

ZEROCO.COM.AU PTY LIMITED

ACN 633 757 954

CONSTITUTION

PART 1 – PRELIMINARY

1. NAME

The Company is Zeroco.com.au Pty Limited ACN 633 757 954.

The Company is a proprietary company limited by shares.

2. REPLACEABLE RULES

The replaceable rules in the Act do not apply to the Company.

3. PURPOSE

The purpose of the Company is to deliver returns to shareholders whilst having an overall positive impact on society and the environment.

PART 2 - SHARES

4. ISSUE OF SHARES

Without limiting the Company's powers under the Act, but subject to clause 15 of this constitution, the Company (under the control of the Directors) may:

- 3.1 issue Shares in the Company; and
- 3.2 grant options over unissued Shares in the Company,

on any terms, with any rights or restrictions attached to the Shares, at any time, and for any consideration the Directors decide.

5. PREFERENCE SHARES

- 5.1 The Company may issue preference shares on terms approved by Special Shareholder Majority and in accordance with clause 51.3 (if applicable) as to:
 - (a) repayment of capital;

- (b) participation in surplus assets and profits;
 - (c) cumulative and non cumulative dividends;
 - (d) voting;
 - (e) priority of payment of capital and dividends in relation to other shares or classes of preference shares.
- 5.2 The Company may only redeem redeemable preference shares according to their terms of issue.
- 5.3 Subject to the terms of this constitution, their terms of issue and the Act, the Company may issue, or convert Shares designated as “Seed Preference Shares”, which Shares have the rights set out in Schedule 2.

6. VARIATION OF CLASSES AND CLASS RIGHTS

- 6.1 Subject to the Act and to this constitution, the Company may:
- (a) vary or cancel rights attached to Shares in a class of Shares;
 - (b) convert Shares from one class to another;
- by Special Shareholder Majority of the Company and
- (c) by Special Shareholder Majority passed at a meeting of the holders of Shares in that class; or
 - (d) by the written consent of shareholders with at least 75% of the votes in that class.
- 6.2 Part 5 (with the necessary changes) applies to meetings of holders of a class of Shares.
- 6.3 The Company may issue new Shares that rank equally with existing Shares. A new issue is taken not to vary the rights attached to the existing Shares.

7. ALTERATION OF SHARE CAPITAL

The Company in general meeting may convert its Shares into a larger or smaller number of Shares.

8. REDUCTION OF CAPITAL AND BUY BACKS

Subject to the Act and to this constitution, the Company may:

- 8.1 reduce its share capital;
- 8.2 buy back Shares in itself.

9. BROKERAGE

The Company may pay brokerage or commission if a person takes up Shares in the Company.

10. JOINT HOLDERS

- 10.1 Two or more persons may hold a Share only as joint tenants.
- 10.2 The Company need not register more than three persons as joint holders of a Share.

11. TRUST NOT RECOGNISED

Except as required by law or this constitution, the Company need not recognise:

- 11.1 that a person holds a Share on trust; or
- 11.2 any interest in a Share except the registered holder's absolute ownership of the whole share.

12. SHARE CERTIFICATES

- 12.1 When the Company registers Shares of any class to a shareholder, the Company must issue to the shareholder, without charge, a certificate for those Shares.
- 12.2 The Company must issue to each shareholder a free certificate for all the Shares of each class registered in the shareholder's name.
- 12.3 The Company must issue only one certificate for Shares registered in more than one name. The Company may deliver that certificate to any one of the registered holders.
- 12.4 The Company must issue a replacement certificate (marked as such) if:
 - (a) the Company receives and cancels the old certificate; or
 - (b) the Company is satisfied that the old certificate is lost or destroyed, and the shareholder indemnifies the Company as the Directors require.

13. SHAREHOLDERS

13.1 **Shareholder not liable for another shareholder**

Each shareholder is responsible for its obligations under this constitution and is not liable for any obligation of another shareholder.

13.2 **Relationship between shareholders**

Except where this constitution expressly states otherwise, this constitution does not create any relationship between the shareholders under which a shareholder:

- (a) is liable generally for the acts or omissions of another shareholder; or
- (b) may share profits.

13.3 **Authority of shareholders**

A shareholder:

- (a) may not hold itself out as a partner of, or principal or agent or trustee of another shareholder; and
- (b) except where this constitution expressly states otherwise, does not have authority to act for, or to create or assume any responsibility or obligation on behalf of another shareholder.

13.4 **Shareholders must act in good faith**

Each shareholder must act in good faith when dealing with another shareholder and otherwise act reasonably in all matters relating to the Company.

13.5 **Shareholder to further Company objectives**

Each shareholder must comply with this constitution and procure that any director appointed by it from time to time gives full effect to this constitution (subject to the director's duties to the Company).

14. CORPORATE FINANCE

14.1 **Financing sources**

The operation of the Company shall be financed by the following various sources as determined by the Directors from time to time in accordance with this constitution:

- (a) subject to clause 15, subscriptions for Shares (whether by the shareholders or by third parties) at such price as determined by the Directors from time to time;
- (b) loans by the shareholders to the Company in accordance with the provisions of this constitution;
- (c) grants and other funding programs offered by Australian federal or state governments or governmental bodies; and
- (d) the Company obtaining credit loans and other financial accommodation from suppliers, banks and other financial institutions.

14.2 **External funding**

Subject to clauses 40.1 and 51.3, the Directors shall have authority to negotiate and document borrowings and credit facilities on such terms and conditions as they consider appropriate.

14.3 **Shareholder loans**

In the event that one or more shareholders make loans to the Company:

- (a) if a shareholder advances a loan to the Company which (in proportion to the loans procured by the other shareholders) exceeds its Respective Proportion, then the amount of such excess must be paid in full to that shareholder before any loans are repaid to other shareholders;
- (b) no shareholder will make demand for or otherwise require repayment of such loans except in the event of the liquidation of the Company or an administrator being appointed to the Company under Part 5.3A of the Act; and
- (c) the shareholders must cause such loans to be subordinated to the other external indebtedness of the Company if required by secured creditors of the Company,

in each case, unless otherwise agreed by Special Shareholder Majority.

15. PRE-EMPTIVE RIGHTS ON ISSUE OF SECURITIES

15.1 **Excluded issues**

This clause 15 does not apply to any Excluded Issue.

15.2 **Offer**

If the Company proposes to issue Securities, the Company must first offer each shareholder holding 1% or more of the fully diluted share capital of the Company and any other shareholder determined by the Directors, its Respective Proportion of the total number of Securities (**Issue Securities**) to be issued by written notice (**Issue Notice**) specifying:

- (a) the terms of issue of the Issue Securities;
- (b) the total number of Issue Securities available for subscription; and
- (c) the date on which subscription monies for the Issue Securities must be paid to the Company.

15.3 **Acceptance**

A shareholder wishing to subscribe for Issue Securities (**Accepting Subscriber**) in response to an Issue Notice must, within 10 Business Days after receipt of the Issue Notice, irrevocably notify the Directors of the number of Issue Securities it is willing to subscribe for (**Issue Acceptance**).

15.4 **Allocation**

- (a) If the aggregate Issue Acceptances received by the Directors in accordance with clause 15.3 is less than or equal to the total number of Issue Securities, each Accepting Subscriber's allocation of Issue Securities (**Allocation**) is the amount of Issue Securities set out in its Issue Acceptance.
- (b) If the aggregate Issue Acceptances received by the Directors in accordance with clause 15.3 is greater than the total number of Issue Securities, each Accepting Subscriber's Allocation is the lesser of:
 - (1) its Issue Acceptance; and
 - (2) the relevant Accepting Subscriber's Respective Proportion of the Issue Securities.

15.5 **Notice of Allocation**

As soon as reasonably practicable after the determination of the entitlements of each relevant shareholder in accordance with clause 15.4, the Company must give each Accepting Subscriber a notice setting out its Allocation and the time and place for completion of the issue of the Issue Securities.

