

Constitution of Coached Education Pty Ltd

ACN 619 980 602

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Constitution

Coached Education Pty Ltd ACN 619 980 602

1 Preliminary

1.1 Interpretation

In this constitution:

- (a) a reference to a partly paid Share is a reference to a Share on which there is an amount unpaid;
- (b) a reference to an amount unpaid on a Share includes a reference to any amount of the issue price which is unpaid;
- (c) a reference to a call or an amount called on a Share includes a reference to a sum that, by the terms of issue of a share, becomes payable at one or more fixed times;
- (d) a reference to a member for the purposes of a meeting of members for which the caller of the meeting has determined a Record Time is a reference to a registered holder of Shares at the relevant Record Time;
- (e) a reference to a member present at a general meeting is a reference to a member present in person or by proxy, attorney or Representative including by participating using technology approved by the directors for the purposes of the meeting;
- (f) a reference to a person holding or occupying a particular office or position is a reference to any person who occupies or performs the duties of that office or position;
- (g) unless the contrary intention appears:
 - (i) the singular includes the plural and vice versa;
 - (ii) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity;
 - (iii) a reference to a person includes that person's successors, legal personal representatives, permitted substitutes and permitted assigns;
 - (iv) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (v) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
 - (vi) a reference to a rule is a reference to a rule of this constitution;

- (vii) a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced;
- (viii) if any day on or by which a person must do something under this constitution is not a Business Day, then the person must do it on or by the next Business Day;
- (ix) the meaning of general words is not limited by specific examples introduced by 'including', 'for example', 'such as' or similar expressions;
- (x) a reference to 'law' includes common law, principles of equity and legislation (including regulations);
- (xi) a term which has a defined meaning in the Corporations Act has the same meaning when used in this constitution;
- (xii) a reference to 'amend' includes vary, delete or replace;
- (xiii) headings are for convenience only and do not affect interpretation; and
- (xiv) a reference to 'Shareholders' Agreement' is to be disregarded if there is no Shareholders' Agreement in place at the time or, where the Shareholders' Agreement is in place at the time, it is not relevant to the particular provision in question.

1.2 Application of the Corporations Act

- (a) The replaceable rules in the Corporations Act do not apply to the company.
- (b) Where an expression is used in a manner consistent with a provision of the Corporations Act, the expression has the same meaning as in that provision.

1.3 Exercising powers

- (a) The company may exercise any power, take any action or engage in any conduct which the Corporations Act permits a company limited by Shares to exercise, take or engage in.
- (b) A power conferred on a person to do a particular act or thing under this constitution includes, unless the contrary intention appears, a power (exercisable in the same way and subject to the same conditions) to repeal, rescind, revoke, amend or vary that act or thing.
- (c) A power conferred under this constitution to do a particular act or thing:
 - (i) may be exercised from time to time and subject to conditions; and
 - (ii) may, where the power concerns particular matters, be exercised for only some of those matters or as to a particular class of those matters, and to make different provision concerning different matters or different classes of matters.
- (d) Where a power to appoint a person to an office or position is conferred under this constitution (except the power to appoint a director under rule 18.2) the power includes, unless the contrary intention appears, a power to:

- (i) appoint a person to act in the office or position until another person is appointed to the office or position;
 - (ii) remove or suspend any person appointed (without prejudice to any rights or obligations under any contract between the person and the company); and
 - (iii) appoint another person temporarily in the place of any person removed or suspended or in the place of any sick or absent holder of the office or position.
- (e) Where this constitution gives power to a person to delegate a function or power:
- (i) the delegation may be concurrent with, or (except in the case of a delegation by the directors) to the exclusion of, the performance or exercise of that function or power by the person;
 - (ii) the delegation may be either general or limited in any way provided in the terms of delegation;
 - (iii) the delegation need not be to a specified person but may be to any person holding, occupying or performing the duties of a specified office or position;
 - (iv) the delegation may include the power to delegate; and
 - (v) where performing or exercising that function or power depends on that person's opinion, belief or state of mind about a matter, that function or power may be performed or exercised by the delegate on the delegate's opinion, belief or state of mind about that matter

2 CAPITAL

2.1 Shares

Subject to this constitution and the Corporations Act, the directors may:

- (a) issue and cancel Shares;
- (b) grant options over unissued Shares;
- (c) settle the manner in which fractions of a Share are to be dealt with; and
- (d) decide:
 - (i) the persons to whom Shares are issued or options are granted;
 - (ii) the price at which the Shares are issued or options are granted;
 - (iii) the terms on which Shares are issued or options are granted; and
 - (iv) the rights and restrictions attached to those Shares or options.

2.2 Ordinary Share rights

The company may issue ordinary Shares. Each ordinary Share confers on the holder the right to:

- (a) receive notice of and to attend general meetings of the company;
- (b) vote at any general meeting of the company, on the basis of one vote for each Share held;
- (c) receive dividends as determined from time to time by the directors to be payable to the holders of ordinary Shares; and
- (d) on a winding up of the company or on a return of capital by the company, subject to the prior rights of any Shares issued with preferential rights on a winding up or return of capital, each holder of ordinary Shares has the right to the capital paid up on that Share and to participate in the distribution of the surplus assets of the company.

2.3 Preference Share rights

The company may issue preference Shares including preference Shares which are, at the option of the company or holder, liable to be redeemed or converted to ordinary Shares.

1.1 Other existing classes of share

Any other class of share which exists at the date of the adoption of this constitution will continue to have the same rights and entitlements that existed prior to that date, unless otherwise determined in accordance with this constitution and the Corporations Act.

2.4 Alteration of Share Capital

Subject to the Corporations Act, the company may resolve to convert or reclassify Shares from one class to another and the directors may do anything required to give effect to that resolution.

2.5 Variation of class rights

- (a) The rights attached to any class of Shares may, unless their terms of issue state otherwise, be varied:
 - (i) with the written consent of the holders of 75% of the Shares of the class; or
 - (ii) by a special resolution passed at a separate meeting of the holders of Shares of the class.
- (b) The rights conferred on the holders of any class of Shares are to be taken as not having been varied by the creation or issue of further Shares ranking equally with them.

2.6 Commission and brokerage

Subject to the Corporations Act, any payments by way of brokerage or commission which may be made by the company may be satisfied by the payment of cash, by the allotment of fully or partly paid Shares or partly by the payment of cash and partly by the allotment of fully or partly paid shares.

3 Certificates

3.1 Right to certificate

Subject to the Corporations Act and the conditions of issue of any Shares or any class of shares, every member is entitled, free of charge, to one certificate for all Shares registered in its name.

3.2 Share certificates for joint holders

Subject to the conditions of issue of any Shares or any class of shares, joint holders are entitled to a single certificate in their joint names in respect of each portion of their holding. The certificate will be sent to the joint holder whose name appears first in the register.

3.3 Replacement certificates

The company must issue a replacement certificate for Shares in accordance with the Corporations Act if:

- (a) the holder of the Shares is entitled to a certificate for those Shares;
- (b) satisfactory evidence has been received by the company that the certificate for Shares previously issued has been stolen, lost, damaged or destroyed and has not been pledged, charged, sold or otherwise disposed of; and
- (c) the shareholder has undertaken in writing to the company to return the certificate to the company if it is found or received by the shareholder.

4 Register

4.1 Joint holders

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

- (a) the company is not bound to register more than three persons as the holders of the Shares (except in the case of trustees, executors or administrators of a deceased shareholder);
- (b) the joint holders are jointly and severally liable for all payments which ought to be made in respect of the Shares;
- (c) only the person whose name appears first in the register as one of the joint holders of the Shares is entitled, if the company is required by the Corporations Act or this constitution to issue certificates for shares, to delivery of a certificate for the Shares; and
- (d) any one of the joint holders may vote at any meeting of the company either personally or by duly authorised representative, proxy or attorney, in respect of the Shares as if that joint holder was solely entitled to the shares, and if more than one of the joint holders are present at any meeting personally or by duly authorised representative, proxy or attorney, the joint holder who is present whose name appears first in the register for the Shares is entitled alone to vote in respect of the shares.

4.2 Equitable and other claims

The registered holder of a Share may be treated as the absolute owner of that Share by the company. The company is under no obligation to:

- (a) recognise a person as holding a Share on trust, even if the company has notice of a trust; or
- (b) recognise, or be bound by, any equitable, contingent, future or partial claim to or interest in a Share by any other person, except an absolute right of ownership in the registered holder, even if the company has notice of that claim or interest.

5 Calls on shares

5.1 Power to make calls

The directors may:

- (a) make a call on a member for any money unpaid on the Shares of that member which is not, by the terms of issue of those shares, made payable at fixed times;
- (b) require a call to be paid by instalments; and
- (c) revoke or postpone a call.

5.2 Time of calls

A call is taken to have been made when the directors' resolution authorising the call is passed or on a later date fixed by the directors.

5.3 Notice of calls

If the time for call is not specified by the terms of issue of those shares, the company must give notice of a call at least 20 Business Days before the amount called is due, specifying the time and place of payment.

5.4 Payment of calls

Each member must pay to the company, by the time and at the place specified, the amount called on the member's shares.

5.5 Fixed instalments

Any amount unpaid on a Share that, by the terms of issue of the share, becomes payable on issue or at a fixed date is taken to be a call duly made and is payable under the terms of issue of the share.

5.6 Failure to pay

- (a) If a member does not pay the amount due under a call in rule 5, by the time specified, the member must pay:
 - (i) interest on the unpaid amount from the date payment is due to the date payment is made, at a rate calculated under rule 10; and

- (ii) any costs, expenses or damages the company incurs due to the failure to pay.
- (b) The directors may waive payment under this rule wholly or in part.

5.7 Proof of call

In a proceeding to recover a call, or an amount payable due to the failure to pay or late payment of a call, proof that:

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

is conclusive evidence of the debt.

5.8 Payments in advance of calls

The directors may:

- (a) 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) authorise payment by the company of interest on that amount, until the amount becomes payable, at a rate fixed by the directors; and
- (c) repay to a member any amount accepted under rule 5.8.

5.9 Waiver

The directors may, to the extent the law permits, waive or compromise all or part of any payment due to the company under the terms of issue of a Share or under rule 5.

5.10 Differentiation between shareholders as to calls

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

6 Forfeiture of shares

6.1 Forfeiture procedure

- (a) Subject to the Corporations Act, the company may by directors' resolution forfeit a Shareholder's Share if:
 - (b) that Shareholder does not pay a call or other amount payable for that Share on or before the date for its payment;
 - (c) the company gives the Shareholder written notice:
 - (i) requiring the Shareholder to pay that call or other amount; and

- (ii) stating that the Share is liable to be forfeited if the Shareholder does not pay to the company, at the place specified in the notice, the amount specified in the notice, within 14 days (or any longer period specified) after the date of the notice; and
- (d) that Shareholder does not pay that amount under that notice.

