by shares in any body corporate held or owned by the company as the directors think fit. This includes voting in favour of any resolution appointing a director as a director or other officer of that body corporate, or voting for the payment of remuneration to the directors or other officers of that body corporate. A director may, if permitted by law, vote in favour of the exercise of those voting rights even if he or she is, or may be about to be appointed, a director or other officer of that other body corporate.
- (d) A director is not disqualified merely because of being a director from contracting with the company in any respect including, without limitation:
 - (i) selling any property to, or purchasing any property from, the company;
 - (ii) lending any money to, or borrowing any money from, the company with or without interest and with or without security;
 - (iii) guaranteeing the repayment of any money borrowed by the company for a commission or profit;
 - (iv) underwriting or guaranteeing the subscription for securities in the company or in a related body corporate or any other body corporate promoted by the company or in which the company may be interested as a shareholder or otherwise, for a commission or profit; or
 - (v) being employed by the company or acting in any professional capacity, other than auditor, on behalf of the company.
- (e) No contract made by a director with the company and no contract or arrangement entered into by or on behalf of the company in which any director may be in any way interested is avoided or rendered voidable merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (f) No director contracting with the company or being interested in any arrangement involving the company is liable to account to the company for any profit realised by or

under a contract or arrangement of that kind merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.

- (g) Subject to rule 10.5(h), a director who is in any way interested in a contract or arrangement or proposed contract or arrangement may, despite that interest:
 - (i) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement;
 - (ii) vote in respect of the contract or arrangement or proposed contract or arrangement or any matter arising out of those things; and
 - (iii) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement.
- (h) Rule 10.5(g) does not apply if, and to the extent that, it would be contrary to the Corporations Act.
- (i) The directors may make regulations requiring the disclosure of interests that a director, and any person deemed by the directors to be related to or associated with the director, may have in any matter concerning the company or a related body corporate. Any regulations made under this rule 10.5(i) bind all directors and apply in addition to any obligations imposed on the directors by the Corporations Act to disclose interests to the company.
- (j) If the company is a wholly-owned subsidiary of a body corporate, a director may act in the best interests of the holding company.

10.6 Powers and duties of directors

- (a) The directors are responsible for managing the business of the company and may exercise to the exclusion of the company in general meeting all the powers of the company which are not required, by the Corporations Act or this constitution, to be exercised by the company in general meeting.
- (b) Without limiting rule 10.6(a), the directors may exercise all the powers of the company to borrow or otherwise raise money, to charge any property or business of the company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the company or of any other person.
- (c) The directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments or other documents must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the company.
- (d) The directors may pay out of the company's funds all expenses of the promotion, formation and registration of the company and the vesting in it of the assets acquired by it.
- (e) The directors may:
 - (i) appoint or employ any person to be an officer, agent or attorney of the company for the purposes, for the period and on the conditions as they think fit;
 - (ii) resolve to delegate any of their powers to an officer, agent or attorney and the officer, agent or attorney must exercise the powers delegated in accordance with any directions of the directors;

- (iii) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (iv) subject to any contract between the company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney of the company at any time, with or without cause.
- (f) A power of attorney may contain provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors think fit.

10.7 Critical Business Matter

The directors must not resolve for the company to undertake any Critical Business Matter in Part 1 or Part 2 of Schedule 2 unless approved by a unanimous resolution of the Founder Directors or Founder Shareholders (as relevant).

10.8 Proceedings of directors

- (a) The directors may hold meetings for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) Subject to the Corporations Act, the contemporaneous linking together by a form of technology of a number of the directors sufficient to constitute a quorum, constitutes a meeting of the directors and all the provisions in this constitution relating to meetings of the directors apply, so far as they can and with such changes as are necessary, to meetings of the directors held using a form of technology.

10.9 Convening of meetings of directors

- (a) A director may, whenever the director thinks fit, convene a meeting of the directors.
- (b) A secretary must, on the requisition of a director, convene a meeting of the directors.

10.10 Notice of meetings of directors

- (a) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice:
 - (i) a director, other than a director on leave of absence approved by the directors; or
 - (ii) an alternate director appointed under rule 10.16 (**Alternate directors**) by a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
 - (i) must specify the time and place of, or form of technology for, the meeting;
 - (ii) need not state the nature of the business to be transacted at the meeting;
 - (iii) may be given in person or by post, or, subject to the Corporations Act, by a form of technology; and
 - (iv) is taken to have been given to an alternate director if it is given to the director who appointed that alternate director.
- (c) A director or alternate director may waive notice of a meeting of directors by notifying the company to that effect in person or by post, or by a form of technology.

- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the director or an alternate director appointed by the director:
 - (A) waives notice of that meeting under rule 10.10(c); or
 - (B) notifies the company of his or her agreement to that act, matter, thing or resolution personally or by post, or by a form of technology; or
 - (iii) the director or an alternate director appointed by the director attended the meeting.
- (e) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, an alternate director of a director on leave of absence approved by the directors does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (i) the non-receipt or failure occurred by accident or error;
 - (ii) before or after the meeting, the alternate director or the director who appointed the alternate director:
 - (A) waives notice of that meeting under rule 10.10(c); or
 - (B) notifies the company of his or her agreement to that act, matter, thing or resolution personally or by post, or by a form of technology; or
 - (iii) the alternate director or the director who appointed the alternate director attended the meeting.
- (f) Attendance by a person at a meeting of directors waives any objection that person and:
 - (i) if the person is a director, an alternate director appointed by that person; or
 - (ii) if the person is an alternate director, the director who appointed that person as alternate director,

may have to a failure to give notice of the meeting.