15.6 **Completion**

- (a) On the date that is 10 Business Days after the Company notifies the Accepting Subscribers of the Allocations under clause 15.5, or at such other date as is agreed by the Company and the Accepting Subscribers:
 - (1) the Company must issue, and each Accepting Subscriber must subscribe for, the respective Allocation on the terms set out in the Issue Notice;
 - (2) each Accepting Subscriber must pay the subscription price for its Allocation to the Company; and
 - (3) the Company must:

- (A) register the issue of the Allocation and enter each Accepting Subscriber in the Company's register of members for the Accepting Subscriber's Allocation; and
- (B) issue a new share certificate in the name of each Accepting Subscriber for its Allocation.

- (b) If an Accepting Subscriber fails to pay the subscription monies for the Issue Securities when due, such Issue Securities will be treated as Remaining Securities (as that term is defined in clause 15.7) and may be issued by the Company in accordance with clause 15.7.

15.7 **Issue to Third Parties and Accepting Subscribers**

After the procedures set out in clauses 15.2 to 15.6 have been complied with and exhausted, if any Issue Securities have not been allocated (**Remaining Securities**), the Company may issue those Remaining Securities to one or more other parties selected by the Directors, including to any Accepting Subscribers who in their Issue Acceptance specified a number of Issue Securities greater than their Respective Proportion of the Issue Securities, on terms no more favourable to that party than those offered to the shareholders.

15.8 **Investor assignment**

A shareholder may assign its rights to subscribe for Securities under this clause 15 to any person to whom it would be entitled to transfer such Securities by way of a permitted transfer pursuant to clause 24.1 and all other shareholders consent to the acquisition of Securities by that transferee pursuant to such assignment.

16. SHARE PLAN

The shareholders agree that:

- 16.1 at any time and from time to time, the Directors may establish one or more formal written employee incentive plans to issue Securities to eligible service providers (whether directors, employees or contractors) that results in the issue of up to that aggregate number of ordinary shares as represents 10% (or such other percentage as required by a majority of the Directors (including at least one Investor Director (if any)) and notified in writing to all Shareholders) (**Share Plan**);
- 16.2 each Share Plan will authorise the Directors to issue Securities under the Share Plan to eligible service providers in their discretion; and
- 16.3 any issue of Securities under a Share Plan will be an Excluded Issue.

PART 3 - CALLS, LIENS AND FORFEITURE

17. CALLS

- 17.1 Subject to the terms of issue, the Directors may make calls on the holder of a Share for any unpaid portion of the issue price of that Share at any time.
- 17.2 The Directors may make a call payable by instalments.
- 17.3 The Directors must give to the shareholder at least 14 days' notice of a call, specifying the amount payable, and the time and place of payment.
- 17.4 A call is made when the Directors resolve to make the call.
- 17.5 The Directors may revoke or postpone a call or extend the time for payment.

- 17.6 A call is still valid if either or both:
- (a) a shareholder does not receive notice of the call;
 - (b) the Company accidentally does not give notice of the call to a shareholder.
- 17.7 A shareholder must pay to the Company:
- (a) the amount called, by the time and at the place specified;
 - (b) if the amount called is not paid by that time, interest at the rate fixed in this Part on an unpaid call (or instalment) from the date the call (or instalment) becomes presently payable until and including the date of payment; and
 - (c) costs incurred by the Company because of the non payment or late payment.
- 17.8 Joint holders of a Share and their respective personal representatives are all jointly and severally liable to pay all calls on the Share.
- 17.9 If, by the terms of issue, an amount is payable on issue or at a fixed date, the Company is taken to have properly called that amount and given proper notice of it.
- 17.10 The Directors may waive all or any part of an amount payable under this clause or the terms of issue of a Share.
- 17.11 The Directors may recover an amount presently payable under this clause from a shareholder in all or any of the following ways:
- (a) by suing the shareholder for debt;
 - (b) by enforcing the lien on the Share;
 - (c) by declaring forfeit the Share.
- 17.12 A debt is sufficiently proved by evidence that:
- (a) the shareholder is registered as a holder or a joint holder of the Share; and
 - (b) the resolution for the call is recorded in the minute book.
- 17.13 The Directors may authorise the Company:
- (a) to accept from a shareholder an amount paid before call;
 - (b) to pay interest on the amount paid before call, at any rate the Directors decide, from the date of payment until and including the date the call becomes presently payable;
 - (c) to repay the amount to the shareholder.
- 17.14 An amount paid before call is ignored in determining a Dividend or surplus in a winding up.

18. INDEMNITY FROM TAXATION

- 18.1 If the Company is required by law to pay an amount (including a tax) in respect of a shareholder or a Share held by that shareholder or a Dividend in respect of a Share held by that shareholder:
- (a) the shareholder or the shareholder's personal representative must:
 - (1) indemnify the Company against that liability;
 - (2) on demand, reimburse the Company for any payment by the Company, and pay to the Company interest on it at the rate fixed under this Part from the date of payment by the Company until and including the date

- the shareholder reimburses the Company and pays any costs incurred by the Company because of the payment;
- (b) the Company may refuse to register a transfer of any shares by or to the shareholder or the shareholder's personal representative until payment of all amounts presently payable under this clause.
- 18.2 The Directors may waive any of the Company's rights under this clause.
- 18.3 The Directors may recover an amount presently payable under this clause from a shareholder in both or either of the following ways:
- (a) by suing the shareholder for debt;
 - (b) by enforcing the lien on the share.

19. FORFEITURE

- 19.1 The Directors may resolve that a shareholder's Share is forfeited if:
- (a) the shareholder does not pay a call or instalment on the Share when presently payable; and
 - (b) the Company gives the shareholder notice:
 - (1) requiring payment of that call or instalment, any interest on it and any costs incurred by the Company because of the non payment;
 - (2) stating that the Share will be forfeited if the shareholder does not pay to the Company, at the place named, the total amount within 14 days (or any longer period stated) after the notice is given; and
 - (c) the shareholder does not pay the total amount within that period.
- 19.2 When a Share is forfeited, the Company must:
- (a) notify the former holder that the Share is forfeited; and
 - (b) record the forfeiture and date of forfeiture in the register of shareholders.
- A failure to do this does not invalidate the forfeiture.
- 19.3 The former holder of a forfeited Share must pay to the Company:
- (a) all calls, instalments, interest and costs in respect of the Share at the time of forfeiture; and
 - (b) interest at the rate fixed in this Part on those amounts from the date of forfeiture until and including the date of payment.
- 19.4 The forfeiture of a Share extinguishes:
- (a) the former shareholder's interest in the Share; and
 - (b) all claims against the Company in respect of the share, including all Dividends presently payable by the Company on the share.
- 19.5 The Company may sell or otherwise dispose of a forfeited Share on any terms and in any way the Directors decide.
- 19.6 A certificate by a director or secretary of the Company that the Share was forfeited on a specified date is sufficient evidence of the matter, unless it is proved to be incorrect.
- 19.7 The Directors may:

- (a) waive any of the Company's rights under this clause;
- (b) before sale or re issue of a forfeited Share, annul the forfeiture on any terms the Directors decide.

20. LIEN

20.1 The Company has a first ranking lien on:

- (a) each Share registered to a shareholder;
- (b) Dividends on the Share;
- (c) proceeds of sale of the Share;

for:

- (d) an unpaid call or instalment that is due but unpaid on the Share;
- (e) any amounts the Company is required by law to pay (and has paid) in respect of the Shares of that shareholder or deceased former shareholder;
- (f) any interest and costs presently payable to the Company under this Part.

20.2 The Company may sell a Share to enforce a lien if:

- (a) an amount secured by the lien is presently payable;
- (b) the Company gives the shareholder notice:
 - (1) requiring payment of that amount, any interest on it and any costs incurred by the Company because of the non payment;
 - (2) stating that the Share will be sold if the shareholder does not pay to the Company, at the place named, the total amount within 14 days (or any longer period stated) after service of the notice; and
- (c) the shareholder does not pay the total amount within that period.

20.3 The Directors may waive any of the Company's rights under this clause.

20.4 Registration by the Company of a transfer of a Share releases any lien on that share, insofar as the lien relates to money owing by the transferor or previous transferor, unless the Company gives the transferee notice of its claim.