6.2 Notice of forfeiture

- (a) The company must:
 - (i) notify a person who held the forfeited Share immediately before the forfeiture, of a resolution under rule 6.1 relating to the forfeited Share; and
 - (ii) enter the forfeiture and its date in the register of members.
- (b) Any failure to do so does not invalidate the forfeiture.

6.3 Effect of forfeiture

- (a) A forfeiture under rule 6.1 includes all dividends, interest and other amounts payable by the company on the forfeited Share and not actually paid before the forfeiture.
- (b) A forfeited Share becomes the property of the company and the directors may:
 - (i) sell, reissue or otherwise dispose of the Share as they think fit; and
 - (ii) in the case of reissue, or other disposal, with or without crediting as paid up any amount paid on the Share by any former holder.
- (c) A person whose Shares have been forfeited ceases to be a Shareholder as to the forfeited Shares, but must, if the directors decide, pay to the company:
 - (i) all calls and other amounts owing on the Shares at the time of the forfeiture; and
 - (ii) interest on the unpaid part of the amount payable under rule 6.3(c)(i), from the date of the forfeiture to the date of payment, at a rate calculated under rule 10.
- (d) A forfeiture under rule 6.1 extinguishes all interest in, and all claims against the company relating to, the forfeited Share and, subject to rule 9(i), all other rights attached to the share.
- (e) The directors may:
 - (i) exempt a Share from all or part of this rule;
 - (ii) waive or compromise all or part of any payment due to the company under this rule; and
 - (iii) before a forfeited Share has been sold, reissued or otherwise disposed of, cancel the forfeiture on the conditions they decide.

7 Lien on shares

- (a) Subject to the Corporations Act and rule 11.14, the company has a first and paramount lien on each Share for:
 - (i) all due and unpaid calls and instalments for that share;
 - (ii) all money presently payable by the holder or their estate to the company;
 - (iii) all money which the company is required by law to pay for that share;
 - (iv) reasonable interest on the amount due from the date it becomes due until payment; and
 - (v) reasonable expenses of the company relating to the default on payment.

7.2 Lien on distributions

A lien under rule 7.1 extends to all distributions for that share, including dividends.

7.3 Sale under lien

- (a) The directors may sell a Share on which the company has a lien as they think fit where:
 - (i) an amount for which a lien exists under this rule is presently payable; and
 - (ii) the company has given the registered holder a written notice, at least 14 days before the date of the sale, demanding payment of that amount.
- (b) The directors may do anything necessary or desirable to protect any lien, charge or other right to which the company is entitled under this constitution or a law.

7.4 Extinguishment of lien

The company's lien over a member's Shares is released (so far as it relates to amounts owing by the transferor or any predecessor in title) when the company registers a transfer of the Shares without giving the transferee notice of its claim.

7.5 Company's right to recover payments

If any law of any place imposes on the company the liability to make a payment for a member or a Share held by that member, the member or, if the member is dead, the member's legal personal representative must:

- (a) indemnify the company against that liability;
- (b) on demand reimburse the company for any payment made; and
- (c) pay interest on the unpaid part of the amount payable to the company under rule 7.5(b), from the date of demand until the date the company is reimbursed in full for that payment, at a rate calculated under rule 10.

7.6 Exemption from lien

The directors may:

- (a) exempt a Share from all or part of this rule; and
- (b) waive or compromise all or part of any payment due to the company under this rule.

8 Surrender of shares

The directors may accept a surrender of Shares by way of compromise of a claim and any Shares surrendered may be sold or re-issued in the same manner as a forfeited share.

9 Sale, reissue or other disposal of Shares by the company

- (a) A reference in this rule to a sale of a Share by the company is a reference to any sale, reissue or other disposal of a Share under rules 6.3(b), 7.3 or 8.
- (b) When the company sells a share, the directors may:
 - (i) receive the purchase money or consideration given for the share;
 - (ii) effect a transfer of the Share or sign or appoint a person to sign, on behalf of the former holder, a transfer of the share; and
 - (iii) register as the holder of the Share the person to whom the Share is sold.
- (c) A person who the company sells Shares to under this rule takes their title to the Shares unaffected by any irregularity or invalidity about the sale. There is no need for the buyer to take any steps to investigate the regularity or validity of the sale, or to see how the purchase money or consideration on the sale is applied.
- (d) A sale of the Share by the company is valid even if an event described in rule 11.15 occurs to the member before the sale.
- (e) The only remedy of a person who suffers a loss because of a sale of a Share by the company is a claim for damages against the company.
- (f) The proceeds received on the sale of a Share by the company are applied:
 - (i) first, to the expenses of the sale;
 - (ii) secondly, to all amounts payable (whether presently or not) by the former holder to the company; and
 - (iii) finally, the balance is paid to the former holder on the former holder delivering to the company proof of title to the Shares acceptable to the directors.
- (g) Any proceeds of a sale of a Share by the company which have not been claimed or otherwise disposed of according to law may be invested by the directors or otherwise applied to the benefit of the company.

- (h) The company is not required to pay interest on money payable to a former holder under this rule.
- (i) On completion of a sale, reissue or other disposal of a Share under rule 6.3(b), the rights which attach to the Share which were extinguished under rule 6.3(d) revive.
- (j) A written statement by a director or secretary of the company that a Share in the company has been:
 - (i) duly forfeited under rule 6.1;
 - (ii) duly sold, reissued or otherwise disposed of under rule 6.3(b); or
 - (iii) duly sold under rule 7.3,

on a date stated in the statement is conclusive evidence of the facts stated 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.

10 Interest and costs payable

- (a) If an amount called or otherwise payable to the company for a Share is not paid on or before the time for payment, the person who owes that money must pay:
 - (i) interest on the unpaid amount:
 - (A) at a rate fixed by the directors; or
 - (B) if no rate is fixed, at a rate per annum 2% higher than the rate prescribed for unpaid judgments in the Supreme Court of the state or territory in which the company is registered; and
 - (ii) all costs the company incurs due to the failure to pay or the late payment.
- (b) Interest accrues daily and interest and costs may be capitalised monthly or at any other intervals the directors decide.
- (c) The directors may waive payment of interest or costs wholly or in part.

11 Transfer of shares

11.1 General restrictions

A member must not transfer any of their shares, except in accordance with this rule 11, without the prior approval of a Shareholders' Special Majority Resolution.

11.2 Transfer Notice

A member wanting to transfer any of its Shares (**Seller**) must give to each Founder Shareholder a notice (**Transfer Notice**) setting out:

- (a) that the Seller wants to transfer a specified number (which may be all or some only of its total holding) of equity securities (**Transfer Securities**);

- (b) the class or classes of Transfer Securities;
 - (c) the cash price per Transfer Security (**Specified Price**);
 - (d) the name of the proposed transferee (if known); and
 - (e) any other terms of sale of the Transfer Securities,
- and attaching a copy of the offer (if any) from the proposed transferee.

11.3 Entitlement of Founder Shareholders to the Transfer Securities

The Transfer Notice is an offer by the Seller to each Founder Shareholder to sell on the terms set out in the Transfer Notice, conditional on the Seller receiving acceptances from one or more of the Founder Shareholders for the transfer of all of the Transfer Securities. Each Founder Shareholder may buy the number of Transfer Securities calculated in accordance with the following formula:

$$N = A \times \frac{B}{C - D}$$

where:

- N = the number of Transfer Securities the Founder Shareholder may buy (**Allocation**).
- A = the total number of Transfer Securities.
- B = the number of Shares held by the Founder Shareholder on the date of the Transfer Notice.
- C = the total number of Shares held by all shareholders of the company on the date of the Transfer Notice.
- D = the number of Shares held by the seller on the date of the Transfer Notice, including the Transfer Securities.

11.4 Response by Founder Shareholders

Within 10 Business Days after receiving a Transfer Notice (**Acceptance Period**), each Founder Shareholder must give the Seller an unconditional notice (**Acceptance Notice**) (with a copy to the board) stating:

- (a) whether it accepts its Allocation or a specified lesser number of Transfer Securities, or rejects in full the offer made to it in the Transfer Notice; and
- (b) if it wants to buy more than its Allocation, that it offers to buy an additional specified number of Transfer Securities (not exceeding the total number of Transfer Securities minus the number of Transfer Securities accepted by it under rule 11.4(a)) if the other Founder Shareholders do not accept in full their Allocations.

11.5 Entitlement of Founder Shareholders to Transfer Securities above their Allocations

If the total number of Transfer Securities offered to be purchased under rule 11.4(b) exceeds the number of Transfer Securities for which acceptances have not been received under rule 11.4(a), then the

Transfer Securities available must be allocated between all accepting Founder Shareholders who have given notice under rule 11.4(b) in their respective proportions, until all of the Transfer Securities for which acceptances have not been received under rule 11.4(a) are allocated, or until all offers under rule 11.4(b) have been satisfied.

11.6 Founder Shareholder's failure to respond

A Founder Shareholder must give the Seller notice under rule 11.4 within the Acceptance Period to participate in that sale of Transfer Securities, otherwise it is taken to have rejected the offer.

11.7 Where Founder Shareholders agree to buy all Transfer Securities

If the Founder Shareholders agree to buy all Transfer Securities, on the third Business Day after the Acceptance Period, each Founder Shareholder must buy from the Seller and the Seller must sell to the Founder Shareholders the Transfer Securities:

- (a) at the Specified Price; and
- (b) (unless otherwise agreed between the Founder Shareholders) in the proportions calculated under rule 11.3 adjusted, as applicable, under rule 11.4.

11.8 Where Founder Shareholders do not agree to buy all Transfer Securities

If the Founder Shareholders do not agree to buy all Transfer Securities, the Seller must within five Business Days after the Acceptance Period give notice to the Founder Shareholders (with a copy to the board):

- (a) withdrawing all offers contained in the Transfer Notice and advising whether or not it wishes to sell the Transfer Securities to another person under rule 11.10; or
- (b) advising that it wants to proceed with the sale:
 - (i) to accepting Founder Shareholders of that number of Transfer Securities for which acceptances have been received; and
 - (ii) to another person of those Transfer Securities for which there are no accepting Founder Shareholders.

11.9 Sale to accepting Founder Shareholders.

If the Seller gives a notice under rule 11.8(b), each accepting Founder Shareholder must buy from the Seller and the Seller must sell to the accepting Founder Shareholder the number of Transfer Securities the accepting Founder Shareholder agreed to buy under rule 11.4(a) plus the number of Transfer Securities the accepting Founder Shareholder agreed to, and is entitled to, buy under rule 11.5:

- (a) within 5 Business Days after the Founder Shareholders receive the notice; and
- (b) at the Specified Price.