10.11 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless there is a quorum of directors at the time the business is dealt with.
- (b) The quorum for a directors' meeting is more than 50% of directors entitled to vote and must include the attendance of the Founder Director, unless the directors determine otherwise. The quorum must be present at all times during the meeting.
- (c) If there is a vacancy in the office of a director, the remaining director or directors may act but, if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, the remaining director or directors may act only in an

emergency or for the purpose of increasing the number of directors to a number sufficient to constitute a quorum or of convening a general meeting of the company.

10.12 Chair of directors

- (a) The directors may elect one of the directors to the office of chair of directors and may determine the period for which that director is to be chair of directors.
- (b) The office of chair of directors may be treated as an extra service or special exertion performed by the director holding that office for the purposes of rule 10.3(d) if:
 - (i) the directors resolve to do so; and
 - (ii) the total amount fixed by the company for remuneration of directors under rule 10.3(a) will not be exceeded.
- (c) The chair of directors must preside as chair at each meeting of directors, if present within 10 minutes after the time appointed for the holding of the meeting and willing to act.
- (d) If at a meeting of directors:
 - (i) there is no chair of directors;
 - (ii) the chair of directors is not present within 10 minutes after the time appointed for the holding of the meeting; or
 - (iii) the chair of directors is present within that time but is not willing to act as chair of the meeting or of part of the meeting,the directors present must elect one of themselves to be chair of the meeting or part of the meeting.
- (e) If the company has only one director, that director is regarded as the chair of directors for the purposes of this constitution.

10.13 Decisions of directors

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under this constitution.
- (b) Questions arising at a meeting of directors are to be decided by a majority of votes cast by the directors present and a decision of that kind is for all purposes a determination of the directors.
- (c) In the case of an equality of votes on a proposed resolution:
 - (i) the chair of the meeting does not have a second or casting vote; and
 - (ii) the proposed resolution is to be taken as having been lost.

10.14 Resolutions without meetings

- (a) The directors may pass a resolution without a directors' meeting being held if all the directors entitled to vote on the resolution assent to a document containing a statement that they are in favour of the resolution set out in the document.

- (b) Separate copies of a document may be used if the wording of the resolution and statement is identical in each copy.
- (c) The resolution is passed when the last director assents.
- (d) A director may signify assent to a document by signing the document or by notifying the company of the director's assent in person or by post, fax, electronic, telephone or other method of written, audio or audio visual communication.
- (e) Where a director signifies assent to a document otherwise than by signing the document, the director must by way of confirmation sign the document at the next meeting of the directors attended by that director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.
- (f) Where a document is assented to in accordance with this rule 10.14, the document is to be taken as a minute of the passing of the resolution.
- (g) Nothing in this rule 10.14 limits the operation of rule 10.15 (**Resolutions of single director company**).

10.15 Resolutions of single director company

- (a) If the company has only one director, the director may:
 - (i) pass a resolution by recording it and signing the record; and
 - (ii) make a declaration by recording it and signing the record.
- (b) The record of the decision is to be taken as a minute of the passing of that resolution.
- (c) The record of the declaration:
 - (i) satisfies any requirement in the Corporations Act that the declaration be made at a directors' meeting; and
 - (ii) is to be taken as a minute of the making of the declaration.

10.16 Alternate directors

- (a) A director may, with the approval of the directors, appoint a person to be the director's alternate director for a period which the director thinks fit.
- (b) An alternate director may be a member or a director of the company but need not be a member or a director.
- (c) One person may act as alternate director to more than one director.
- (d) An alternate director is entitled, if the appointer does not attend a meeting of directors, to attend and vote in place of and on behalf of the appointer.
- (e) An alternate director is entitled to a separate vote for each director the alternate director represents in addition to any vote the alternate director may have as a director in his or her own right.
- (f) In the absence of the appointer, an alternate director may exercise any powers that the appointer may exercise and the exercise of that power by the alternate director is to be taken to be the exercise of the power by the appointer.

- (g) The office of an alternate director is vacated if and when the appointer vacates office as a director.
- (h) The appointment of an alternate director may be terminated at any time by the appointer even though the period of the appointment of the alternate director has not expired.
- (i) An appointment, or the termination of an appointment, of an alternate director must be in writing signed by the director who makes or made the appointment and does not take effect unless and until the company has received notice in writing of the appointment or termination.
- (j) An alternate director is not to be taken into account in determining the minimum or maximum number of directors allowed under this constitution.
- (k) In determining whether a quorum is present at a meeting of directors, a director or an alternate director who attends the meeting is to be counted once only.
- (l) An alternate director is entitled to be paid the remuneration which the directors think fit, either in addition to or in reduction of the remuneration payable to the director for whom the alternate director acts as alternate.
- (m) An alternate director is not entitled to be remunerated by the company for his or her services as alternate director except as provided in rule 10.16(l).
- (n) An alternate director, while acting as a director, is responsible to the company for his or her own acts and defaults and is not to be taken to be the agent of the director by whom he or she was appointed.