21. SALE

21.1 The Directors may authorise a person to sign a transfer of a forfeited Share or a Share sold to enforce a lien.

21.2 The Company must apply the sale price from:

- (a) the sale of a forfeited Share;
- (b) the sale of a Share sold to enforce a lien;

in the following order:

- (c) to the costs of the sale;
- (d) to the amount presently payable by the former holder to the Company;
- (e) to the former holder or the former holder's personal representative, on receipt of the certificate for the Share.

21.3 The Company must register the purchaser of the Share as the holder of the Share.

21.4 The purchaser need not enquire whether the Company:

- (a) properly exercised its powers in respect of the Share;
- (b) properly applied the sale price for the Share.

These matters do not affect the title of the purchaser.

21.5 Unless expressly agreed, the purchaser is not liable for calls and other amounts presently payable in respect of the Share before the sale.

22. INTEREST

22.1 A shareholder must pay interest under this Part to the Company:

- (a) at a rate the Directors decide;
- (b) if the Directors do not decide a rate, at 10% per annum.

22.2 Interest payable to the Company accrues daily.

22.3 The Company may capitalise interest monthly or at any other intervals the Directors decide.

PART 4 – TRANSFER OF SHARES

23. RESTRICTIONS RELATING TO SHARES

23.1 **No right to encumber**

A shareholder must not create, or allow to continue, any Encumbrance over any Shares held by that shareholder without first obtaining the approval of a majority of the Directors (including at least one Investor Director (if any)).

23.2 **Prohibition on disposal**

(a) Subject to clauses 31.1(d) and 26.4, none of the shareholders may dispose or purport to dispose of all or any of their Shares in the Company either directly or indirectly unless:

- (1) the disposal is required or permitted by clause 24; or
- (2) the Directors approve of the disposal.

(b) Without limiting clause 23.2(a), the Founder may not dispose of or purport to dispose of all or any of its Shares in the Company, either directly or indirectly, except a disposal:

- (1) of up to 10% of its Shares (calculated based on the number of Shares that the Founder holds as at 30 September 2021) in a 12-month period and up to 25% of such Shares in total; or
- (2) for estate planning purposes; or
- (3) with the prior approval of the Directors by Special Board Majority including at least one Investor Director (if any).

23.3 **Meaning of disposal**

For the purpose of this constitution, **dispose** includes (and **disposal** shall be considered accordingly):

- (a) sell, assign, offer, dispose of, transfer or deal in any way with any right, title or interest in any Share (whether legal or beneficial and whether for valuable consideration or not);
- (b) to agree to sell, assign, offer, dispose of, transfer or deal in any way with any right, title or interest in any Share (whether legal or beneficial and whether for valuable consideration or not);
- (c) create, declare or allow to be created any trust over any Share; and
- (d) any act or omission that causes or results in a change in effective control of that shareholder.

24. DEALING WITH A SHARE

24.1 **Permitted Transfers**

- (a) Subject to clause 31.1(d), a shareholder may transfer all or part of its Shares to:
 - (1) a Related Body Corporate of that shareholder;
 - (2) the trustee of a trust principally for the benefit of that shareholder;
 - (3) a body corporate, all shares in which are beneficially owned by that shareholder;
 - (4) where that shareholder holds the Shares as trustee of a trust principally for certain individual beneficiaries, to the trustee of another trust principally for the benefit of one or more such individual beneficiaries of the first-mentioned trust;
 - (5) where that shareholder holds the Shares as trustee of a trust principally for certain individual beneficiaries, to one or more such individual beneficiaries of that trust; or
 - (6) where that shareholder holds the Shares as trustee of a trust principally for certain individual beneficiaries, to a body corporate, all shares in which are beneficially owned by one or more such individual beneficiaries; or
 - (7) if the shareholder holds Shares on behalf of a fund (however structured including as a unit trust or partnership), a transfer of Shares to:
 - (A) to another trustee, partner, custodian or manager of the fund;
 - (B) to partners, beneficiaries or investors (as applicable) of the fund as a distribution on winding up;
 - (C) to a limited partner of the shareholder that is a limited partnership (if applicable);
 - (D) to any other person who, directly or indirectly, controls, is controlled by, or is under common control with the fund,

including, without limitation, any general partner or managing member of the fund; or

- (E) if applicable, to any venture capital fund controlled by one or more general partners or managing members of, or that shares the same management or advisory company with, the fund (or whose management or advisory company is an Associate of the fund's management or advisory company),

at any time without complying with the provisions of this clause 24, provided that the shareholder has advised the Company in writing of the name of the transferee.

- (b) If a person (**Former Affiliate**) to whom a Shareholder (**Original Shareholder**) has transferred any Shares under clause 24.1(a) ceases to be a person to whom the Original Shareholder would be permitted to transfer Shares under 24.1(a):

- (1) the Former Affiliate must (and the Original Shareholder must procure that the Former Affiliate does) immediately transfer the relevant Securities back to the Original Shareholder (who must purchase the Securities); and
- (2) all rights attaching to the Securities held by the Former Affiliate will be suspended until the transfer back to the Original Shareholder is completed,

in each case unless the Directors determine otherwise (with the affirmative vote of at least one Investor Director).

24.2 Procedure for transferring shares

- (a) **Offer**

- (1) A Shareholder wishing to dispose of all or some of the Securities held by it (**Seller**) must first give to the Directors a written notice (**Transfer Notice**) which sets out:
 - (A) the number and class of Securities it proposes to dispose of (**Sale Securities**);
 - (B) the name of any proposed third-party buyer (if any);
 - (C) the price payable per Sale Security; and
 - (D) the key terms of any offer from a purchaser or agreement between the Seller and the purchaser concerning the Seller's Securities.
- (2) The Transfer Notice constitutes an offer by the Seller to dispose of the Sale Securities to any shareholder holding 1% or more of the fully diluted share capital of the Company and any other shareholder determined by the Directors at the price stated in the Transfer Notice and in the manner outlined in this clause 24.2.
- (3) The Directors must provide a copy of the Transfer Notice to each shareholder holding more than 1% of the Shares on issue (other

than the Seller) and any other shareholder as determined by the Directors:

- (A) where the Transfer Notice is given by a shareholder that was a shareholder in the Company as at 1 October 2021 or where the Transfer Notice relates to Shares in the Company representing no less than 0.5% of the fully diluted share capital of the Company, within 5 Business Days; or
- (B) otherwise, if the Directors determine to do so at their sole discretion.

For the avoidance of doubt, if the Directors determine (in accordance with clause 24.2(a)(3)(B)) not to provide a copy of the Transfer Notice to each shareholder holding more than 1% of the Shares on issue (other than the Seller) (or to any other shareholders), the Seller is not permitted to dispose of the Sale Securities.

(b) **Acceptance**

A shareholder wishing to purchase Sale Securities in response to a Transfer Notice received from the Directors under clause 24.2(a)(3) (**Accepting Shareholder**) must, within 10 Business Days after receipt of the Transfer Notice, irrevocably notify the Directors of the number of Sale Securities it is willing to purchase (**Transfer Acceptance**).

(c) **Transfer of securities to existing Shareholders**

- (1) If the aggregate Transfer Acceptances received by the Directors from Accepting Shareholders is less than or equal to the total number of Sale Securities, each Accepting Shareholder's allocation of Sale Securities (**Allocation**) is the amount of Sale Securities set out in its Transfer Acceptance.
- (2) If the aggregate Transfer Acceptances received by the Directors from Accepting Shareholders is greater than the total number of Sale Securities, each Accepting Shareholder's Allocation will be determined as follows:
 - (A) each Accepting Shareholder will be allocated the lesser of:
 - (i) the number of Sale Securities set out in its Transfer Acceptance; and
 - (ii) the relevant Accepting Shareholder's Respective Proportion of the Sale Securities.
 - (B) if any Sale Securities remain unallocated each Accepting Shareholder who in their Transfer Acceptance specified a number of Sale Securities greater than the number of Sale Securities allocated to them will be allocated additional Sale Securities in proportion to their Respective Proportion (provided that no Accepting Shareholder will be allocated more Sale Securities than the number set out in its Transfer

Acceptance) and this process will be repeated until either all Sale Securities are allocated, or each Accepting Shareholder has been allocated the number of Sale Securities set out in its Transfer Acceptance.