11.10 Sale to another person

If the Seller gives a notice under rule 11.8(a) advising that it wishes to sell the Transfer Securities to another person or under rule 11.8(b)(ii), the Seller may sell those Transfer Securities that are not transferred to accepting Founder Shareholders under rule 11.8(b)(ii) (**Remaining Securities**) to another person:

- (a) at any time within 90 Business Days after giving the Transfer Notice;
- (b) at a price per Transfer Security not less than the Specified Price; and
- (c) on terms no more favourable to the buyer than those offered to the Founder Shareholders.

11.11 Transferring shares

- (a) Subject to this constitution and any restrictions attached to a member's shares, a member may transfer any of the member's Shares by:
 - (i) a written transfer in any usual form or in any other form approved by the directors; or
 - (ii) any other method permitted by the Corporations Act and approved by the directors.
- (b) A transfer referred to in rule 11.11(a)(i) must be:
 - (i) signed by or on behalf of both the transferor and the transferee unless the transfer relates only to fully paid Shares and the directors have dispensed with a signature by the transferee or the transfer of the Shares is effected by a document which is, or documents which together are, a sufficient transfer of those Shares under the Corporations Act;
 - (ii) duly stamped, if required by law; and
 - (iii) left for registration at the company's registered office, or at any other place the directors decide, with the certificate of the Shares and any other evidence the directors require to prove the transferor's title or right to the Shares and the transferee's right to be registered as the owner of the shares.
- (c) Subject to the powers vested in the directors under rules 11.12 and 11.13, where the company receives a transfer complying with rule 11.11(b), the company must register the transferee named in the transfer as the holder of the Shares to which it relates.
- (d) A transferor of Shares remains the holder of the Shares until a transfer is registered and the transferee's name is entered in the register of members as the holder of the Shares.
- (e) The company may charge a fee for registering a transfer of shares.
- (f) The company may retain a registered transfer for any period the directors decide.
- (g) The directors may, to the extent the law permits, waive any of the requirements of rule 11.11(b) and prescribe alternative requirements instead, to give effect to rule 0 or for another purpose.

11.12 Power to decline to register transfers

Subject to rule 11.14, the directors may in their absolute discretion and without assigning any reason decline to register, or prevent registration of, a transfer of shares.

11.13 Power to suspend registration of transfers

Subject to rule 11.14, the directors may suspend the registration of transfers at any time, and for any period, that they decide.

11.14 Transfer of Shares to a Secured Institution

- (a) The directors will neither decline to register a transfer of shares, nor suspend registration of a transfer of Shares if that transfer is:
 - (i) to a Secured Institution; and
 - (ii) to perfect the Secured Institution's security over the Shares or an exercise of the Secured Institution's power of sale or other power under its security over the shares.
- (b) The directors must register a transfer of Shares pursuant to rule 11.14(a) as soon as practicable.
- (c) Notwithstanding anything to the contrary in this constitution or an agreement neither a transferor of Shares to a Secured Institution nor a Secured Institution is required to offer Shares the subject of a transfer to any of the other shareholders of the company.
- (d) The company does not have a lien over Shares which are subject to a security interest held by a Secured Institution.

11.15 Compliance with law

This rule 11 only applies if and for so long as the company is not governed by Chapter 6 of the Corporations Act.

12 Transmission of shares

12.1 Death of joint holder

If a member who owns Shares jointly dies, the company recognises only the surviving joint holder as being entitled to the deceased member's interest in the Shares. The estate of the deceased member is not released from any liability for the shares.

12.2 Death of sole holder

If a member who does not own Shares jointly dies, the company recognises only the personal representative of a deceased member as being entitled to the deceased member's interest in the Shares.

12.3 Register new holder

- (a) If the surviving joint holder or personal representative gives the directors the information they reasonably require to establish the surviving joint holder's or representative's entitlement to be registered as holder of the shares:
 - (i) the surviving joint holder or personal representative may:
 - (A) by giving a written and signed notice to the company, elect to be registered as the holder of the Shares; or
 - (B) by giving a completed transfer form to the company, transfer the Shares to another person; and
 - (ii) the surviving joint holder or personal representative is entitled, whether or not registered as the holder of shares, to the same rights as the deceased member.
- (b) On receiving an election under rule 12.3(a)(i)(A), the company must register the surviving joint holder or personal representative as the holder of the Shares. A transfer under rule 12.3(a)(i)(B) is subject to the rules that apply to transfers generally.

12.4 Other transmission events

- (a) If a person entitled to Shares because of:
 - (i) the bankruptcy of a member;
 - (ii) the mental incapacity of a member; or
 - (iii) the insolvency of a member,

gives the directors the information they reasonably require to establish the person's entitlement to be registered as holder of the shares, the person may:

- (iv) by giving a written and signed notice to the company, elect to be registered as the holder of the Shares; or
 - (v) by giving a completed transfer form to the company, transfer the Shares to another person,
- subject to any law which regulates the relevant event.
- (b) On receiving an election under rule 12.4(a)(iv), the company must register the person as the holder of the Shares. A transfer under rule 12.4(a)(v) is subject to the rules that apply to transfers generally.

12.5 Other rules

- (a) The directors may register a transfer of Shares signed by a member before an event set out in this rule occurs even though the company has notice of the relevant event.
- (b) The provisions of this constitution about the right to transfer Shares and the registration of Share transfers apply, so far as they can and with any necessary changes, to a notice or transfer under this rule as if the relevant event had not occurred and the notice or transfer were signed or effected by the registered holder of the share.

- (c) Where two or more persons are jointly entitled to a Share because of an event described in this rule they are, on being registered as the holders of the share, taken to hold the Share as joint tenants and rule 4.1 applies to them.

13 Drag along right

13.1 Drag along right

- (a) If, at any time, Shareholders holding at least 75% of the Share Capital want to sell all of their Shares to a Third Party Purchaser then, those Sellers may at the same time (but not otherwise) as giving a Transfer Notice under rule 11.2, attach a notice (**Drag Along Notice**) requiring the other Shareholders to sell all of their Shares to the Third Party Purchaser on the terms specified in the Transfer Notice and otherwise in accordance with this rule 13.
- (b) A Drag Along Notice must set out the identity of the proposed Third Party Purchaser and include a copy of any offer received from the proposed Third Party Purchaser.
- (c) A Drag Along Notice, once given or taken to be given, may only be revoked or withdrawn with the consent in writing of all other Shareholders.

13.2 Obligation to complete

If the Founder Shareholders do not agree to buy all of the Sale Shares the subject of a Transfer Notice in accordance with rule 11 and the Sellers have given a Drag Along Notice in accordance with rule 13.1, then:

- (a) the Sellers may sell the Sale Shares to the Third Party Purchaser in accordance with rule 11.10; and
- (b) each other Shareholder must, at the same time, sell all of their Shares to that Third Party Purchaser on the terms set out in the Drag Along Notice (which must not be any less favourable to the other Shareholders than those on which the Sellers have sold the Sale Shares to the Third Party Purchaser) except that the other Shareholders shall not be required to give any warranties or representations (other than as to their ownership, capacity and power to sell their Shares) or indemnities in favour of the Third Party Purchaser.

13.3 Seller's failure to complete sale

If any Seller fails to complete the sale of any of its Shares under rule 11.10, the directors of the company may use the power of attorney in rule 29.1 to do anything on behalf of that Seller that it has failed to do.

13.4 Compliance with law

This rule 13 only applies if and for so long as the company is not governed by Chapter 6 of the Corporations Act.

14 Default

14.1 Default Events

Each event or circumstance below is a default event (**Default Event**) for a Shareholder:

- (a) the Shareholder breaches a material term of this constitution and:
 - (i) does not remedy the breach within 30 days after receiving a notice of the breach from a party requesting the breach to be remedied; or
 - (ii) the breach is incapable of being remedied;
- (b) the Shareholder is persistently and materially in breach of the terms of this constitution;
- (c) there is a Change of Control without the prior written consent of the Board;
- (d) an Insolvency Event relating to the Shareholder occurs; and
- (e) the Shareholder commits a criminal offence that compromises, damages or adversely affects the Company or any of the other parties.

14.2 Mandatory transfer

If a Default Event relating to a Shareholder (**Defaulting Party**) occurs, a Founder Shareholder may give notice to that Shareholder and, if such notice is given, the Defaulting Party is taken to have given an irrevocable Transfer Notice to the Founder Shareholders under rule 11.2 on the date the Default Event occurred, for all Shares held by it (**Default Securities**) at a cash price per Share determined under rule 14.3.

14.3 Sale price for Default Securities

- (a) Unless the parties agree otherwise, the cash price per Default Security shall be the Market Value of the Default Security.
- (b) At any time within 20 Business Days of a Founder Shareholder becoming aware of the occurrence of a Default Event, a Founder Shareholder (other than a Founder Shareholder that is the Defaulting Party) may, by written notice require the Board to obtain an independent valuation of the Default Securities (**Valuation Notice**).
- (c) Within five Business Days of the receipt of a Valuation Notice, the Board must appoint an independent accounting firm as valuer to determine the Market Value of the Default Securities. If the Board is unable to agree on the identity of the valuer within the specified time frame, any director may, within a further period of two Business Days, request that the President of the Queensland branch of the Institute of Chartered Accountants in Australia appoint an independent valuer.
- (d) The Board must:
 - (i) instruct the appointed valuer to determine the Market Value of the Default Securities using such criteria, assumptions and considerations that the valuer considers appropriate, having regard to the nature of the company and the Business;

- (ii) use its best endeavours to ensure that the valuer decides the Market Value of the Default Securities as soon as practicable but, in any event, within 20 Business Days of their appointment; and
- (iii) ensure that the valuer has access at all reasonable times to the accounting records and other records of the company and the Business and that the officers of the company give any information or explanations reasonably required by the valuer to conduct the valuation of the Default Securities.
- (e) The valuation conducted by the valuer is conclusive and binding on the Shareholders in the absence of manifest error.
- (f) Once the cash sale price per Default Security has been agreed or decided, the Board must give to the Defaulting Party and each other Shareholder written notice setting out the details of the cash sale price.
- (g) In the absence of a decision as to costs by the valuer, the costs and expenses of the valuer must be paid by the company and the Defaulting Party in equal shares.

14.4 Rule 11 to apply

Once the cash sale price per Default Security is agreed or decided under rule 14.3, rule 11 applies, with appropriate changes necessary to apply it to these circumstances, to any Transfer under this rule 14 (including that the Acceptance Period shall be 20 Business Days from the date the Board gives notice of the cash sale price per Default Security under rule 14.3(f)).

14.5 Defaulting Party's failure to complete sale

If the Defaulting Party fails to complete the sale of any of the Default Securities, the directors may use the power of attorney in rule 29.1 to do anything the Defaulting Party has failed to do.