10.17 Committees of directors

- (a) The directors may resolve to delegate any of their powers to a committee or committees consisting of such number of directors as they think fit.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The provisions of this constitution applying to meetings and resolutions of directors apply, so far as they can and with the changes as are necessary, to meetings and resolutions of a committee of directors.
- (d) Membership of a committee of directors may be treated as an extra service or special exertion performed by the members of the committee for the purposes of rule 10.3(d) if:
 - (i) the directors resolve to do so; and
 - (ii) the total amount fixed by the company for remuneration of directors under rule 10.3(a) will not be exceeded.

10.18 Delegation to individual directors

- (a) The directors may resolve to delegate any of their powers to one director.
- (b) A director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.

- (c) Acceptance of such a delegation may be treated as an extra service or special exertion performed by the delegate for the purposes of rule 10.3(d) if:
 - (i) the directors resolve to do so; and
 - (ii) the total amount fixed by the company for remuneration of directors under rule 10.3(a) will not be exceeded.

10.19 Validity of acts

An act done by a person acting as a director or by a meeting of directors or a committee of directors attended by a person acting as a director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified to be a director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the directors or committee, as the case may be, when the act was done.

11 Executive Officers

11.1 Managing directors

- (a) The directors may appoint one or more of the directors to the office of managing director.
- (b) A managing director's appointment as managing director automatically terminates if the managing director ceases to be a director.

11.2 Secretaries

- (a) The directors may appoint a secretary or more than one secretary.
- (b) The directors may appoint one or more assistant secretaries.
- (c) Any director may also be the secretary or a secretary of the company.

11.3 Provisions applicable to all executive officers

- (a) A reference in this rule 11.3 to an executive officer is a reference to a managing director, secretary or assistant secretary appointed under this rule 11.
- (b) The appointment of an executive officer may be for the period, at the remuneration and on the conditions the directors think fit.
- (c) Subject to any contract between the company and the relevant executive officer, an executive officer of the company may be removed or dismissed by the directors at any time, with or without cause. Such removal or dismissal does not remove that person from office as a director.
- (d) The directors may:

- (i) confer on an executive officer the powers, discretions and duties as they think fit, and may resolve to delegate any powers, discretions and duties vested in or exercisable by the directors;
 - (ii) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
 - (iii) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
- (e) An executive officer is not required to hold any shares to qualify for appointment.
- (f) An act done by a person acting as an executive officer is not invalidated by reason only of:
- (i) a defect in the person's appointment as an executive officer; or
 - (ii) the person being disqualified to be an executive officer,
- if that circumstance was not known by the person when the act was done.

12 Seals

12.1 Adoption of common seal

- (a) The directors may determine that the company have a common seal or that the company no longer have a common seal, and may revoke a determination made under this rule 12.1(a).
- (b) Rules 12.2 (**Safe custody of Seal**), 12.3 (**Use of Seal**), 12.4 (**Duplicate Seal**), 12.5 (**Share seal or certificate seal**) and 12.6 (**Sealing and signing of certificates**) only apply if the company has a common seal.

12.2 Safe custody of Seal

The directors must provide for the safe custody of the Seal.

12.3 Use of Seal

- (a) The Seal must be used only by the authority of the directors or a committee of the directors authorised by the directors to authorise the use of the Seal.
- (b) The authority to use the Seal may be given before or after the Seal is used.
- (c) Subject to rule 12.3(d) and rule 12.6 (**Sealing and signing of certificates**), until the directors otherwise determine, the fixing of the Seal to a document must be witnessed by a director and by another director, a secretary or another person appointed by the directors to witness that document or a class of documents in which that document is included.
- (d) Where the company has only one director who is also the only secretary of the company, every document to which the Seal is fixed must be signed by the director with a statement next to the signature to the effect that the director witnesses the sealing in the capacity of sole director and sole secretary of the company.

12.4 Duplicate seal

- (a) The company may have for use in place of its common seal outside the state or territory where its common seal is kept one or more duplicate seals, each of which must be a facsimile of the common seal of the company with the addition on its face of the words "duplicate seal" and the name of the place where it is to be used.
- (b) A document sealed with a duplicate seal is to be taken as having been sealed with the common seal of the company.

12.5 Share seal or certificate seal

- (a) The company may have for use on certificates for securities of the company in place of its common seal one or more duplicate seals, each of which must be a facsimile of the common seal of the company with the addition on its face of the words "share seal" or "certificate seal".
- (b) A certificate for securities of the company sealed with a share seal or certificate seal is to be taken as having been sealed with the common seal of the company.

12.6 Sealing and signing of certificates

The directors may determine either generally or in a particular case that the seal and the signature of any director, secretary or other person is to be printed on or fixed to any certificates for securities in the company by some mechanical or other means.

13 Dividends and Reserves

13.1 Dividends

- (a) Subject to the Corporations Act and this constitution, the directors may pay any interim and final dividends as, in their judgment, the financial position of the company justifies.
- (b) The directors may pay any dividend required to be paid under the terms of issue of a share.
- (c) The payment of a dividend does not require confirmation by a general meeting.
- (d) Subject to any rights or restrictions attached to a share or class of shares:
 - (i) all dividends in respect of a share must be paid in the proportion which the amount paid (not credited) on the share bears to the total amounts paid and payable (excluding amounts credited) on the share;
 - (ii) all dividends must be apportioned and paid proportionately to the amount paid during any portion or portions of the period in respect of which the dividend is paid;
 - (iii) for the purposes of rules 13.1(d)(i) and 13.1(d)(ii), an amount paid on a share in advance of a call is to be ignored; and
 - (iv) interest is not payable by the company in respect of any dividend.
- (e) The directors may fix a record date in respect of a dividend, with or without suspending the registration of transfers from that date under rule 6.4 (**Power to suspend registration of transfers**).