(d) **Notice of Allocation**

The Company must give each Accepting Shareholder a notice setting out its Allocation, and must provide the Seller with a copy of each such notice, within 5 Business Days.

(e) **Transfer of Securities to third party**

If there are unallocated Sale Securities after all Allocations have been exhausted under clause 24.2(c):

- (1) the Company must immediately notify the Seller of the unallocated Sale Securities; and
- (2) subject to clause 31.1(d), the Seller is free to dispose of the unallocated Sale Securities to any other party within 90 days of the date of the Transfer Notice on terms no more favourable to the other party than those set out in the Transfer Notice.

(f) **Completion**

On the date that is 10 Business Days after the Company notifies the Accepting Shareholders of the Allocations under clause 24.2(d), or at such other date as is agreed between the Seller and the Accepting Shareholders:

- (1) the Seller must:
 - (A) deliver to the Company the share certificate for the Sale Securities; and
 - (B) transfer to each Accepting Shareholder its respective Allocation on the terms set out in the Transfer Notice;
- (2) each Accepting Shareholder must:
 - (A) accept its respective Allocation on the terms set out in the Transfer Notice;
 - (B) pay to the Seller aggregate consideration for its Allocation; and
- (3) the Company must:
 - (A) register the transfer of the Allocation and enter each Accepting Shareholder in the Company's register of members for the Accepting Shareholder's Allocation; and
 - (B) issue a new share certificate in the name of each Accepting Subscriber for its Allocation and, if applicable, a new share certificate in the name of the Seller in respect of any balance of Shares held.

(g) If an Accepting Shareholder fails to complete the acquisition of its allocated Sale Securities in accordance with this clause 24.2(f), those Sale Securities will

be treated as unallocated Sale Securities and may be disposed of in accordance with clause 24.2(e).

(h) **Calculations**

- (1) For the purposes of this clause 24.2, the Seller's Shares are excluded from the number of issued Shares when calculating each Accepting Shareholder's Respective Proportion.
- (2) The Directors may settle and determine any issue or dispute about the calculations, allocations or entitlements under this clause 24.2, including any fractional entitlements or rounding under this clause 24.2, in any way that the Directors see fit.

24.3 **Tag Along**

- (a) If a Seller is permitted to dispose unallocated Sale Securities to a third party pursuant to clause 24.2(d), and the unallocated Sale Securities total 51% or more of the total issued Shares, the Seller must give each other shareholder a notice (**Tag Along Notice**) of their intention.
- (b) A Tag Along Notice gives each other shareholder the right (**Tag Along Option**) to require the Seller to procure that the proposed purchaser also purchases the Shares held by the other shareholders that exercise the Tag Along Option, and must include details of:
 - (1) the name of the proposed purchaser;
 - (2) the number of Securities in the proposed disposal to the third party;
 - (3) the sale price and any other terms of the proposed disposal to the purchaser; and
 - (4) the period during which a Tag Along Option may be exercised, which must be a period of not less than 10 Business Days from the date of service of the Tag Along Notice (**Exercise Period**).
- (c) A Tag Along Option may be exercised by notice (**Exercise Notice**) to the Seller given within the Exercise Period.
- (d) If a shareholder exercises its Tag Along Option, the Seller must not dispose of any Securities to the purchaser unless the purchaser, at the same time, buys the Shares specified in the Exercise Notice at the same price per Share and otherwise on the same terms.
- (e) If the Tag Along Option is not exercised within the period specified in the Tag Along Notice, it will be deemed to have lapsed at midnight on the last day of the Exercise Period.

24.4 **Drag Along**

(a) **Drag Along Notice**

- (1) Subject to clause 24.4(a)(3), if the Company or any shareholder receives a bona fide offer from a third party to purchase all of the Securities in the Company (**Third Party Offer**) and the holders of at least 66% of the issued Shares accept the Third Party Offer (**Dragging Shareholders**), any Dragging Shareholder is entitled to issue to some or all of the remaining shareholders (**Other**

Shareholders) a notice (**Drag Along Notice**) requiring each Other Shareholder to sell to the third party specified in the Drag Along Notice some or all of the Other Shareholders' Securities upon the terms and conditions specified in the Drag Along Notice.

- (2) Notwithstanding anything else in this constitution, the pre-emption procedure set out in clause 24.2 does not apply to the relevant Securities once a Drag Along Notice has been issued.
- (3) If:
 - (A) a Drag Along Notice is issued before 15 September 2024; and
 - (B) as at the date of the relevant Drag Along Notice, either Skip or Square Peg holds a fully diluted Share holding of over 7.5% of the issued Shares,

then the relevant Third Party Offer must be approved by Skip or Square Peg (as the case may be) in addition to being accepted by the holders of at least 66% of the issued Shares.

(b) **Terms of Offer**

- (1) The terms on which the Dragging Shareholders require the Other Shareholders to sell their Securities must be no less favourable to the Other Shareholders than the terms on which the Dragging Shareholders are selling their Securities.
- (2) The Drag Along Notice must specify:
 - (A) the details of the third-party buyer;
 - (B) the consideration payable for each Security; and
 - (C) any other key terms and conditions upon which the Other Shareholders' Securities will be purchased pursuant to the Drag Along Notice.
- (3) Subject to clause 24.4(b)(4), each Other Shareholder must, within 10 Business Days of service of the Drag Along Notice (or such later date specified in the Drag Along Notice) sell all of their Securities to the third party buyer specified in the Drag Along Notice in accordance with the key terms and conditions of the Drag Along Notice.
- (4) The Other Shareholders are not obliged to sell their Securities in accordance with clause 24.4(b)(3) if the Dragging Shareholders do not complete the sale of all their Securities to the third party buyer on the same key terms and conditions set out in the Drag Along Notice.

24.5 **Co-Sale Right**

- (a) If, at any time, the Founder is permitted to dispose of Securities to a third party (other than under a permitted transfer in clause 24.1 or a transfer permitted by 23.2(b)(1)), the Founder must give each shareholder holding (together with their Associates) at least 7.5% of the Shares a notice (**Co-Sale Notice**) of their intention.

- (b) A Co-Sale Notice gives each shareholder holding (together with their Associates) at least 7.5% of the Shares the right (**Co-Sale Option**) to require the Founder to procure that the proposed purchaser also purchases Securities held by that shareholder in equivalent proportion to the number of Securities to be purchased from the Founder, at the same price and otherwise on the same terms, and must include details of:
- (1) the name of the proposed purchaser;
 - (2) the number of Securities in the proposed disposal to the third party;
 - (3) the sale price and any other terms of the proposed disposal to the purchaser; and
 - (4) the period during which a Co-sake Option may be exercised, which must be a period of not less than 10 Business Days from the date of service of the Co-Sale Notice (**Exercise Period**).
- (c) A Co-Sale Option may be exercised by notice (**Exercise Notice**) to the Seller given within the Exercise Period.
- (d) If a shareholder holding (together with their Associates) at least 7.5% of the Shares exercises its Co-Sale Option, the Founder must not dispose of any Securities to the purchaser unless the purchaser, at the same time, buys the Securities specified in the Exercise Notice at the same price per Security and otherwise on the same terms.
- (e) If the Co-Sale Option is not exercised within the period specified in the Co-Sale Notice, it will be deemed to have lapsed at midnight on the last day of the Exercise Period.

25. FOUNDER VESTING

25.1 Vesting of Founder Shares

- (a) 1,250,000 of the Shares held by the Founder as at 15 September 2021 were Unvested Shares, and those Unvested Shares have vested or will vest as follows:
- (1) at the end of each monthly period thereafter at a rate of 1/36th of the initial number of Unvested Shares, provided that the Founder (or its Related Principal) remains engaged by the Company to provide services, whether as a contractor or employee at the date of vesting;
 - (2) automatically, with effect immediately prior to completion of an Exit Event; and
 - (3) automatically, with effect immediately prior to the Founder (or its Related Principal) becoming a Good Leaver.
- (b) Despite any other provision of this constitution, and for the avoidance of doubt, the Founder's entitlement to vote shall be calculated at all times on the basis that all Shares held by the Founder have vested.