14.6 Suspension of rights

If a Defaulting Party is taken to have given a Transfer Notice under rule 14.2, then from the date the Transfer Notice is taken to be given until the Default Securities are sold under rule 14:

- (a) all rights attaching to the Default Securities are suspended; and
- (b) any director appointed by the Defaulting Party is taken to have been removed by the Defaulting Party and its director appointment rights are suspended.

15 General meetings

15.1 Calling general meetings

A general meeting may only be called:

- (a) by a directors' resolution; or
- (b) as otherwise provided in the Corporations Act.

15.2 Postponing or cancelling a meeting

- (a) The directors may:
 - (i) postpone a meeting of members;
 - (ii) cancel a meeting of members; or
 - (iii) change the place for a general meeting,
- (b) if they consider that the meeting has become unnecessary, or the venue would be unreasonable or impractical or a change is necessary in the interests of conducting the meeting efficiently.
- (c) A meeting which is not called by a directors' resolution and is called under a members' requisition under the Corporations Act may not be postponed or cancelled without the prior written consent of the persons who called or requisitioned the meeting.

15.3 Notice of general meetings

- (a) Notice of a general meeting must be given to each person who at the time of giving the notice:
 - (i) is a member, director or auditor of the company; or
 - (ii) is entitled to a Share because of an event described in rule 11.15 and has satisfied the directors of his or her right to be registered as the holder of, or to transfer, the shares.
- (b) The directors may decide the content of a notice of a general meeting, but they must state the general nature of the business to be transacted at the meeting and any other matters required by the Corporations Act.
- (c) Unless the Corporations Act provides otherwise:
 - (i) no business may be transacted at a general meeting unless the general nature of the business is stated in the notice calling the meeting; and
 - (ii) except with the approval of the directors or the chairperson, no person may move any amendment to a proposed resolution the terms of which are set out in the notice calling the meeting or to a document which relates to that resolution and a copy of which has been made available to members to inspect or obtain.
- (d) A person may waive notice of any general meeting by written notice to the company.

15.4 Non-receipt of notice

- (a) Subject to the Corporations Act, the:
 - (i) non-receipt of a notice of any general meeting by; or
 - (ii) accidental omission to give notice to,any person entitled to notice does not invalidate anything done (including the passing of a resolution) at that meeting.

- (b) A person's attendance at a general meeting waives any objection that person may have to:
 - (i) 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) 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.

15.5 Multiple venues

- (a) If the chairperson of a general meeting considers that there is not enough room for the members who wish to attend the meeting, they may arrange for any person whom they consider cannot be seated in the main meeting room to observe or attend the general meeting in a separate room. Even if the members present in the separate room are not able to participate in the conduct of the meeting, the meeting is nevertheless treated as validly held in the main room.
- (b) If a separate meeting place is linked to the main place of a general meeting by an instantaneous audio-visual communication device which, by itself or in conjunction with other arrangements:
 - (i) gives the general body of members in the separate meeting place a reasonable opportunity to participate in proceedings in the main place;
 - (ii) enables the chairperson to be aware of proceedings in the other place; and
 - (iii) enables the members in the separate meeting place to vote on a show of hands or on a poll,

a member present at the separate meeting place is taken to be present at the general meeting and entitled to exercise all rights as if he or she was present at the main place.

- (c) If, before or during the meeting, any technical difficulty occurs where one or more of the matters set out in rule 15.5(b) is not satisfied, the chairperson may:
 - (i) adjourn the meeting until the difficulty is remedied; or
 - (ii) continue to hold the meeting in the main place (and any other place which is linked under rule 15.5(b)) and transact business, and no member may object to the meeting being held or continuing.
- (d) Nothing in rule 15.5 or rule 15.9 is to be taken to limit the powers conferred on the chairperson by law.

15.6 Quorum at general meetings

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

- (b) A quorum is two or more members present at the meeting, who hold at least one third of the votes that may be cast on a resolution at a general meeting, and entitled to vote on a resolution at the meeting.
- (c) Where the company has only one member, that member constitutes a quorum.
- (d) If a quorum is not present within 30 minutes after the scheduled time for the general meeting:
 - (i) where the meeting was called at the request of 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, the directors present decide; or
 - (B) if they do not make a decision, to the same day in the next week at the same time and place.
- (e) At an adjourned meeting, if a quorum is not present within 30 minutes after the time appointed for the meeting:
 - (i) the quorum is two members present at the meeting, who hold at least one third of the votes that may be cast on a resolution at a general meeting, and entitled to vote on a resolution at the meeting; or
 - (ii) where the quorum in rule 15.6(e)(i) is not present, the meeting must be dissolved.

15.7 Chairperson of general meetings

- (a) The sole director or the chairperson of the board is entitled to take the chair at every general meeting.
- (b) If at any general meeting:
 - (i) there is no chairperson of the board;
 - (ii) the chairperson of the board is not present within 15 minutes after the specified time for holding the meeting; or
 - (iii) the chairperson of the board is present but is unwilling to act as chairperson of the meeting,
- (c) the directors present may choose another director as chairperson of the meeting and if no director is present or if each of the directors present are unwilling to act as chairperson of the meeting, a member chosen by the members present is entitled to take the chair at the meeting.

15.8 Acting chairperson

- (a) A chairperson of a general meeting may, for any item of business or discrete part of the meeting, vacate the chair in favour of another person nominated by him or her (**Acting Chairperson**).

- (b) Where an instrument of proxy appoints the chairperson as proxy for part of the proceedings for which an Acting Chairperson has been nominated, the instrument of proxy is taken to be in favour of the Acting Chairperson for the relevant part of the proceedings.

15.9 Conduct at general meetings

- (a) The chairperson of a general meeting:
- (b) has charge of the general conduct of the meeting and the procedures to be adopted at the meeting;
- (c) may require the adoption of any procedure which is in the chairperson's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (d) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chairperson considers it necessary or desirable for the proper conduct of the meeting,
- (e) and a decision by the chairperson under this rule is final.

15.10 Adjournment and postponement by the chairperson

- (a) Despite rules 15.2(a) and 15.2(b), where the chairperson considers that:
 - (i) there is not enough room for the number of members who wish to attend the meeting; or
 - (ii) a postponement is necessary in light of the behaviour of persons present or for any other reason so that the business of the meeting can be properly carried out,
 - (iii) the chairperson:
 - (iv) may, with the consent of any meeting at which a quorum is present; and
 - (v) must, if directed by the members present who may cast a majority of votes able to be cast at the meeting,

adjourn the meeting to another time, which may be on the same day as the meeting, and may be to another place (and the new time and place is taken to be the time and place for the meeting as if specified in the notice which called the meeting originally).

- (b) The chairperson may at any time during the course of the meeting:
 - (i) adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting; and
 - (ii) for the purpose of allowing any poll to be taken or determined, suspend the proceedings of the meeting for any period or periods he or she decides without effecting an adjournment. No business may be transacted and no discussion may take place during any suspension of proceedings unless the chairperson otherwise allows.

- (c) The chairperson's rights under rules 15.10(a) and 15.10(b) are exclusive and, unless the chairperson requires otherwise, no vote may be taken or demanded by the members present about any postponement, adjournment or suspension of proceedings.
- (d) Only unfinished business may be transacted at a meeting resumed after an adjournment.
- (e) Subject to rule 15.10(f), where a meeting is adjourned under rule 15.10, notice of the adjourned meeting need not be given.
- (f) Where a meeting is postponed or adjourned for 30 days or more, notice of the postponed or adjourned meeting must be given as in the case of the original meeting.

15.11 Decisions at general meetings

- (a) Except where a resolution constitutes a Shareholder's Special Majority Resolution as contained in Schedule 2, questions arising at a general meeting must be decided by a majority of votes cast by the members present at the meeting. A decision made in this way is for all purposes, a decision of the members.
- (b) If the votes are equal on a proposed resolution, the chairperson of the meeting has no casting vote, in addition to any deliberative vote.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded:
 - (i) before the show of hands is taken;
 - (ii) before the result of the show of hands is declared; or
 - (iii) immediately after the result of the show of hands is declared.

15.12 When poll may be demanded

- (a) A poll may be demanded by:
 - (i) the chairperson;
 - (ii) at least five members entitled to vote on the resolution; or
 - (iii) by a member or members with at least 5% of the votes that may be cast on the resolution on a poll.
- (b) A demand for a poll does not prevent a general meeting continuing to transact any business except the question on which the poll is demanded.
- (c) Unless a poll is duly demanded, a declaration by the chairperson 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 company's minute book is conclusive evidence of the fact without proof of the number or proportion of the votes recorded for or against the resolution.
- (d) Subject to 16.12(e), if a poll is duly demanded at a general meeting, it must be taken in the way and either at once or after an interval or adjournment as the chairperson of the meeting directs. The result of the poll as declared by the chairperson is the resolution of the meeting at which the poll was demanded.

- (e) A poll demanded on the election of a chairperson or on a question of adjournment is to be taken immediately.
- (f) The demand for a poll may be withdrawn with the chairperson's consent.
- (g) Despite anything contrary in this constitution, the directors may decide that, at any general meeting or class meeting, a member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote for that resolution. A 'direct vote' includes a vote delivered to the company by post, fax or other electronic means approved by the directors. The directors may prescribe regulations, rules and procedures for direct voting, including specifying the form, method and timing of giving a direct vote at a meeting for the vote to be valid.

15.13 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a general meeting may vote:
 - (i) in person or, where a member is a body corporate, by its Representative;
 - (ii) by not more than two proxies; or
 - (iii) by not more than two attorneys.
- (b) A proxy, attorney or Representative may, but need not, be a member of the company.

15.14 Class meetings

The provisions of this constitution about general meetings apply, with necessary changes, to separate class meetings as if they were general meetings.

15.15 Written resolutions

- (a) Where the company has:
 - (i) one member; or
 - (ii) a class of Shares with only one holder of the Shares in that class,

the company may pass a resolution by written resolution without holding a general meeting as permitted by the Corporations Act.

- (b) A circular resolution signed by all members eligible to vote on the subject matter of the resolution, may be used to pass a resolution of members in lieu of holding a general meeting, as permitted by the Corporations Act.

16 Proxies, attorneys and representatives

16.1 Appointment instruments

- (a) An instrument appointing a proxy is valid if it is under the Corporations Act or in any form approved by the directors.
- (b) A vote given under an instrument appointing a proxy or attorney is valid despite the transfer of the Share for which the instrument was given if the transfer is not registered

by the time at which the instrument appointing the proxy or attorney is required to be received under rule 16.1(g).