- (f) A dividend in respect of a share must be paid to the person who is registered, or entitled under rule 6.1(g) to be registered, as the holder of the share:
 - (i) where the directors have fixed a record date in respect of the dividend, on that date; or
 - (ii) where the directors have not fixed a record date in respect of that dividend, on the date the dividend is paid,
 and a transfer of a share that is not registered, or left with the company for registration in accordance with rule 6.1(f), on or before that date is not effective, as against the company, to pass any right to the dividend.
- (g) The directors when fixing the amount and time for payment of a dividend may:
 - (i) direct payment of the dividend wholly or partly by the distribution of specific assets, including fully paid shares or other securities of the company or of another body corporate, either generally or to specific shareholders; and
 - (ii) direct that the dividend be paid to particular shareholders wholly or partly out of any particular fund or reserve or out of profits derived from any particular source and to the remaining shareholders wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source or generally.
- (h) The directors may deduct from any dividend payable to a member all sums of money presently payable by the member to the company and apply the amount deducted in or towards satisfaction of the money owing.
- (i) Where a person is entitled to a share as a result of a Transmission Event, the directors may, but are not obliged to, retain any dividends payable on that share until that person becomes registered as the holder of the share or transfers it.
- (j) Any dividend, interest or other money payable in cash in respect of shares may be paid by cheque and sent by post:
 - (i) to the address of the holder as shown in the register of members, or in the case of joint holders, to the address shown in the register of members as the address of the joint holder first named in that register; or
 - (ii) to such other address as the holder or joint holders in writing directs or direct.
 This rule 13.1(j) does not adversely affect any other method of payment the directors may adopt.
- (k) A cheque sent under rule 13.1(j) may be made payable to bearer or to the order of the member to whom it is sent or any other person the member directs and is sent at the member's risk.

13.2 Capitalisation of profits

- (a) Subject to any rights or restrictions attached to any shares or class of shares, the directors may capitalise and distribute among such of the members as would be entitled to receive dividends and in the same proportions, any amount:
 - (i) forming part of the undivided profits of the company;

- (ii) representing profits arising from an ascertained accretion to capital or from a revaluation of the assets of the company;
 - (iii) arising from the realisation of any assets of the company; or
 - (iv) otherwise available for distribution as a dividend.
- (b) The directors may resolve that all or any part of the capitalised amount is to be applied:
- (i) in paying up in full any unissued shares in or other securities of the company;
 - (ii) in paying up any amounts unpaid on shares or other securities held by the members;
 - (iii) partly as specified in rule 13.2(b)(i) and partly as specified in rule 13.2(b)(ii); or
 - (iv) in any other way permitted by the Corporations Act,
- and that application must be accepted by the members entitled to share in the distribution in full satisfaction of their interests in the capitalised amount.
- (c) Rules 13.1(e) and 13.1(f) apply, so far as they can and with any necessary changes, to a capitalisation of an amount under this rule 13.2 as if references in those rules to a dividend and to the date a dividend is paid were references to a capitalisation of an amount and to the date the directors resolve to capitalise the amount under this rule 13.2 respectively.

13.3 Ancillary powers

- (a) The directors may do any of the following things to give effect to a resolution for the satisfaction of a dividend in the manner set out in rule 13.1(g)(i) or by the capitalisation of an amount under rule 13.2 (**Capitalisation of profits**):
- (i) settle as they think expedient any difficulty that may arise in making the distribution or capitalisation and, in particular, where shares or other securities in the company are or would otherwise be issuable in fractions:
 - (A) determine that fractions are to be disregarded or are to be rounded down to the nearest whole number; or
 - (B) determine that fractions are to be rounded up to the nearest whole number;
 - (ii) fix the value for distribution of any specific assets;
 - (iii) pay cash or issue shares or other securities to any members in order to adjust the rights of all parties;
 - (iv) vest any specific assets, cash, shares or other securities in a trustee on such trusts for the persons entitled to the dividend or capitalised amount as may seem expedient to the directors; and
 - (v) authorise any person to make, on behalf of all the members entitled to any further shares or other securities as a result of the distribution or capitalisation, an agreement with the company or another body corporate providing, as appropriate:

- (A) for the issue to them of further shares or other securities as fully paid; or
- (B) for the payment by the company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares or other securities by the application of their respective proportions of the sum resolved to be capitalised,

and any agreement made under an authority referred to in this rule 13.3(a)(v) is effective and binding on all members concerned.

- (b) If the company distributes to a member shares or other securities in the company or another body corporate or a trust, the member appoints the company as his or her agent to do anything needed to give effect to that distribution, including agreeing to become a member of that other body corporate.

13.4 Reserves

- (a) Subject to this constitution, the directors may set aside out of the profits of the company reserves or provisions for any purpose as they think fit.
- (b) The setting aside of an amount as a reserve or provision does not require the directors to keep the amount separate from other assets of the company or prevent the amount being used in the business of the company or invested as the directors think fit or subsequently being distributed to members.