- (c) If any Reorganisation Event occurs before all of the Founder's Shares have vested in accordance with this clause 25.1, the shareholders will procure that the terms of this clause 25.1 are varied in such a way as determined by the Directors in their discretion, which neither disadvantages nor advantages the Founder nor adversely effects the rights of any other shareholders, to account for the effect of the Reorganisation Event, and the parties agree to be bound by any such changes.
- (d) Unless otherwise agreed by the Directors, if any Unvested Shares are transferred to a person pursuant to a permitted transfer under clause 23.2(b), such Shares will continue to vest in accordance with this clause 25 and will remain subject to the provisions of clauses 25.2 to 25.8 (which provisions shall be construed as if all references to the Founder were references to the relevant transferee).

25.2 **Bad Leaver arrangements**

- (a) In consideration of the payment of \$1.00 by the Company to the Founder, the Founder agrees that, if the Founder (or its Related Principal as the case may be) ceases to be employed or engaged by the Company in circumstances where they are a Bad Leaver, the Company may by written notice, buy back the Shares held by the Founder (including any Unvested Shares) (**Default Shares**) from the Founder or direct the Founder to transfer to a person nominated by the Directors (or a combination of the two as the Directors determine) all of the Default Shares for \$1.00 or such higher amount as determined by the Directors.
- (b) If the Company notifies the Founder that it wishes to buy back or require a compulsory transfer of the Default Shares under clause 25.2(a), the Founder and the other shareholders must do everything necessary to facilitate the sale of the Default Shares to the Company or the Company's nominee within 10 Business Days of the Company's notice.

25.3 **Good Leaver arrangements**

- (a) In consideration of the payment of \$1.00 by the Company to the Founder, the Founder agrees that, if the Founder (or its Related Principal as the case may be) ceases to be employed or engaged by the Company in circumstances where they are a Good Leaver, the Company may by written notice, buy back the Shares held by the Founder from the Founder or direct the Founder to transfer to a person nominated by the Directors (or a combination of the two as the Directors determine) all of the Shares held by the Founder for fair market value, as determined in accordance with clause 25.6.
- (b) If the Company notifies the Founder that it wishes to buy back or require a compulsory transfer of the Shares under clause 25.3(a), the Founder and the other shareholders must do everything necessary to facilitate the sale of the Shares to the Company or the Company's nominee within 20 Business Days of a binding determination of the fair market value of the Shares in accordance with clause 25.6. This clause does not require any shareholder to fund the transfer or buy back or make any other payments.

25.4 **Resignation by Founder**

- (a) It is agreed that:
 - (1) if the Founder (or its Related Principal as the case may be) resigns from his employment with the Company at any time prior to the

expiry of the Vesting Period (and the circumstances in clause 25.4(b) do not apply) then the Founder shall be deemed not to be a Good Leaver and clause 25.5 shall apply; and

- (2) if the Founder (or its Related Principal as the case may be) resigns from his employment with the Company at any time after the expiry of the Vesting Period then the Founder shall be deemed to be a Good Leaver, provided that he has given at least six months' notice of his intention to resign. In the event that the Founder (or its Related Principal as the case may be) fails to give such notice, or leaves prior to the expiry of the notice period, the Founder shall be deemed not to be a Good Leaver and clause 25.5 shall apply.

- (b) If the Founder (or its Related Principal as the case may be) resigns from his employment with the Company at any time following a resolution by the Directors to:

- (1) reduce the Founder's salary below \$150,000 per annum; or
- (2) defer or withhold payment of the Founder's salary,

then any Unvested Shares held by the Founder at that time will automatically vest and the Founder shall be deemed to be a Good Leaver and clause 25.3 shall apply.

25.5 **Resignation arrangements**

- (a) In consideration of the payment of \$1.00 by the Company to the Founder (if demanded), the Founder agrees that, if the Founder (or its Related Principal as the case may be) resigns from the Company in circumstances other than those specified in clause 25.4(b), the Company may by written notice buy back:
 - (1) any Vested Shares held by the Founder from the Founder or direct the Founder to transfer to a person nominated by the Directors (or a combination of the two as the Directors determine) all of the Vested Shares held by the Founder for 50% of fair market value, as determined in accordance with clause 25.6, or such higher amount as determined by the Directors; and
 - (2) any Unvested Shares held by the Founder from the Founder or direct the Founder to transfer to a person nominated by the Directors (or a combination of the two as the Directors determine) all of the Unvested Shares held by the Founder for \$1.
- (b) If the Company notifies the Founder that it wishes to buy back or require a compulsory transfer of the Shares under clause 25.5(a), the Founder and the other shareholders must do everything necessary to facilitate the sale of the Shares to the Company or the Company's nominee within 10 Business Days of a binding determination of the fair market value of the Shares in accordance with clause 25.6. This clause does not require any shareholder to fund the transfer or buy-back or make any other payments.

25.6 **Determination of fair market value**

- (a) The Directors will, prior to giving written notice to buy back Shares held by the Founder in accordance with clause 25.3 or clause 25.5, determine the fair

market value of the Founder Shares and will notify the Founder within 5 Business Days of such determination.

- (b) If the Founder agrees with the Directors' determination of the fair market value of the Founder Shares then he must notify the Directors within 5 Business Days that he accepts such determination and the Directors' determination of the fair market value of the Founder Shares shall be binding on all shareholders.
- (c) If the Founder does not agree with the Directors' determination of the fair market value of the Founder Shares then he must notify the Directors within 5 Business Days that he does not accept such determination and the matter will be referred to an independent accountant in accordance with clause 25.6(d).
- (d) Within 5 Business Days of receipt of notice under clause 25.6(c), the Directors must appoint an independent accountant acceptable to the Founder to determine the fair market value. If the Directors and the Founder are unable to agree on an accountant to appoint, a director or the Founder may request the President of the Law Society of New South Wales to appoint the accountant and the Directors and the Founder will accept that appointment. The independent accountant's determination of the fair market value of the Founder Shares shall be binding on all shareholders.

25.7 **No obligation to buy back**

- (a) Despite any other provision of this constitution, the Company may only buy back the Shares of the Founder under this clause 25 if the buy back is permitted under Part 2J.1 of the Act and will not materially prejudice the Company's ability to pay its creditors.
- (b) Any option to buy back or require a transfer of Shares under this clause 25 must be exercised (by giving notice under clause 25.2(a), 25.3(a) or 25.5(a) as applicable) within 60 days of the Company acquiring the relevant right.
- (c) If the Company is unable to buy back Shares because the buy back is not permitted under Part 2J.1 of the Act or will materially prejudice the Company's ability to pay its creditors, the Company may instead nominate a third party purchaser to acquire the Shares at the same price as would have applied under the buy back.

25.8 **Founder abstention**

Any reference to the approval or consent of the Directors under this clause 25 requires the approval or consent by the Directors by a decision or vote on which the Founder and any director appointed by the Founder has abstained. If Skip has not appointed a director but holds at least 7.5% of the Shares on issue, Skip will be entitled to vote on any Directors' decision or resolution relevant to this clause 25 as if it had a director on the board of Directors. If Square Peg has not appointed a director but holds at least 7.5% of the Shares on issue, Square Peg will be entitled to vote on any Directors' decision or resolution relevant to this clause 25 as if it had a director on the board of Directors.

26. DEFAULT

26.1 **Events of Default**

For the purposes of this constitution the following events will constitute **Events of Default**:

- (a) the failure of a shareholder to do execute or perform any deed, matter, act or thing which such shareholder is obliged to do, execute or perform pursuant to this Agreement, provided that this clause 26.1(a) does not apply to Skip or Square Peg; or
- (b) an Insolvency Event occurs in respect of a shareholder or a Related Body Corporate of a shareholder.