- (c) Unless the instrument or resolution appointing a proxy, attorney or Representative provides otherwise, the proxy, attorney or Representative has the same rights to speak, demand a poll, join in demanding a poll or act generally at the meeting as the member would have had if the member was present.
- (d) Unless otherwise provided in the appointment of a proxy, attorney or Representative, an appointment is taken to confer authority:
 - (i) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or Representative how to vote on those resolutions, to do any of the acts specified in rule 16.1(e); and
 - (ii) even though the instrument 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 rescheduled or adjourned meeting or at the new venue.
- (e) The acts referred to in rule 16.1(d)(i) are:
 - (i) 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;
 - (ii) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
 - (iii) to act generally at the meeting.
- (f) A proxy form issued by the company must allow for the insertion of the name of the person to be primarily appointed as proxy and may provide that, in circumstances and on conditions specified in the form that are not inconsistent with this constitution, the chairperson of the relevant meeting (or another person specified in the form) is appointed as proxy.
- (g) A proxy or attorney may not vote at a general meeting or adjourned or postponed meeting or on a poll unless the instrument appointing the proxy or attorney, and the authority under which the instrument is signed or a certified copy of the authority, are received by the company before the time for holding the meeting or adjourned or postponed meeting or before taking the poll, as applicable.
- (h) A document is received by the company under rule 16.1(g) when it is received in accordance with the Corporations Act, and to the extent permitted by the Corporations Act, if the document is produced or the transmission of the document is otherwise verified to the company in the way specified in the notice of meeting.
- (i) The company is entitled to clarify with a member any instruction on an appointment of proxy or attorney by written or verbal communication. The company, at its discretion, is entitled to amend the contents of any appointment of proxy or attorney to reflect any clarification in instruction and the member at that time is taken to have appointed the company as its attorney for this purpose.
- (j) The appointment of a proxy or attorney is not revoked by the appointor attending and taking part in the general meeting, but if the appointor votes on a resolution, the proxy

or attorney is not entitled to vote, and must not vote, as the appointor's proxy or attorney on the resolution.

16.2 More than two current proxies

- (a) A member who is entitled to cast two or more votes at the meeting may appoint two proxies.
- (b) Where a member appoints two proxies or attorneys to vote at the same general meeting:
 - (i) if 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 the member's votes;
 - (ii) on a show of hands, neither proxy or attorney may vote if more than one proxy or attorney attends; and
 - (iii) on a poll, each proxy or attorney may only exercise votes for those Shares or voting rights the proxy or attorney represents.

16.3 Revocation and postponement of the appointment

- (a) Unless written notice of the matter has been received at the company's registered office (or at another place specified for lodging an appointment of a proxy or attorney for the meeting) before the time for holding a meeting, adjourned meeting or poll, a vote cast by a proxy or attorney is valid even if, before the vote is cast:
 - (i) an event described in rule 11.15 occurs to the member;
 - (ii) the member revokes the appointment of the proxy or attorney or revokes the authority under which a third party appointed the proxy or attorney; or
 - (iii) the member has issued a clarifying instruction under rule 16.1(i).
- (b) Where authority is given to a proxy, attorney or Representative for a meeting to be held on or before a specified date or at a specified place and that meeting is postponed to a later date or the meeting place is changed, the authority is taken to include authority to act at the rescheduled meeting unless the member granting the authority gives the company notice to the contrary under rule 16.1(g).

16.4 Chairperson may make a determination

- (a) The chairperson of a meeting may:
 - (i) permit a person claiming to be a Representative to exercise the powers of a Representative, even if the person is unable to establish to the chairperson's satisfaction that he or she has been validly appointed; or
 - (ii) permit the person to exercise those powers on the condition that, if required by the company, he or she produce evidence of the appointment within the time set by the chairperson.
- (b) The chairperson of a meeting may require a person acting as a proxy, attorney or Representative to establish to the chairperson's satisfaction that the person is the person duly appointed to act. If the person fails to satisfy the requirement, the chairperson may exclude the person from attending or voting at the meeting.

- (c) The chairperson may delegate his or her powers under rule 16.4 to any person.

17 Direct voting

17.1 Directors may decide direct voting to apply

- (a) The directors may determine that members may cast votes to which they are entitled on any or all of the resolutions (including special resolutions) proposed to be considered at, and specified in the notice convening, a meeting of members, by direct vote.
- (b) If the directors decide that votes may be cast by direct vote, the directors may make the regulations they consider appropriate for the casting of direct votes.

17.2 Direct votes only counted on a poll

- (a) Direct votes are not counted if a resolution is decided on a show of hands.
- (b) Subject to rules 17.3 and 17.4, if a poll is held on a resolution, votes cast by direct vote by a member entitled to vote on the resolution are taken to have been cast on the poll as if the member had cast the votes on the poll at the meeting, and the votes of the member are to be counted accordingly.
- (c) A direct vote received by the company on a resolution is taken to be a direct vote on that resolution as amended, if the chairperson of the meeting decides this is appropriate.
- (d) Receipt of a direct vote from a member has the effect of revoking (or, in the case of a standing appointment, suspending) the appointment of a proxy, attorney or representative made by the member under an instrument received by the company before the direct vote was received.

17.3 Withdrawal of direct vote

- (a) A direct vote received by the company:
 - (i) may be withdrawn by the member by written notice received by the company before the time appointed for the commencement of the meeting (or in the case of any adjournment, the resumption of the meeting); and
 - (ii) is automatically withdrawn if:
 - (A) the member attends the meeting in person (including, in the case of a body corporate, by representative);
 - (B) the company receives from the member a further direct vote or direct votes (in which case the most recent direct vote is, subject to this rule, counted in lieu of the prior direct vote); or
 - (C) the company receives, after the member's direct vote is received, an instrument under which a proxy, attorney or representative is appointed to act for the member at the meeting under rule 16.1(g).
- (b) A direct vote withdrawn under this rule is not counted.

17.4 Vote not affected by death, etc. of a member

A direct vote received by the company is valid even if, before the meeting, the member:

- (a) dies or becomes mentally incapacitated;
- (b) become bankrupt or an insolvent under administration or is wound up; or
- (c) where the direct vote is cast on behalf of the member by an attorney, revokes the appointment of the attorney or the authority under which the appointment was made by a third party,
- (d) unless the company has received written notice of the matter before the start or resumption of the meeting at which the vote is cast.

18 Directors

18.1 Number of directors

The minimum number of directors is one, unless the company is governed by Part 6D.3A of the Corporations Act, in which case the minimum number of directors is two.

18.2 Power to appoint and remove directors

Directors may be appointed and removed by an ordinary resolution.

18.3 Power to appoint and remove directors by Founder Shareholders

A Founder Shareholder holding more than 51% of Shares in the company may appoint and remove a director by giving notice in writing to:

- (a) the company; and
- (b) all other Shareholders in the company.

18.4 Period of office

- (a) A director continues to hold office until:
- (b) removed by an ordinary resolution;
- (c) the director dies; or
- (d) the director vacates their office in accordance with rule 18.5.

18.5 Vacating office

The office of a director becomes vacant if the director:

- (a) becomes a person of unsound mind or a person who is a patient under laws about mental health or whose estate is administered under laws about mental health;
- (b) resigns office by written notice to the company; or

- (c) is prohibited from being a director by reason of the operation of the Corporations Act.

18.6 Remuneration

- (a) The directors are entitled to be paid such remuneration as the directors determine from time to time or if the company has a sole director who is also the sole shareholder, then the company is to determine the director's remuneration.
- (b) The directors may also be paid all travelling and other expenses properly incurred by them in attending and returning from meetings of the directors or any committees of the directors or general meetings of the company or otherwise in connection with the business of the company.

18.7 Director need not be a member

A director is not required to hold any Shares in the company to qualify for appointment.

18.8 Directors interests

- (a) A director is not disqualified by reason only of being a director (or the fiduciary obligations arising from that office) from:
 - (i) holding an office (except as auditor) or place of profit or employment in the company or a related body corporate of the company;
 - (ii) holding an office or place of profit or employment in any other company, body corporate, trust or entity promoted by the company or in which it has interest;
 - (iii) being a member, creditor or otherwise being interested in any body corporate (including the company), partnership or entity, except as auditor of the company;
 - (iv) entering into any agreement or arrangement with the company or a related body corporate of the company; or
 - (v) acting in a professional capacity (or being a member of a firm which acts in a professional capacity) for the company, except as auditor of the company.
- (b) Each director must comply with the Corporations Act on the disclosure of the director's interests.
- (c) The directors may make regulations requiring the disclosure of interests that a director, and any person taken 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 constitution bind all directors.
- (d) No act, transaction, agreement, instrument, resolution or other thing is invalid or voidable only because a person fails to comply with any regulation made under rule 18.8(c).
- (e) If a director has an interest in a matter, then subject to rules 18.8(c), 18.8(f), the Corporations Act and the constitution:
 - (i) that director must disclose the nature and extent of the director's interest at the board meeting that considers the matter that relates to the interest;

- (ii) that director may be counted in a quorum at the board meeting that considers the matter that relates to the interest provided that director is entitled to vote on at least one of the resolutions to be proposed at the meeting;
 - (iii) that director may participate in and vote on matters that relate to the interest;
 - (iv) the company can proceed with any transaction that relates to the interest and the director may participate in the execution of any relevant document by or on behalf of the company;
 - (v) the director may retain the benefits under the transaction that relates to the interest even though the director has the interest; and
 - (vi) the company cannot avoid any transaction that relates to the interest merely because of the existence of the interest.
- (f) If an interest of a director is required to be disclosed under rule 18.8(b), rules 18.8(e)(iii), 18.8(e)(v) and 18.8(e)(vi) apply only if rule 18.8(e)(i) is complied with and, in any event, the interest is disclosed before the transaction is entered into.
- (g) A contract or arrangement entered into by or on behalf of the company in which a director is in any way interested is not invalid or voidable merely because the director holds office as a director or because of the fiduciary obligations arising from that office.
- (h) A director who is interested in any arrangement involving the company is not liable to account to the company for any profit realised under the arrangement merely because the director holds office as a director or because of the fiduciary obligations arising from that office, if the director complies with the disclosure requirements under rule 18.8(e)(i) and under the Corporations Act about that interest.
- (i) A director who is interested in any contract or arrangement may, despite that interest, witness the fixing of the company seal to any document or execute any document evidencing or otherwise connected with that contract or arrangement.

19 Powers and duties of directors

19.1 General powers

The directors are responsible for managing the business of the company and may exercise all powers and do all things that are within the company's power and are not expressly required by the Corporations Act or this constitution to be exercised by the company in a general meeting.

19.2 Acting in the interest of appointing shareholder

A director who has been appointed by a shareholder may make a decision in the interests of the shareholder appointing that director alone, without considering:

- (a) the interests of the other shareholders; or
- (b) the interests of the shareholders as a whole,

but this rule does not operate to relieve a director from any duty, liability or obligation owed by that director to the company.

19.3 Wholly-owned subsidiary

- (a) If the company is a wholly-owned subsidiary each director is authorised to act in the best interests of the holding company.
- (b) A director is taken to act in good faith in the best interests of the company if:
 - (i) that director acts in good faith in the best interests of the holding company; and
 - (ii) the company is not insolvent at the time the director acts and does not become insolvent because of the director's act.