14 Financial reporting and auditing

14.1 Financial reporting

- (a) While the company has one or more members who acquired their shares in connection with a CSF Offer it must:
 - (i) prepare an annual financial report and directors' report in accordance with accounting standards (**Annual Reports**);
 - (ii) lodge the Annual Reports with ASIC within four months of the end of the financial year; and
 - (iii) subject to rule 14.1(b), make the Annual Reports readily accessible on a website.
- (b) Where the Company is a Large Proprietary Company, it must:
 - (i) notify each member in writing on at least one occasion of the alternative ways to receive or access the Annual Reports—being either in hard copy or electronic copy free of charge, or accessed on the company's (or another specified) website;
 - (ii) distribute copies of the company's Annual Reports or a concise report to members in the format elected by the member, within four months of the end of the financial year; and
 - (iii) make a copy of its Annual Reports or a concise report readily accessible on a website (if a member does not elect to receive a copy) and must also notify the member in writing that the report is accessible on the website.

14.2 Appointment of Auditor

Except where the company is a Large Proprietary Company and subject to the Corporations Act, the company will not have its financial accounts audited unless it has:

- (a) one or more members who acquired their shares in connection with a CSF Offer; and
- (b) raised at least \$3 million from all CSF Offers it has made,

in which case it must:

- (c) appoint an auditor within one month of the company raising \$3 million from its CSF offers and ensure that an auditor remains appointed at all times until it is no longer required to appoint an auditor;
- (d) have its financial report audited and include the auditor's declaration of independence
- (e) in the directors' report; and
- (f) lodge the auditor's report with ASIC (together with the financial report and directors' report) within four months of the end of the financial year.

15 Drag along and tag along

15.1 Drag along notice

- (a) If:
 - (i) the company or any member receives a bona fide offer from a Third Party to purchase all of the shares in the company; and
 - (ii) members holding at least 70% of the shares in the company (**Dragging Member**) accept the offer,any Dragging Member may issue to all of the remaining members (**Other Members**) a notice (**Drag Along Notice**) requiring each Other Members to sell all of their shares to the Third Party and on the terms and conditions specified in the Drag Along Notice.
- (b) The Drag Along Notice must specify:
 - (i) the details of the Third Party purchaser;
 - (ii) the price payable for each share; and
 - (iii) any other key terms and conditions upon which the Other Members' shares will be purchased.
- (c) The terms on which the Dragging Members require the Other Members to sell their shares must be no less favourable than the terms on which the Dragging Members are selling their shares.
- (d) Each Other Member must, within ten Business Days after the date of the Drag Along Notice, transfer all of its shares to the Third Party in accordance with the terms and conditions specified in the Drag Along Notice, provided that the Other Members will not be obliged to transfer their shares if the Dragging Members do not transfer their shares to the Third Party on the terms and conditions set out in the Drag Along Notice.

15.2 Tag along

- (a) Where one or more members receive a bona fide offer from a Third Party to purchase at least 70% of the Securities in the Company, those members (the **Selling Members**) must give each other member (the **Tag Members**) a written notice (**Tag Notice**) giving the Tag Members the option to require the Selling Members to procure that the Third Party purchases all of the Tag Members' shares on the same terms and at the same time as the Third Party purchases the Selling Members' shares (**Tag Option**).
- (b) A Tag Notice must specify:
 - (i) the details of the Third Party purchaser;
 - (ii) the number of shares to be transferred to the Third Party by the Selling Members;
 - (iii) the price payable for each shares;
 - (iv) any other key terms and conditions of the proposed transfer; and
 - (v) the period during which the Tag Option may be exercised, which must be a period of at least ten business days from the date of the Tag Notice (Tag Period).
- (c) The Tag Option must be exercised by written notice (**Exercise Notice**) to the Selling Members within the Tag Period.
- (d) If any Tag Member exercises its Tag Option, the Selling Members must not transfer any of their shares to the Third Party unless the Third Party purchases the shares specified in the Exercise Notice at the same time and on the same terms.

16 Winding Up

16.1 Distribution of surplus

Subject to this constitution and to the rights or restrictions attached to any shares or class of shares:

- (a) if the company is wound up and the property of the company is more than sufficient:
 - (i) to pay all of the debts and liabilities of the company; and
 - (ii) the costs, charges and expenses of the winding up,

the excess must be divided among the members in proportion to the shares held by them, irrespective of the amounts paid or credited as paid on the shares;
- (b) for the purpose of calculating the excess referred to in rule 16.1(a), any amount unpaid on a share is to be treated as property of the company;
- (c) the amount of the excess that would otherwise be distributed to the holder of a partly paid share under rule 16.1(a) must be reduced by the amount unpaid on that share at the date of the distribution; and
- (d) if the effect of the reduction under rule 16.1(c) would be to reduce the distribution to the holder of a partly paid share to a negative amount, the holder must contribute that amount to the company.