26.2 **Notice of Default**

Upon the occurrence of any Event of Default in respect of a shareholder (**Defaulting Party**) the other shareholders (**Aggrieved Parties**) will have the rights under this clause, and any Aggrieved Party may serve upon the Defaulting Party notice (**Notice of Default**) either:

- (a) if such Event of Default is capable of remedy, requiring the Defaulting Party to remedy such Event of Default within a period of 30 days following service of the Notice of Default; or
- (b) if such Event of Default is not capable of remedy, notifying the Defaulting Party of the Event of Default.

26.3 **Non-satisfaction**

If:

- (a) the Defaulting Party fails to comply with the Notice of Default under clause 26.2(a) within the specified time period; or
- (b) if a Notice of Default is issued under clause 26.2(b),

then any of the Aggrieved Parties may serve a further notice in writing (**Non-Satisfaction Notice**) on the Defaulting Party. Upon service of a Non-Satisfaction Notice the following provisions of this clause 26 will have effect.

26.4 **Purchase option**

From the date of service of a Non-Satisfaction Notice, the Defaulting Party irrevocably grants, for valuable consideration, an option for the Aggrieved Parties to purchase all of the Defaulting Party's Shares on the following terms (**Option**):

- (a) The purchase price at which the Option shall be exercisable will be:
 - (1) an amount mutually agreed between the Defaulting Party and the Aggrieved Parties exercising the Option; or
 - (2) failing such agreement, the purchase price will be 50% of the amount determined by independent valuation as provided in clause 26.6.
- (b) The Company will offer the Defaulting Party's Shares to the Aggrieved Parties by giving notice to all of the Aggrieved Parties:
 - (1) stating the number and price of Defaulting Party's Shares for sale; and
 - (2) inviting each of those Aggrieved Parties to exercise the Option by notifying the Company in writing, within 21 days after the notice is given, that they wish to exercise the Option and buy any of the

Defaulting Party's Shares, and if so, the maximum number that the Aggrieved Party wishes to purchase (**Option Exercise Notice**).

- (c) Upon an Aggrieved Party giving the Company an Option Exercise Notice, there shall be deemed to be a binding contract for the sale of the Defaulting Party's Shares held by the Defaulting Party between the relevant Aggrieved Party as purchaser and the Defaulting Party as vendor.
- (d) After the period of 21 days referred to in clause 26.4(b) ends, the Company must allocate the Defaulting Party's Shares to the Aggrieved Parties who exercised the Option and issued the Company an Option Exercise Notice.
- (e) If:
 - (1) two or more Aggrieved Parties give the Company an Option Exercise Notice; and
 - (2) there are not enough Defaulting Party's Shares to fill their offers, the Company must allocate the Defaulting Party's Shares to those Aggrieved Parties in proportion to the number of Shares already held by each of them. However, the Company must not allocate to an Aggrieved Party more than the maximum number of Defaulting Party's Shares specified in that Aggrieved Party's Option Exercise Notice.
- (f) The parties authorise the Directors to settle and determine any issue or dispute about the calculations, allocations or entitlements under this clause 26.4, including any fractional entitlements or rounding under this clause 26.4, in any way that the Directors see fit.
- (g) If the Company has allocated a Defaulting Party's Share to an Aggrieved Party and the Aggrieved Party pays the price for that Share, the Defaulting Party must transfer that Share to the Aggrieved Party and execute such transfer documentation.
- (h) After:
 - (1) the transfer is executed and delivered by or for the Defaulting Party; and
 - (2) the Aggrieved Party pays the stamp duty (if any) on the transfer, the Company must register the Aggrieved Party as the holder of the relevant Share.

26.5 **Non-Exercise of Option**

In the event that the Aggrieved Parties fail or refuse to exercise the Option under clause 26.4 with respect to some or all of the Defaulting Party's Shares, then the holders of a majority of the Shares held by the Aggrieved Parties may, within six months following the expiry of the Option under clause 26.4, identify a third party to purchase the remaining Defaulting Party's Shares on the same terms and conditions as applied under the Option and the Defaulting Party must sell those remaining Shares on that basis to any such third party nominated by the holders of the majority of the Shares held by the Aggrieved Parties.

26.6 Valuation

- (a) A valuation of the Defaulting Party's Shares will be calculated by an independent accountant. That accountant will be appointed by the Directors and must:
- (1) be a chartered accountant or a certified practising accountant actively engaged in public practice;
 - (2) be suitably qualified to carry out a valuation of the nature and dimension required;
 - (3) have at least five years' experience in the valuation and analysis of companies similar to the Company; and
 - (4) have no pecuniary interest that could reasonably be regarded as being capable of affecting the accountant's ability to give an unbiased opinion.
- (b) If the Directors fail to appoint an accountant, a Director may request the President of the Law Society of New South Wales to appoint the accountant. If that request is made the accountant will be appointed by the President of the Law Society of New South Wales.
- (c) The value of the Defaulting Party's Shares will be that sum which in the accountant's opinion is the fair market value of the Defaulting Party's Shares at the time of the relevant Event of Default.
- (d) The Directors must use their best efforts to ensure that the accountant determines the value of the Company within 15 Business Days after being instructed by the Directors.
- (e) The accountant will act as an expert and not as an arbitrator. The accountant's decision will be final.
- (f) The Defaulting Party will pay the accountant's costs in respect of determining the value of the Defaulting Party's Shares. If the Defaulting Party fails to pay the costs of any such valuation as required by the Company, the costs of such valuation shall be deducted from the purchase price payable to the Defaulting Party.

26.7 Other consequences of Events of Default

If an Event of Default occurs in respect of a Defaulting Party, the Defaulting Party is not entitled to vote at meetings of shareholders until the Event of Default is remedied.

27. APPOINTMENT OF ATTORNEY ON DEFAULT

27.1 Grant of Attorney

If a shareholder other than Square Peg (**Appointor**):

- (a) is in default of any of its obligations under this constitution (and, for the avoidance of doubt, such default need not be an Event of Default); or
- (b) otherwise fails to do anything required by this constitution,

the Appointor irrevocably appoints such person nominated by the Directors for the purpose of this clause 27.1 (**Attorney**) to be the Appointor's attorney to do one or more of the following things on behalf of the Appointor and in the name of the Appointor:

- (c) to execute under hand or seal and (if appropriate) deliver, or otherwise effect the entry by the Appointor into, any documents that are necessary or desirable to complete any transaction contemplated by this constitution; and
- (d) to perform any act, matter or thing which is necessary or desirable to complete any transaction contemplated by this constitution.

27.2 **Certificate**

A certificate signed by the Attorney as to its appointment as the attorney of the Appointor and the grant of powers under clause 27.1 is sufficient evidence of the matter unless proved incorrect.

27.3 **Interested Attorney**

The Attorney may exercise the powers granted under clause 27.1 even if the Attorney benefits from doing so or is in any way interested in anything the Attorney does, or causes to be done, in exercising its powers under clause 27.1 or is in any way connected with a person or body corporate who is interested in such matters.

27.4 **Ratification**

If required by the Attorney, the Appointor agrees to ratify and confirm whatever the Attorney lawfully does, or causes to be done, in exercising its powers under clause 27.1.

27.5 **Declaration**

The Appointor declares that all lawful acts, matters and things done by the Attorney in exercising its powers under clause 27.1 will be as valid and effective as if they had been done by the Appointor.

27.6 **Indemnity**

The Appointor indemnifies the Attorney against all claims, demands, costs, damages, losses and liabilities arising in any way in connection with the Attorney's lawful exercise of its powers under clause 27.1.

28. INSTRUMENT OF TRANSFER

An instrument of transfer of shares must be:

- 28.1 in writing;
- 28.2 in a common form or as the Directors accept;
- 28.3 executed by or for both the transferor and the transferee;
- 28.4 stamped;
- 28.5 delivered to the Company, at any place the Directors specify, together with the certificate for the shares and any other evidence the Directors require to prove:
 - (a) the title of the transferor;
 - (b) the transferor's right to transfer the shares; and
 - (c) the proper execution of the instrument of transfer.

29. EFFECT OF TRANSFER

A transferor of shares remains the holder of the shares until the transfer is registered and the name of the transferee is entered in the register of shareholders as the owner of the shares.