19.4 Power to borrow and give security

- (a) The directors may exercise all the powers of the company:
 - (i) to borrow or raise money in any way;
 - (ii) to charge any of the company's property or business or any of its uncalled capital; and
 - (iii) to issue debentures or give any security for a debt, liability or obligation of the company or of any other person.
- (b) Debentures or other securities may be issued on the terms and at prices decided by the directors, including bearing interest or not, with rights to subscribe for, or exchange into, Shares or other securities in the company or a related body corporate or with special privileges as to redemption, participating in share issues, attending and voting at general meetings and appointing directors.
- (c) The directors may decide how cheques, promissory notes, banker's drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as applicable, by or on behalf of the company.

19.5 Powers of appointment

The directors may:

- (a) appoint or employ any person as an officer, agent or attorney of the company for the purposes, with the powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the directors), for any period and on any other conditions they decide;
- (b) authorise an officer, agent or attorney to delegate any of the powers, discretions and duties vested in the officer, agent or attorney; and
- (c) remove or dismiss any officer, agent or attorney of the company at any time, with or without cause.

20 Proceedings of directors meetings

20.1 Meetings of directors

- (a) The directors may meet together to attend to business and adjourn and otherwise regulate their meetings as they decide.
- (b) The contemporaneous linking together by telephone or other electronic means of a sufficient number of directors to constitute a quorum, constitutes a meeting of the directors. All the provisions in this constitution relating to meetings of the directors apply, as far as they can and with any necessary changes, to meetings of the directors by telephone or other electronic means.
- (c) A meeting by telephone or other electronic means is to be taken to be held at the place where the chairperson of the meeting is or at any other place the chairperson of the meeting decides on, if at least one of the directors involved was at that place for the duration of the meeting.
- (d) A director taking part in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting.
- (e) If, before or during the meeting, any technical difficulty occurs where one or more directors cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, where a quorum of directors remains present, continue with the meeting.

20.2 Calling meetings of directors

- (a) A director may, whenever the director thinks fit, call a meeting of the directors.
- (b) A secretary must, if requested by a director, call a meeting of the directors.

20.3 Notice of meetings of directors

- (a) Notice of a meeting of directors must be given to each person who is, at the time the notice is given:
 - (i) a director, except a director on leave of absence approved by the directors; or
 - (ii) an alternate director appointed under rule 21 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 the meeting;
 - (ii) need not state the nature of the business to be transacted at the meeting;
 - (iii) may, if necessary, be given immediately before the meeting;
 - (iv) may be given in person or by post or by telephone, fax or other electronic means; and

- (v) 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 giving notice to that effect in person or by post or by telephone, fax or other electronic means.
- (d) Failure to give a director or alternate director notice of a meeting of directors does not invalidate anything done or any resolution passed at the meeting if the director or alternate director attended the meeting or waived notice of the meeting (whether before or after the meeting).
- (e) A person who attends a meeting of directors waives any objection that person may have to a failure to give notice of the meeting.

20.4 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
- (b) The quorum for a meeting of directors is such number as is determined by the directors and unless so determined, two directors.
- (c) Where no quorum is present within 30 minutes of the start time stated in the notice of meeting, the meeting must be adjourned to the same day in the next week at the same time and place or as otherwise determined by the directors.
- (d) Where the company has been formed with one director or where only one director holds office in accordance with the Corporations Act, a sole director may pass a resolution by written resolution in accordance with the Corporations Act.

20.5 Chairperson of directors

- (a) The directors may elect, for any period they decide a director to the office of chairperson of directors.
- (b) The chairperson of directors is entitled (if present within ten minutes after the time appointed for the meeting and willing to act) to preside as chairperson at a meeting of directors.
- (c) If at a meeting of directors:
 - (i) there is no chairperson of directors;
 - (ii) the chairperson of directors is not present within ten minutes after the time appointed for the holding of the meeting; or
 - (iii) the chairperson of directors is present within that time but is not willing or declines to act as chairperson of the meeting,

the directors present must elect one of themselves to chair the meeting.

20.6 Decisions of directors

- (a) The directors, at a meeting at which a quorum is present, may exercise any authorities, powers and discretions vested in or exercisable by the directors under this constitution.

- (b) Except for a Directors' Special Resolution contained in Schedule 1, questions arising at a meeting of directors must be decided by a majority of votes cast by the directors present and entitled to vote on the matter.
- (c) If the votes are equal on a proposed resolution, the chairperson of the meeting does not have a casting vote, in addition to his or her deliberative vote.

20.7 Written resolutions

- (a) A resolution in writing of which notice has been given to all directors and which is signed or consented to by all of the directors entitled to vote on the resolution is as valid and effectual as if it had been passed at a meeting of the directors duly called and constituted and may consist of several documents in the same form, each signed or consented to by one or more of the directors.
- (b) A director may consent to a resolution by:
 - (i) signing the document containing the resolution (or a copy of that document);
 - (ii) giving to the company a written notice (including by fax or other electronic means) addressed to the secretary or to the chairperson of directors signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them; or
 - (iii) telephoning the secretary or the chairperson of directors and signifying assent to the resolution and clearly identifying its terms.

21 Alternate directors

21.1 Director may appoint alternate director

- (a) A director may appoint a person to be the director's alternate director for any period the director decides.
- (b) The appointment must be in writing and signed, and takes effect immediately upon the company receiving written notice of the appointment.
- (c) An alternate director may, but need not, be a member or a director of the company.
- (d) One person may act as alternate director to more than one director.

21.2 Conditions of office of alternate director

- (a) In the absence of the appointor, an alternate director:
 - (i) may exercise any powers (except the power to appoint an alternate director) that the appointor may exercise;
 - (ii) if the appointor does not attend a meeting of directors, attend and vote in place of and on behalf of the appointor;
 - (iii) 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; and

- (iv) when 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.
- (b) The office of an alternate director is vacated if and when the appointor vacates office as a director.
- (c) The appointment of an alternate director may be terminated or suspended at any time by the appointor.
- (d) The termination or suspension of an appointment of an alternate director, must be in writing and signed and takes effect only when the company has received written notice of the termination or suspension.
- (e) An alternate director is not to be taken into account in determining the minimum or maximum number of directors allowed.
- (f) In determining whether a quorum is present at a meeting of directors, an alternate director who attends the meeting is to be counted as a director for each director on whose behalf the alternate director is attending the meeting.
- (g) An alternate director is not entitled to receive any remuneration as a director from the company except from out of the remuneration of the director appointing the alternate director but is entitled to travelling, hotel and other expenses reasonably incurred for the purpose of attending any meeting of directors at which the appointor is not present, if such expenses would have been paid to the appointor, had he or she attended the meeting.

21.3 Committees of directors

- (a) The directors may delegate their powers to a committee of directors.
- (b) The committee 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 any necessary changes, to meetings and resolutions of a committee of directors, except to the extent they are contrary to any direction given under rule 21.3(b).

21.4 Delegation to a director

- (a) The directors may 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.

21.5 Validity of acts

- (a) All acts done at any meeting of the directors or by a committee or by any person acting as a director are, notwithstanding that it is afterwards discovered:
 - (i) that there was some defect in the appointment of any of the directors; or

- (ii) the committee or the person acting as a director or that any of them were disqualified,

valid as if every person had been duly appointed and was qualified and continued to be a director or a member of the committee (as the case may be).

22 Executive officers

22.1 Managing directors and executive directors

- (a) The directors may appoint an employee to the office of managing director or executive director, to hold office as director for the period determined at the time of the appointment but not to exceed the term of employment of the employee.
- (b) The directors may, subject to the terms of any employment contract between the relevant director and the company or a subsidiary, at any time remove or dismiss the managing director or an executive director from employment with the company, in which case the appointment of that person as a director automatically ceases.

22.2 Secretary

- (a) A secretary of the company holds office on the terms as to remuneration and otherwise, as the directors may decide.
- (b) The directors may suspend or remove a secretary from that office.

22.3 Provisions applicable to all executive officers

- (a) A reference in rule 22.3 to an executive officer is a reference to a managing director, deputy managing director, executive director, associate director, secretary or assistant secretary appointed under this rule.
- (b) The appointment of an executive officer may be for a period, at the remuneration and on the conditions the directors decide.
- (c) The directors may:
 - (i) delegate to an executive officer any powers, discretions and duties they decide;
 - (ii) withdraw, suspend or vary any of the powers, discretions and duties given to an executive officer; and
 - (iii) authorise the executive officer to delegate any of the powers, discretions and duties given to the executive officer.
- (d) An act done by a person acting as an executive officer is not invalidated by:
 - (i) a defect in the person's appointment as an executive officer;
 - (ii) the person being disqualified to be an executive officer; or
 - (iii) the person having vacated office,if the person did not know that circumstance when the act was done.

23 Indemnity and insurance

23.1 Officer's right of indemnity

Rules 23.2 and 23.4 apply:

- (a) to each person who is or has been a director, alternate director or executive officer (within the meaning of rule 22.3(a)) of the company; and
- (b) to any 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,

(each an **Officer** for the purposes of this rule).

23.2 Indemnity

The company indemnifies each Officer on a full indemnity basis and to the full extent permitted by law against all losses, liabilities, costs, charges and expenses (**Liabilities**) incurred by the Officer as an officer of the company or of a related body corporate.

23.3 Scope of indemnity

The indemnity in rule 23.2:

- (a) does not operate in respect of any Liability of the Officer to the extent that Liability is covered by insurance;
- (b) is enforceable without the Officer having to first incur any expense or make any payment; and
- (c) is a continuing obligation and is enforceable by the Officer even though the Officer may have ceased to be an officer or auditor of the company or its related bodies corporate.

23.4 Insurance

The company may, to the extent the law permits:

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

for each Officer against any Liability incurred by the Officer as an officer or auditor of the company or of a related body corporate including, but not limited to:

- (c) costs and expenses in defending any proceedings, whether civil or criminal, whatever their outcome; or
- (d) a Liability arising from negligence or other conduct.

23.5 Savings

Nothing in rule 23.2 or 23.4:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any Liability referred to in those rules;
- (b) limits the capacity of the company to indemnify or provide or pay for insurance for any person to whom those rules do not apply; or
- (c) limits or diminishes the terms of any indemnity conferred or agreement to indemnify entered into before the adoption of this constitution.

23.6 Contract

The company may enter into an agreement with any Officer to give effect to the rights conferred by this rule or the exercise of a discretion under this rule on any terms as the directors think fit which are not inconsistent with this rule.

24 Dividends

24.1 Payment of dividends

The directors may:

- (a) declare, determine or pay any interim or final dividend that, in their judgment, the financial position of the company justifies;
- (b) subject to the Corporations Act, rescind a decision to pay a dividend if they decide, before the payment date, that the company's financial position no longer justifies the payment; and
- (c) pay any dividend required to be paid under the terms of issue of a share.