16.2 Division of property

- (a) If the company is wound up, the liquidator may, with the sanction of a special resolution:
 - (i) divide among the members the whole or any part of the property of the company; and
 - (ii) determine how the division is to be carried out as between the members or different classes of members.
- (b) A division under rule 16.2(a) may be otherwise than in accordance with the legal rights of the members and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part.
- (c) Where a division under rule 16.2(a) is otherwise than in accordance with the legal rights of the members, a member is entitled to dissent and to exercise the same rights as if the special resolution sanctioning that division were a special resolution passed under section 507 of the Corporations Act.
- (d) If any of the property to be divided under rule 16.2(a) includes securities with a liability to calls, a person entitled under the division to any of the securities may within 10 days after the passing of the special resolution referred to in that rule, by notice in writing direct the liquidator to sell the person's proportion of the securities and to account for the net proceeds and the liquidator must, if practicable, act accordingly.
- (e) Nothing in this rule 16.2 adversely affects any right to exercise any statutory or other power which would have existed if this rule were omitted.
- (f) Rule 13.3 (**Ancillary powers**) applies, so far as it can and with necessary changes, to a division by a liquidator under rule 16.2(a) as if references in rule 13.3(a) to the directors and to a distribution or capitalisation were references to the liquidator and to the division under rule 16.2(a) respectively.

17 Minutes and Records

17.1 Minutes

The directors must cause minutes of:

- (a) all proceedings and resolutions of general meetings;
- (b) proceedings and resolutions of meetings of the directors and of committees of the directors;
- (c) resolutions passed by members without a meeting;
- (d) resolutions passed by a director or directors without a meeting; and
- (e) declarations made by a director of a single director company,

to be recorded and entered in books kept for that purpose, within one month after the meeting is held, the resolution is passed or the declaration is made.

17.2 Signing of minutes

- (a) Minutes of a meeting must be signed by the chair of the meeting or the chair of the next meeting within a reasonable time after the meeting.
- (b) Minutes of the passing of a resolution without a meeting or the making of a declaration must be signed by a director within a reasonable time after the resolution is passed.

17.3 Minutes as evidence

A minute that is recorded and signed in accordance with rules 17.1 (**Minutes**) and 17.2 (**Signing of minutes**) is evidence of the proceeding or resolution to which it relates, unless the contrary is proved.

17.4 Inspection of records

- (a) Subject to the Corporations Act, the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the company or any of them will be open to the inspection of members other than directors.
- (b) A member other than a director does not have the right to inspect any books, records or documents of the company except as provided by law or authorised by the directors.

18 Indemnity and Insurance

18.1 Persons to whom rules 18.2 (Indemnity) and 18.4 (Insurance) apply

Rules 18.2 (**Indemnity**) and 18.4 (**Insurance**) apply:

- (a) to each person who is or has been a director, alternate director or executive officer (within the meaning of rule 11.3(a)) of the company;
- (b) to such other officers or former officers of the company or of its related bodies corporate as the directors in each case determine; and
- (c) if the directors so determine, to any auditor or former auditor of the company or of its related bodies corporate.

18.2 Indemnity

The company must indemnify to the extent permitted by law, each person to whom this rule 18.2 applies for all losses or liabilities incurred by the person as an officer or, if the directors so determine, an auditor of the company or of a related body corporate including, but not limited to, a liability for negligence or for legal costs on a full indemnity basis.

18.3 Extent of Indemnity

The indemnity in rule 18.2 (**Indemnity**):

- (a) is a continuing obligation and is enforceable by a person to whom rule 18.2 (**Indemnity**) applies even though that person may have ceased to be an officer or auditor of the company or of a related body corporate;
- (b) applies to losses and liabilities incurred both before and after the date of adoption of that rule; and

- (c) operates only to the extent that the loss or liability is not covered by insurance.

18.4 Insurance

The company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this rule 18.4 applies against any liability incurred by the person as an officer or auditor of the company or of a related body corporate including, but not limited to, a liability for negligence or for legal costs.

18.5 Savings

Nothing in rules 18.2 (**Indemnity**) or 18.4 (**Insurance**):

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any loss or liability referred to in those rules; or
- (b) limits the capacity of the company to indemnify or provide insurance for any person to whom those rules do not apply.

19 Notices

19.1 Notices by the company to members

- (a) A notice may be given by the company to a member:
 - (i) by serving it personally at, or by sending it by post in a prepaid envelope to, the member's address as shown in the register of members or such other address, or by fax or electronic mail to such fax number or electronic address as the member has supplied to the company for the giving of notices; or
 - (ii) if the member does not have a registered address and has not supplied another address to the company for the giving of notices, by exhibiting it at the registered office of the company.
- (b) A notice may be given by the company to the joint holders of a share in the manner authorised by rule 19.1(a):
 - (i) in the case of a notice for the purpose of a resolution under rule 9.9(a), to each joint holder; and
 - (ii) in all other cases, to the joint holder first named in the register of members in respect of the share.
- (c) A notice may be given by the company to a person entitled to a share as a result of a Transmission Event by serving it or sending it in the manner authorised by rule 19.1(a)(i) addressed to the name or title of the person, at or to the address, fax number or electronic address supplied to the company for the giving of notices to that person, or if no address, fax number or electronic address has been supplied, at or to the address, fax number or electronic address to which the notice might have been sent if the relevant Transmission Event had not occurred.