30. NO CHARGE

The Company must not charge a fee to register a transfer.

31. REFUSAL TO REGISTER TRANSFER

31.1 The Directors may refuse to register a transfer of shares only if:

- (a) clause 23 or clause 28 is not complied with;
- (b) the shares are not fully paid;
- (c) the Company has a lien on the shares; or
- (d) the transfer is to a third party and the third party is not a person acceptable to the Directors having regard to identity, financial position, fame and character of the person, and the best interests of the Company as determined by the Directors from time to time.

31.2 The Company must give notice of any refusal to the transferee. The notice must set out the reason for the refusal. Failure to do so does not invalidate the decision of the Directors.

32. SUSPENSION OF REGISTRATION

The Directors may suspend registration of transfers of shares in the Company at the times and for the periods they decide. The periods of suspension must not exceed 30 days in any calendar year.

33. COMPANY RETAINS INSTRUMENT OF TRANSFER

33.1 The Company may keep an instrument of transfer after registration.

33.2 If demand is made within 12 months after the Company gives notice of a refusal to register and there is no allegation of fraud, the Company must return the instrument of transfer to the depositor.

34. DEATH OF SHAREHOLDER

34.1 If a shareholder (other than a joint shareholder) dies, the Company must recognise only the personal representative of the deceased shareholder as being entitled to the deceased shareholder's shares.

34.2 If a shareholder who owns shares jointly dies, the Company must recognise only the survivor as being entitled to the deceased shareholder's interest in the shares.

34.3 Whether the deceased shareholder owned the shares solely or jointly, the estate of the deceased shareholder is not released from any liability in respect of the shares.

35. TRANSMISSION

- 35.1 If a person is entitled to shares because of a Transmission Event and gives the Directors the information they reasonably require to establish the person's entitlement:
- (a) the person may:
 - (1) by giving notice to the Company, elect to be registered as the holder of the shares; or
 - (2) by giving a completed instrument of transfer to the Company, transfer the shares to another person; and
 - (b) the person is entitled, whether or not registered as the holder of the shares, to the same rights as the shareholder or deceased shareholder.
- 35.2 On receiving a notice under clause 35.1(a)(1), the Company must register the person as the holder of the shares.
- 35.3 A transfer under clause 35.1(a)(2) is subject to the same rules (for example, about entitlement to transfer and registration of transfers) as apply to transfers generally.

PART 5 – PROCEEDINGS OF SHAREHOLDERS

36. CIRCULATING RESOLUTIONS

A Company may pass resolutions without a meeting, under the Act.

37. MEETINGS OF SHAREHOLDERS

- 37.1 The shareholders will meet at least annually.
- 37.2 The Directors may call a meeting of shareholders, when and where the Directors decide.
- 37.3 The Directors must call a meeting of shareholders when requested by the shareholders specified in the Act.
- 37.4 The shareholders may call a meeting of shareholders as specified in the Act.

38. HOW TO CALL MEETINGS OF SHAREHOLDERS

- 38.1 At least 21 days' notice must be given of a general meeting. However, unless prohibited by the Act, the Company may call a general meeting on shorter notice if shareholders with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 38.2 Notice of a meeting must be given to shareholders, directors and any auditor.
- 38.3 A notice of a general meeting must:
- (a) set out the place, date and time for the meeting;
 - (b) state the general nature of the meeting's business;
 - (c) if a special resolution is to be proposed at the meeting - set out an intention to propose the special resolution and state the resolution; and
 - (d) contain a statement setting out the following information:
 - (1) that the shareholder has the right to appoint a proxy;
 - (2) that the proxy need not be a shareholder of the Company;

- (3) that a shareholder who is entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise.
- 38.4 Non receipt of notice of a meeting, or failure to give proper notice of a meeting to a person entitled to receive it, does not invalidate anything done at the meeting if:
 - (a) the failure was accidental;
 - (b) the person gives notice to the Company that the person waives proper notice or agrees to the thing done at the meeting; or
 - (c) the person attends the meeting and:
 - (1) does not object at the start of the meeting to the holding of the meeting; or
 - (2) if the notice omitted an item of business, does not object to the consideration of the business when it is presented to the meeting.

39. QUORUM

- 39.1 The quorum for a meeting of the Company's shareholders is, subject to clause 39.2, such shareholders representing at least 50% of the voting rights and must include one representative from the Founder.
- 39.2 If a quorum is not present within 30 minutes after the time appointed for the meeting:
 - (a) the meeting will be adjourned to the fifth Business Day after the day on which the original meeting was to be held;
 - (b) the time and place of the adjourned meeting will be the same as for the original meeting;
 - (c) notice of the date, time and place of the adjourned meeting will be sent to all shareholders; and
 - (d) provided that more than one person is present, the shareholders present at the adjourned meeting will constitute a quorum.
- 39.3 Shareholders may meet in person, or by telephone or other instantaneous means of audio or video conferencing, or by any combination of the methods set out in this clause.
- 39.4 For the purposes of clauses 39.1 and 39.2, a shareholder is considered to be present at a meeting of shareholders if the shareholder (or their representative or proxy, as applicable) is able to hear the entire meeting and be heard by all others attending the meeting.

40. RESOLUTIONS

- 40.1 A resolution or proposed course of action to be considered at a meeting of shareholders and dealing with a matter listed in Item 3 of Schedule 1 must be passed by a Special Shareholder Majority and the parties must ensure that no Group Company undertakes any of the actions listed in Item 3 of Schedule 1 without the prior approval of the a Special Shareholder Majority.
- 40.2 Subject to clause 40.1 and except as required by law, a resolution considered at a meeting of Shareholders may be passed by a Simple Majority.

41. CHAIRPERSON

- 41.1 The chairperson of Directors is entitled to chair all meetings of shareholders.
- 41.2 If there is no chairperson of Directors, or if the chairperson is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the directors present must elect a person to chair the meeting. If they do not do so, the shareholders present must elect a person to chair the meeting.

42. REGULATION OF MEETINGS

The chairperson may regulate the meeting of shareholders in any way consistent with this constitution.

43. ADJOURNMENT

- 43.1 The chairperson may adjourn a meeting of shareholders to any day, time and place.
- 43.2 The chairperson must adjourn a meeting of shareholders if the shareholders present with a majority of votes at the meeting agree or direct the chairperson to do so. The chairperson may adjourn the meeting to any day, time and place.
- 43.3 When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for more than a month.
- 43.4 Only unfinished business is to be transacted at a meeting resumed after an adjournment.

44. HOW VOTING IS CARRIED OUT

- 44.1 Unless a poll is properly requested, a resolution put to the vote at a meeting of shareholders must be decided on a show of hands.
- 44.2 If a poll is properly requested, the result of the poll is the resolution of the meeting.
- 44.3 A declaration by the chairperson that a resolution is passed, or passed by a particular majority, or lost, and an entry to that effect in the minutes, are sufficient evidence of that fact, unless proved incorrect.

45. POLLS

- 45.1 A poll may be requested on any resolution.
- 45.2 A poll may be requested by:
 - (a) at least five shareholders entitled to vote on the resolution;
 - (b) shareholders with at least 5% of the votes that may be cast on the resolution on a poll; or
 - (c) the chairperson.
- 45.3 The poll may be requested:
 - (a) before a vote is taken;
 - (b) before the voting results on a show of hands are declared; or
 - (c) immediately after the voting results on a show of hands are declared.
- 45.4 A request for a poll may be withdrawn.

- 45.5 A poll requested on a matter other than the election of a chairperson or the question of an adjournment must be taken when and how the chairperson directs.
- 45.6 A poll on the election of a chairperson or the question of an adjournment must be taken immediately.
- 45.7 A request for a poll does not prevent the meeting dealing with other business.