24.2 Reserves and profits carried forward

- (a) The directors may:
 - (i) set aside out of the company's profits any reserves or provisions they decide;
 - (ii) appropriate to the company's profits any amount previously set aside as a reserve or provision; or
 - (iii) carry forward any profits remaining that they consider should not be distributed as dividends or capitalised, without transferring those profits to a reserve or provision.
- (b) Setting aside an amount as a reserve or provision does not require the directors to keep the amount separate from the company's other assets or prevent the amount being used in the company's business or being invested as the directors decide.

24.3 Apportionment of dividends

Subject to the terms of issue of any Shares or class of shares, dividends must be paid equally on all shares, except partly paid shares, which have an entitlement only to that part of the dividend which is in proportion to the amount paid (not credited) on the Share to the total amounts paid and payable (excluding amounts credited). An amount paid in advance of a call under rule 5.8 is taken as not having been paid until it becomes payable.

24.4 Record date

- (a) The directors may fix a record date for a dividend, with or without suspending the registration of transfers from that date under rule 11.13;
- (b) A dividend must be paid to the person who is registered, or entitled under rule 11.11(c) to be registered, as the holder of the share:
 - (i) where the directors have fixed a record date for the dividend, on that date; or
 - (ii) where the directors have not fixed a record date for that dividend, on the date fixed for payment of the dividend, and a transfer of a Share that is not registered, or left with the company for registration under rule 11.11(b), on or before that date is not effective, as against the company, to pass any right to the dividend.

24.5 No interest

Interest is not payable by the company on any dividend.

24.6 Method of payment

- (a) The directors may pay dividends by:
 - (i) cheque sent to the address of the member shown in the register of members, or for joint holders, the first listed name and address;
 - (ii) by any electronic or other means approved by the directors directly to an account (of a type approved by the directors) nominated in writing by the member or the joint holders; or
 - (iii) any other method the directors may decide.
- (b) Different methods of payment may apply to different members or groups of members (such as overseas members).
- (c) A cheque sent under rule 24.6(a)(i):
 - (i) 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
 - (ii) is sent at the member's risk.
- (d) If the directors decide to pay dividends by electronic means under rule 24.6(a)(ii), but:
 - (i) no account is nominated by the member; or

- (ii) an electronic transfer into a nominated account is rejected or refunded,
the company may credit the amount payable to an account of the company to be held until the member nominates a valid account.
- (e) Where a member does not have a registered address or the company believes that a member is not known at the member's registered address, the company may credit an amount payable to the member to an account of the company to be held until the member claims the amount or nominates an account into which payment may be made.
- (f) An amount credited to an account under rules 24.6(d) or 24.6(e) is to be treated as having been paid to the member at the time it is credited to that account. The company is not a trustee of the money and no interest accrues on the money.

24.7 Retention of dividends

The directors may retain the dividend payable on a share:

- (a) where a person is entitled to a Share because of an event under rule 11.15, until that person becomes registered as the holder of that Share or transfers it; and
- (b) apply it to any amount presently payable by the holder of that Share to the company.

24.8 Distribution of specific assets

- (a) The directors may distribute specific assets, including fully paid-up Shares (but not partly paid-up shares) or other fully paid-up securities (but not partly paid-up securities) of the company or of another body corporate, either generally or specifically to members as direct payment of the dividend in whole or in part and, if they do so they may:
 - (i) fix the value of any asset distributed;
 - (ii) make cash payments to members on the basis of the value fixed or for any other reason so as to adjust the rights of members between themselves; and
 - (iii) vest an asset in trustees.
- (b) Where the company satisfies a dividend by way of distribution of fully paid up securities of another body corporate, each member is taken to have agreed to become a member of that corporation and to have agreed to be bound by the constitution of that corporation. Each member also appoints each director their agent and attorney to:
 - (i) agree to the member becoming a member of that corporation;
 - (ii) agree to the member being bound by the constitution of that corporation;
 - (iii) sign any transfer of Shares or securities, or other document required to give effect to the distribution of Shares or other securities to that member.

24.9 Source of dividends

The directors may pay a dividend to particular members wholly or partly out of any particular fund or reserve or out of profits derived from any particular source, and to the other members wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source.

24.10 Reinvestment of dividends

The directors may permit the members or any class of members to:

- (a) reinvest cash dividends by subscribing for Shares or other securities in the company or a related body corporate;
- (b) forgo the right to receive cash dividends and receive instead some other form of distribution of entitlement (including securities),

on any terms the directors think fit.

24.11 Unclaimed dividends

Unclaimed dividends may be invested by the directors as they think fit for the benefit of the company until claimed or until required to be dealt with under the law.

25 Capitalising profits

25.1 Capitalisation of reserves and profits

The directors:

- (a) may resolve to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to the members; and
- (b) may, but need not, resolve to apply the sum in any of the ways mentioned in rule 25.2, for the benefit of members in the proportions to which those members would have been entitled in a distribution of that sum by way of dividend.

25.2 Applying a sum for the benefit of members

The ways in which a sum may be applied for the benefit of members under rule 25.1 are:

- (a) paying up in full, at an issue price decided by the resolution, any unissued Shares in or other securities of the company;
- (b) paying up any amounts unpaid on Shares or other securities held by the members; or
- (c) paying up partly as specified in rule 25.2(a) and partly as specified in rule 25.2(b).

25.3 Implementing the resolution

The directors may do all things necessary to give effect to a resolution under rule 25.1, including to enter into an agreement on behalf of any member.

26 Winding up

26.1 Distributing surplus

Subject to this constitution and the terms of issue of any Shares or class of shares:

- (a) if the company is wound up and the property of the company available for distribution among the members is more than sufficient to pay:
 - (i) all 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 number of Shares held by them;

- (b) for the purpose of calculating the excess referred to in rule 26.1(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 26.1(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 26.1(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.

26.2 Dividing 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 company's property; and
 - (ii) decide how the division is to be carried out as between the members or different classes of members.
- (b) A division under rule 26.2(a) need not accord 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 26.2(a) does not accord 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 26.2(a) includes Shares with a liability to calls, any person entitled under the division to any of the Shares may, within ten days after the passing of the special resolution referred to in rule 26.2(a), by written notice direct the liquidator to sell the person's proportion of the securities and account for the net proceeds. The liquidator must, if practicable, act accordingly.
- (e) Nothing in rule 26.2 takes away from or affects any right to exercise any statutory or other power which would have existed if this rule were omitted.

- (f) Rule 26 applies, so far as it can and with any necessary changes, to a division by a liquidator under rule 26.2(a) as if references in rule 25 to:
 - (i) the directors were references to the liquidator; and
 - (ii) a distribution or capitalisation were references to the division under rule 26.2(a).

27 Inspection of records

27.1 Inspection by member

Except as provided by law, this constitution or as authorised by a directors' resolution, a person who is not a director does not have the right to inspect any of the board papers, books, records or documents of the company.

27.2 Access by director

The company may enter into contracts, and procure that its subsidiaries enter into contracts, on any terms the directors think fit, to grant a director or former director continuing access for a specified period after the director ceases to be a director to board papers, books, records and documents of the company which relate to the period during which the director or former director was a director of the company.

28 Seals

28.1 Safe custody of seal

The company may have a common seal, in which case the directors must provide for the safe custody of the seal and any duplicate common seal.

28.2 Use of seal

If the company has a common seal or duplicate common seal:

- (a) it may only be used with the authority of the directors;
- (b) every document to which it is affixed must be signed by a director and countersigned by:
 - (i) a second director;
 - (ii) the secretary; or
 - (iii) by a person appointed by the directors for the purpose; and
- (c) if one person is the sole director and secretary of the company, every document to which it is affixed must be signed by that director.

29 Attorney

29.1 Appointment of attorney

Each Shareholder:

- (a) severally and irrevocably appoints any two directors jointly as its agent and attorney with power to complete any sale of the Equity Securities held by that Shareholder under this constitution and to do anything on behalf of the Shareholder that it is required to do, but has failed to do, under rules 11 and 13 to 14 of this constitution, including the power for any two directors together on behalf of that Shareholder to:
 - (i) sign all necessary documents to complete a sale under rules 11 and 13 to 14;
 - (ii) sign any lock-up or escrow agreements under rule 29.2;
 - (iii) warrant and represent, and to agree that it is a condition of any document, that the Shareholder has the capacity to enter into the documents and has good title to, and Possession and Control of all its Equity Securities, free from any Encumbrance;
 - (iv) receive the purchase money and hold it on trust for that Shareholder; and
 - (v) sign a receipt for the purchase money as a good discharge of the purchaser's obligations;
- (b) declares that it is bound by, and will ratify and confirm, anything done by any director under this power of attorney; and
- (c) declares that this power of attorney is given for valuable consideration and is irrevocable.

29.2 Lock-up or escrow arrangements in an IPO

If at any time the Board resolves by the unanimous approval of all the directors in favour of an IPO, each Shareholder must:

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

29.3 Compliance with law

This rule 29 only applies if and for so long as the company is not governed by Chapter 6 of the Corporations Act.

30 Notices

30.1 Method of service

- (a) The company may give a notice to a member by:
 - (i) delivering it personally;
 - (ii) sending it by prepaid post to the member's address in the register of members or any other address the member gives the company for notices;
 - (iii) sending it by fax or other electronic means to the fax number or electronic address the member gives the company for notices; or
- (b) notification on or by electronic delivery via a communication portal provided to the company by a licensed crowd-sourced funding platform. A person who becomes entitled to a Share registered in the name of a member, is taken to have received every notice which, before that person's name and address is entered in the register of members for those shares, is given to the member under rule 30.1.
- (c) Where a member does not have a registered address or where the company believes that member is not known at the member's registered address, all notices are taken to be:
 - (i) given to the member if the notice is exhibited in the company's registered office for a period of 48 hours; and
 - (ii) served at the commencement of that period,

unless and until the member informs the company of the member's address.

30.2 Time of service

- (a) A notice from the company properly addressed and posted is taken to be given and received on the day after the day of its posting.
- (b) A notice sent or given by fax or other electronic transmission:
 - (i) is taken to be effected by properly addressing and transmitting the fax or other electronic transmission; and
 - (ii) is taken to have been given and received on the day of its transmission.
- (c) Where a given number of days' notice or notice extending over any other period must be given, the day of service is not to be counted in the number of days or other period.

30.3 Evidence of service

A certificate signed by a director or secretary stating that a notice has been given under this constitution is conclusive evidence of that fact.

30.4 Joint holders

A notice may be given by the company to the joint holders of a Share by giving it to the joint holder first named in the register of members for the share.