- (d) The fact that a person has supplied a fax number or electronic address for the giving of notices does not require the company to give any notice to that person by fax or electronic mail.
- (e) A notice given to a member in accordance with rules 19.1(a) or 19.1(b) is, despite the occurrence of a Transmission Event and whether or not the company has notice of that occurrence:
 - (i) duly given in respect of any shares registered in that person's name, whether solely or jointly with another person; and
 - (ii) sufficient service on any person entitled to the shares as a result of the Transmission Event.
- (f) A notice given to a person who is entitled to a share as a result of a Transmission Event is sufficient service on the member in whose name the share is registered.
- (g) Any person who, because of a transfer of shares, becomes entitled to shares registered in the name of a member is bound by every notice which, before that person's name and address is entered in the register of members in respect of those shares, is given to the member in accordance with this rule 19.1.
- (h) A signature to any notice given by the company to a member under this rule 19.1 may be in writing or a facsimile printed or fixed by some mechanical or other means.
- (i) A certificate signed by a director or secretary of the company to the effect that a notice has been given in accordance with this constitution is conclusive evidence of that fact.

19.2 Notices by the company to directors

Subject to this constitution, a notice may be given by the company to any director or alternate director either by serving it personally at, or by sending it by post in a prepaid envelope to, the director's or alternate director's usual residential or business address, or such other address, or by fax or electronic mail to such fax number or electronic address as the director or alternate director has supplied to the company for the giving of notices.

19.3 Notices by members or directors to the company

Subject to this constitution, a notice may be given by a member, director or alternate director to the company by serving it on the company at, or by sending it by post in a prepaid envelope to, the registered office of the company or by fax or electronic mail to the principal fax number or a nominated electronic address at the registered office of the company.

19.4 Notices to members outside Australia

A notice to be sent to a member outside Australia and its external territories must be sent by airmail, fax or electronic mail, or in another way that ensures it will be received quickly.

19.5 Time of service

- (a) Where a notice is served personally, service of the notice is taken to be effected when delivered.
- (b) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:

- (i) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (c) Where a notice is sent by fax, the notice is to be taken to be given on the business day after it is sent.
 - (d) Where a notice is sent by electronic mail, service of the notice is taken to be effected if the sender receives a confirmation of delivery and is taken to be given on the business day after it is sent.
 - (e) Where the company gives a notice under rule 19.1(a)(ii) by exhibiting it at the registered office of the company, service of the notice is to be taken to be effected when the notice was first so exhibited.

19.6 Other communications and documents

Rules 19.1 (**Notices by the company to members**) to 19.5 (**Time of service**) (inclusive) apply, so far as they can and with necessary changes, to the service of any communication or document.

19.7 Notices in writing

A reference in this constitution to a notice in writing includes a notice given by fax, electronic mail or another form of written communication.

20 General

20.1 Currency

An amount payable to the holder of a share, whether by way of or on account of dividend, return of capital, participation in the property of the company on a winding up or otherwise, may be paid, with the agreement of the holder or pursuant to the terms of issue of the share, in the currency of a country other than Australia and the directors may fix a date up to 30 days before the payment date as the date on which any applicable exchange rate will be determined for that purpose.

20.2 Submission to jurisdiction

Each member submits to the non-exclusive jurisdiction of the Supreme Court of the State or Territory in which the registered office of the company is located, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

20.3 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

Schedule 1 Dictionary

1 Dictionary

In this constitution:

Business Day means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in the city where the notice or other communication is received;

Corporations Act means *Corporations Act 2001* (Cth);

CSF Offer has the meaning given to it in rule 3.2(a)(i).

Critical Business Matters means a matter of a type specified in Schedule 2 which must be decided unanimously by the Founder Directors or Founder Shareholders (as relevant).

Excluded Issue means:

- (a) an issue of shares under a Share Plan in rule 8;
- (b) in any given Financial Year, one or more issuances of shares which in total is less than or equal to 20% of the number of fully paid ordinary shares on issue at the commencement of that Financial Year excluding the issuance otherwise contemplated as an Excluded Issue;
- (c) shares issued upon conversion or exercise of a security previously issued by the company in accordance with the terms of this constitution;
- (d) shares issued in connection with a share split or the issue of dividends which has been approved in accordance with rule 10.6;
- (e) shares issued as part of an initial public offering of the company to the official list of the ASX Limited or any other recognised stock exchange which has been approved in accordance with rule 10.6; or
- (f) shares constituting all or part of the consideration for a bona-fide acquisition of assets or shares by the company which has been approved in accordance with rule 10.6.

Financial Year means has the meaning given to it in the Corporations Act.

Founder means each of Oren Barak & Adi Barak.

Founder Director means the director appointed by the Founder pursuant to rule 10.1(e).

Founder Shareholder means, in respect of the Founder, the entity which owns that Founder's shares.

GST Law has the meaning given to it in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

GST means a goods and services tax, or a similar value added tax, levied or imposed under the GST Law;

Large Proprietary Company has the meaning given in the Corporations Act.

Representative, in relation to a body corporate, means a representative of the body corporate appointed under section 250D of the Corporations Act or a corresponding previous law;

Seal means any common seal, duplicate seal, share seal or certificate seal of the company;

Security Interest means a charge, mortgage or other encumbrance over the shares; and

Share Plan has the meaning given to it in rule 8(a).

Transmission Event means:

- (a) in respect of a member of the company who is an individual:
 - (i) the death of the member;
 - (ii) the bankruptcy of the member; or
 - (iii) the member becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; and
- (b) in respect of a member of the company who is a body corporate, the dissolution of the member or the succession by another body corporate to the assets and liabilities of the member.

Third Party means a person other than the company or a member.

2 Interpretation

2.1 General

- (a) A reference in a rule to a partly paid share is a reference to a share on which there is an amount unpaid.
- (b) In a rule relating to partly paid shares, a reference to a call or an amount called in respect of a share includes a reference to a sum that, by the terms of issue of a share, becomes payable on issue or at a fixed date.
- (c) A member is to be taken to be present at a general meeting if the member is present in person or by proxy, attorney or Representative.
- (d) A director is to be taken to be present at a meeting of directors if the director is present in person or by alternate director.
- (e) Where a provision of this constitution establishes an office of chair, the chair may be referred to as a chairman or chairwoman, as the case requires.
- (f) A reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (g) In this constitution, headings and underlinings are for convenience only and do not affect the interpretation of this constitution and, unless the contrary intention appears:
 - (i) words importing the singular include the plural and vice versa;
 - (ii) words importing a gender include every other gender;

- (iii) words used to denote persons generally or importing a natural person include any company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
- (iv) a reference to a person includes that person's successors and legal personal representatives;
- (v) a reference to any statute, regulation, proclamation, ordinance or by-laws includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and
- (vi) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

2.2 Application of the Corporations Act

- (a) This constitution is to be interpreted subject to the Corporations Act.
- (b) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the Corporations Act, has the same meaning as in that provision.
- (c) Subject to paragraph (b), unless the contrary intention appears, an expression in a rule that is defined in section 9 of the Corporations Act has the same meaning as in that section.

2.3 Exercise of powers

- (a) The company may exercise in any manner permitted by the Corporations Act any power which under the Corporations Act a company limited by shares may exercise if authorised by its constitution.
- (b) Where this constitution provides that a person or body may do a particular act or thing and the word "may" is used, the act or thing may be done at the discretion of the person or body.
- (c) Where this constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- (e) Where this constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
 - (i) to appoint a person to act in the office or position until a person is appointed to the office or position;
 - (ii) subject to any contract between the company and the relevant person, to remove or suspend any person appointed, with or without cause; and

- (iii) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (f) Where this constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (g) Where this constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (h) Where this constitution confers power on a person or body to delegate a function or power:
 - (i) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
 - (ii) the delegation may be either general or limited in any manner provided in the terms of delegation;
 - (iii) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
 - (iv) the delegation may include the power to delegate;
 - (v) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and
 - (vi) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

2.4 Replaceable rules not to apply

The replaceable rules applicable to a proprietary company contained in the Corporations Act from time to time do not apply to the company.

2.5 Single member company

If at any time the company has only one member then, unless the contrary intention appears:

- (a) a reference in a rule to the “members” is a reference to that member; and
- (b) without limiting paragraph (a), a rule which confers power or imposes an obligation on the members to do a particular act or thing confers that power or imposes that obligation on that member.

2.6 Single director company

If at any time the minimum number of directors fixed under this constitution is one and the company in fact only has one director then, unless the contrary intention appears:

- (a) a reference in a rule to “the directors” is a reference to that director; and

- (b) without limiting paragraph (a), a rule which confers a power or imposes an obligation on the directors to do a particular act or thing confers that power or imposes that obligation on the director.

Schedule 2 Critical Business Matters

Part 1 – Founder Shareholder unanimous approval

- (a) The merging of company with any other entity, or the entry by the company into any commercial joint venture or similar arrangement with any person or entity.
- (b) A sale of the whole of the business of the Company.
- (c) Materially varying the terms of an agreement for the sale of the business of the Company.
- (d) Starting a new business, significantly changing the nature of the business of the Company, expanding the business of the Company into a new geographical area, or ceasing to carry on the business of the Company.
- (e) The issue of any new shares in the company.
- (f) Agreeing to buy back or redeem any shares in the company, or otherwise determining to reduce the capital of the company.
- (g) Borrowing or expending capital in excess of a limit set by the Founder Directors by resolution, or, where no such limit has been set, doing so in a manner which seriously affects or will affect the company's asset/liability position and/or its capacity to carry on the business of the Company.
- (h) Significantly reducing or diminishing the assets of the company or taking any action that could significantly diminish the value of those assets.
- (i) Approving any significant expenditure not unanimously agreed to by the board.
- (j) Encumbering the assets of the company, and/or acquiring or disposing of key assets or assets in excess of a value set by the members by resolution.
- (k) Establishing the director remuneration under rule 10.3.
- (l) Declaring a dividend under rule 13.
- (m) The company buying back its own shares from a member.
- (n) Approval of major contracts, meaning contracts that will impose significant obligations or liabilities on the company and/or the business of the Company.
- (o) The formation, acquisition and disposal of subsidiaries.
- (p) Encumbering or granting security interests over the assets of the company or assigning or factoring the debts of the company.
- (q) Launching legal action on behalf of the company, except for the recovery of trade debts.
- (r) Changing the company's bank or significantly changing its banking arrangements, including opening new accounts and making investments.
- (s) Making any variation to this constitution.

Part 2 – Founder Director unanimous approval

- (a) Employing any person permanently, or employing any person temporarily or casually, and dismissing any such employee.
- (b) Entering into any contract or arrangement on behalf of the company, or which binds or affects the company, that imposes any significant new expenditure obligation or which attracts or involves any significant new liability.
- (c) Incurring debts otherwise than in the ordinary course of business.
- (d) Changing the company's accountants.
- (e) Delaying the preparation of the company's financial accounts.