30.5 Other communications and documents

Rules 30.1 to 30.4 (inclusive) apply, so far as they can and with any necessary changes, to serving any communication or document.

31 General

31.1 Submission to jurisdiction

Each member submits to the non-exclusive jurisdiction of the Supreme Court of the state or territory in which the company is taken to be registered for the purposes of the Corporations Act, the Federal Court of Australia and the courts which may hear appeals from those courts.

31.2 Prohibition and enforceability

Any part of this constitution which is prohibited or unenforceable in any place is, in that place, ineffective only to the extent of that prohibition or unenforceability.

32 Definitions

In this constitution:

Term	Definition
Acceptance Notice	has the meaning given to that term in rule 11.4.
Acceptance Period	has the meaning given to that term in rule 11.4.
Acting Chairperson	has the meaning given to that term in rule 15.8.
Affiliate	means, in relation to a person (first-mentioned person): (a) a person that Controls or is Controlled by the first-mentioned person; and (b) a Related Body Corporate of the first-mentioned person.
Allocation	has the meaning given to that term in rule 11.3.
Bankruptcy Act	means <i>Bankruptcy Act 1966</i> (Cth).
Board	means the board of directors of the company.
Business	means: (a) The Ediofy Social Education Platform; and (b) any other activity the Board decides will be carried on by the Company and its Subsidiaries (if any).
Business Day	means a day that is not a Saturday, Sunday or public holiday in the place where an act is to be performed, notice received or a payment is to be made.

Buyer	means the proposed purchaser of the Sale Shares.
Change of Control	means, in relation to a Shareholder, an event where: <ul style="list-style-type: none"> (a) the person who Controls the Shareholder at the date when the Shareholder first became a Shareholder subsequently stops having Control; or (b) a person who did not (directly or indirectly) effectively Control the Shareholder at the date when the Shareholder first became a Shareholder, either alone or together with others, acquires effective Control of the Shareholder.
Control	has the meaning given to that term in section 50AA of the Corporations Act.
Corporations Act	means <i>Corporations Act 2001</i> (Cth).
Default Event	has the meaning given to that term in rule 14.1.
Default Securities	has the meaning given to that term in rule 14.2.
Defaulting Party	has the meaning given to that term in rule 14.2.
Directors' Special Resolution	means a resolution of the Board having, in aggregate, at least 51% of all votes capable of being cast at a Board meeting if all directors are present.
Drag Along Notice	has the meaning given to that term in rule 13.1.
Encumbrance	means: <ul style="list-style-type: none"> (a) a PPS Security Interest; (b) any other mortgage, charge, pledge or lien or a preferential or adverse interest of any kind; (c) an easement, restrictive covenant, caveat or similar restriction over property (except, in the case of land, a covenant noted on the certificate of title to the land concerned); (d) an agreement to create any of the items referred to in paragraphs (a) to (c) above or to allow any of those items to exist; (e) a notice under section 255 <i>Income Tax Assessment Act 1936</i> (Cth), subdivision 260-A in schedule 1 <i>Taxation Administration Act 1953</i> (Cth), or any similar legislation; or any other right (including under a trust or agency arrangement) of a creditor to have its claims satisfied before other creditors with, or from the proceeds of, or by recourse to any asset and includes any agreement, arrangement or deed conferring such a right.
Equity Securities	means Shares and any preference shares, options, convertible notes, warrants or other securities convertible into Shares.

Founder Shareholders

means:

- (a) Peyton Family Trust;
- (b) Lynne Peyton; and
- (c) Scop Family Trust
- (d) VIP Medicine,

(a) and **Founder Shareholder** means any one of them.

Insolvency Event

means any of the following events:

- (a) a controller (as defined in the Corporations Act) is appointed to the party, or over any of the property of the party;
- (b) the party becomes bankrupt;
- (c) a controlling trustee is appointed to the party, or over any of the property of the party;
- (d) the party or the party's property becomes subject to a personal insolvency arrangement under part X Bankruptcy Act or a debt agreement under part IX Bankruptcy Act;
- (e) the party is unable to pay its debts when they become due and payable;
- (f) the party ceases to carry on business; or
- (g) any event happens in Australia or any other country or territory in respect of a party that is similar to any of the events or circumstances referred to in this definition.

Any event that takes place as part of a solvent reconstruction, amalgamation, merger, or consolidation, on terms approved in writing by the other party beforehand and in compliance with those terms is excluded from this definition.

Intellectual Property Rights

means all industrial and intellectual property rights throughout the world, whether registered, unregistered or unregistrable, including all business names, copyrights, patents, trademarks, service marks, trade names, designs, confidential information, trade secrets, know how, data and data bases, circuit layout rights, systems, domain names, email addresses, post office box numbers, telephone numbers and facsimile numbers.

Market Value

means:

- (a) the dollar figure given by the valuer in accordance with rule 14; or
- (b) if the valuer gives a range of figures, the mid point in the range of market values decided by the valuer in accordance with rule 14.

Possession

has the meaning given to that term by the *Personal Property Securities Act 2009* (Cth).

Record Time

means:

- (a) in the case of a meeting for which the caller of the meeting has decided, under the Corporations Act, that

	Shares are to be taken to be held by the persons who held them at a specified time before the meeting, that time; and
	(b) in any other case, the time of the relevant meeting.
Related Body Corporate	has the meaning given to that term by section 9 Corporations Act.
Remaining Securities	has the meaning given to that term in rule 11.10.
Representative	means, for a member which is a body corporate and for a meeting, a person authorised under the Corporations Act (or a corresponding previous law) by the body corporate to act as its representative at the meeting.
Respective Proportions	means: <ul style="list-style-type: none"> (a) when used about all Shareholders, the proportions which their respective shareholdings bear to the Share Capital of the company; or (b) when used about less than all of the shareholders, the proportions which their respective shareholdings bear to their aggregate shareholdings.
Sale Shares	means the number of Shares that the Seller proposes to sell.
Secured Institution	means a bank, institution or other person which holds a security interest in Shares in the company.
Seller	has the meaning given to that term in rule 11.2.
Shareholder	means the shareholders of the company who hold Shares.
Shareholders' Special Majority Resolution	means a resolution of the Shareholders which is approved by Shareholders having, in aggregate, at least 51% of all votes capable of being cast at a Shareholders' meeting by persons present and entitled to vote.
Share Capital	means all of the Shares on issue.
Share Plan	means a formal written share plan established by the Board to issue Equity Securities to eligible participants (including directors, employees or contractors) that result in the issue of that number of Shares of an amount up to 10% of the fully diluted Share Capital as at 26th May 2021 .
Shares	means a share in the capital of the company.
Specified Price	has the meaning given to that term in rule 11.2.
Subsidiary	has the meaning given to that term by section 9 Corporations Act.
Third Party Purchaser	means a bona fide third party buyer.

Transfer	means to sell, assign, transfer, convey or otherwise dispose of a legal or beneficial interest.
Transfer Notice	has the meaning given to that term in rule 11.2.
Transfer Securities	has the meaning given to that term in rule 11.2.
Valuation Notice	has the meaning given to that term in rule 14.3.

Schedule 1

Matters that require a Directors' Special Resolution (rule 20.6(b))

The matters that may only be decided by the Board with a Directors' Special Resolution under rule 20.6(b) are:

- (a) **(business plan and budget)** adoption of a business plan or budget for the company and variation to that business plan or budget;
- (b) **(new issue)** the issue of Equity Securities;
- (c) **(Share plan)** the approval of any Share Plan;
- (d) **(acquisition of businesses)** the acquisition by the company of an interest in any other business or any other company;
- (e) **(transfer of assets)** the transfer by the company of an asset or assets of the company having an aggregate book or market value (whichever is the greater) of more than 10% of the aggregate book [#or market] value of the Company's [#net] assets;
- (f) **(loans)** the making of a loan or giving of credit or other financial accommodation to a person which is not in the ordinary and usual course of the Business;
- (g) **(Encumbrances)** the grant of any Encumbrance over any assets of the company which is not in the ordinary and usual course of the Business;
- (h) **(guarantees)** the giving or entry into any guarantee, letter of comfort or performance bond which has a liability (whether actual or contingent) of more than \$50,000;
- (i) **(liabilities and indemnities)** the company entering into or agreeing to any commitment, indemnity or liability (whether actual or contingent) of more than \$200,000 which is not in the ordinary and usual course of the Business;
- (j) **(capital expenditure)** any capital expenditure which:
 - is in excess of \$200,000; or
 - would otherwise cause total capital expenditure of the company to exceed that specifically provided for in an approved business plan or budget by \$200,000 or more;

- (k) **(remuneration and bonuses)** the agreement to set or increase the remuneration per annum or any bonus payable to any senior employee of the company;
- (l) **(insurance)** the amendment or variation of the insurance cover over the company or the business activities of the company;
- (m) **(related party transactions)** other than as permitted by this constitution, transactions between the company and a Shareholder or its Affiliate which are outside of the ordinary course of business, otherwise than on arm's length terms;
- (n) **(material agreements)** the termination, variation, assignment, novation or enforcement of, or waiver of a right under, or decision not to comply with, any material agreement;
- (o) **(material litigation)** the instigation or settlement of, or implementation of any strategy about, any dispute, claim, litigation or arbitration proceedings by the company when the amount claimed is more than \$50,000 or, in the case of trading debts, is more than \$50,000.
- (p) **(change in nature of business)** stopping carrying on, or materially altering, the scale or nature of operations of the company or commencing any material business or operational activities other than the current business operations of the company;
- (q) **(sale)** a sale of a majority of the assets of the company or a transaction to sell or licence all or a substantial part of the Intellectual Property Rights of the company; and]
- (r) **(branding)** changing the business names, trademarks, service marks, trade names, domain names, logos or branding of the company or the Business;
- (s) **(dividends)** the declaration of any dividends or decision to pay any dividends;
- (t) **(delegation of powers)** the delegation of any powers from the Board; and
- (u) **(agreement to do things)** the agreement to do any of the things listed in this Schedule.

Schedule 2

Matters that require a resolution approved by a Shareholders' Special Majority Resolution (rule 15.11(a))

The matters that may only be decided by the Shareholders by resolution approved by a Shareholders' Special Majority Resolution under rule 15.11(a) are:

- (a) **(change in nature of business)** a fundamental change in the scale or nature of operations of the Business (including a fundamental change in the name, logos or branding of the company);
- (b) **(changes to constitution)** changes to the constitution;
- (c) **(rights attaching to Shares or other equity securities)** any alteration to rights conferred by Shares or other Equity Securities;
- (d) **(sale)** a sale of a majority of the assets of the company or a transaction to sell or licence all or a substantial part of the Intellectual Property Rights of the company;
- (e) **(merger or amalgamation)** merging or amalgamating the company or any Subsidiary of the company with any other entity; and
- (f) **(agreement to do things)** the agreement to do any of the things listed in this Schedule.