46. HOW MANY VOTES A SHAREHOLDER HAS

- 46.1 Subject to this constitution and any special rights or restrictions attached to a share, at a meeting of shareholders:
- (a) on a show of hands, each shareholder present (in person, by proxy, attorney or representative) has one vote;
 - (b) on a poll, each shareholder present (in person, by proxy, attorney or representative) has:
 - (1) one vote for each fully paid ordinary share (calculated on an as-converted basis) they hold; and
 - (2) a fraction of a vote for each partly paid Share they hold. The fraction must be equivalent to the proportion which the amount paid (not credited) is of the total amounts paid and payable (excluding amounts credited). Amounts paid in advance of a call are ignored.
- 46.2 The chairperson does not have a casting vote.
- 46.3 If a Share is held jointly and more than one shareholder votes the share, only the vote of the shareholder whose name appears first in the register of shareholders counts.
- 46.4 The parent or guardian of a shareholder that is a minor may vote that minor's share, if the parent or guardian satisfies the Directors of the relationship or appointment before the meeting. If the minor's parent or guardian votes the share, the minor shareholder must not vote.
- 46.5 A person may vote a Share if:
- (a) the person is entitled to be registered as the holder of the Share because of a Transmission Event; and
 - (b) the person satisfies the Directors of that entitlement before the meeting.
- The shareholder must not vote a Share if another person does so under this sub clause.
- 46.6 A shareholder must not vote a Share, if a call or other amount is presently payable in respect of the Share.
- 46.7 The chairperson or other person may disregard any vote by a shareholder who is not entitled to vote.

47. CHALLENGING A RIGHT TO VOTE

- 47.1 A challenge to a right to vote at a meeting of shareholders may only be made:
- (a) before the meeting, to the Directors; or
 - (b) at the meeting, to the chairperson of the meeting.

- 47.2 The challenge must be decided by the Directors or the chairperson (as the case may be).
The Directors' decision or the chairperson's decision is final.

48. PROXIES, ATTORNEYS AND REPRESENTATIVES

- 48.1 A shareholder, who is entitled to vote at a meeting of shareholders, may vote:
- (a) on a show of hands:
 - (1) personally;
 - (2) by one proxy;
 - (3) by one attorney; or
 - (4) if a body corporate, by its representative, or by one proxy or one attorney;
 - (b) on a poll:
 - (1) personally;
 - (2) by not more than two proxies;
 - (3) by not more than two attorneys; or
 - (4) if a body corporate, by its representative, proxy or attorney.
- 48.2 A proxy, attorney or representative need not be a shareholder of the Company.
- 48.3 A shareholder may appoint a proxy, attorney or representative for all or for particular meetings of shareholders.
- 48.4 An appointment of an attorney or representative must be in a form accepted by the Directors.
- 48.5 An appointment of a proxy is valid if it is signed by the shareholder making the appointment and contains the following information:
- (a) the shareholder's name and address;
 - (b) the Company's name;
 - (c) the proxy's name or the name of the office of the proxy;
 - (d) the meetings at which the proxy may be used.
- An appointment may be a standing one.
- 48.6 The Directors may decide to accept a proxy even if it contains only some of that information.
- 48.7 Unless otherwise specified in the appointment, the proxy, attorney or representative may:
- (a) agree to short notice for the meeting;
 - (b) even if the appointment directs how to vote on a particular resolution:
 - (1) vote on an amendment to the particular resolution, a motion not to put the particular resolution or any similar motion;
 - (2) vote on a procedural motion, including a motion to elect the chairperson, to vacate the chair or adjourn the meeting;
 - (c) speak at the meeting;
 - (d) vote (but only to the extent allowed by the appointment);

- (e) demand or join in a demand for a poll.
- 48.8 If a person represents two or more shareholders, that person has only one vote on a show of hands.
- 48.9 If a shareholder appoints two proxies or two attorneys in one instrument and both are present, on a show of hands only the first named proxy or attorney may vote.
- 48.10 The appointment may specify the proportion or number of votes that the proxy or attorney may exercise. If the shareholder appoints two proxies or two attorneys and the appointment does not specify the proportion or number of the shareholder's votes each proxy or attorney may exercise, on a poll each proxy or attorney may exercise half of the votes.
- 48.11 A later appointment of a proxy or attorney revokes an earlier one if both appointments could not be validly exercised at the meeting.
- 48.12 An appointment may specify the way a proxy is to vote on a particular resolution. A proxy may vote only as directed.
- 48.13 An appointment of a proxy is effective only if the Company receives the appointment (and any authority under which the appointment was signed or certified copy of the authority) at least 48 hours before the meeting or resumed meeting, unless the Directors decide to reduce that time. These requirements also apply to an appointment of an attorney.
- 48.14 Unless the Company receives notice before the start or resumption of a meeting, a vote by a proxy, attorney or representative is valid even if:
 - (a) there is a Transmission Event in respect of the shareholder;
 - (b) the appointment of the proxy, attorney or representative is revoked;
 - (c) the shareholder revokes the authority under which the proxy was appointed by a third party; or
 - (d) the shareholder becomes an externally-administered body corporate.
- 48.15 A vote by a proxy or attorney is valid even if the shareholder transfers the Share for which the appointment was given, if the transfer is not registered at the time of the meeting.
- 48.16 A proxy or attorney may take part in a meeting of shareholders even if the appointor or representative is present. However, if the appointor or representative votes on a resolution, the proxy or attorney must not vote.

PART 6 – DIRECTORS

49. DIRECTORS

- 49.1 During such time as the Company has one more CSF shareholders, and during any period in which the Company is making a CSF offer:
 - (a) the Company must have at least two directors (or such other minimum number prescribed by the Act); and
 - (b) the majority of the directors (or such other number or proportion prescribed by the Act), excluding alternate directors, must ordinarily reside in Australia.

- 49.2 Unless otherwise determined by the Board in accordance with clause 51.4 and with the prior written consent of the Founder, the maximum number of directors will be 7.

50. APPOINTMENT OF DIRECTORS

50.1

- (a) Each shareholder (other than the Founder) holding more than 15% of the Shares on issue may appoint one Director for every 15% of the Shares on issue that they hold. *For the sake of clarity, a shareholder holding 25% of the Shares on issue may appoint one director, a shareholder holding 35% of the Shares on issue may appoint two directors, and a shareholder holding 45% of the Shares on issue may appoint three directors.*
- (b) Square Peg may appoint one Director for so long as it holds no less than 7.5% of the Shares on issue.
- (c) The Founder may appoint:
 - (1) two Directors for so long as it holds no less than 5% of the Shares on issue and its Related Principal remain employed or engaged by a Group Company; or
 - (2) one Director for long as either:
 - (A) it holds no less than 5% of the Shares on issue; or
 - (B) its Related Principal remain employed or engaged by a Group Company.
- (d)

50.2 The Directors as at 30 September 2021 are:

- (a) Michael James Smith (appointed by Founder holding more than 5% of the Shares and its Related Principal being employed by the Company);
- (b) Adam Cook (appointed by Skip holding more than 15% of Shares);
- (c) Alana Burton (appointed by the Directors);
- (d) Raymond Spencer (appointed by the Directors); and
- (e) Robert Chapman (appointed by the Directors).

50.3 If a shareholder has appointed a director in accordance with clause 50.1 and at any time:

- (a) that shareholder ceases to hold at least 15% of the Shares on issue (or, in the case of an appointment pursuant to clause 50.1(b), ceases to hold at least 7.5% of the Shares on issue), or
- (b) that shareholder's shareholding reduces such that the shareholder would not be entitled to appoint the number of director(s) in accordance with clause 50.1 that they had previously been entitled to appoint,

then the office of the appointed director(s) is vacated without need for any party to take any further action, EXCEPT WHERE:

- (c) the office of the appointed director required to be vacated above is the last remaining director appointed by that shareholder, in which case such office of

the appointed director is only vacated when that shareholder ceases to hold at least 7.5% of the Shares on issue;

- (d) the office of the appointed director required to be vacated above is the last remaining director appointed by the Founder, in which case such office of the appointed director is only vacated when the Founder ceases to hold any Shares on issue.

- 50.4 Any shareholder who is entitled to appoint a person as a director pursuant to clause 50.1 may remove that person as a director and appoint another person in his or her place subject to such shareholder satisfying the shareholding requirement in clause 50.1.
- 50.5 An appointment or removal pursuant to clause 50.1 or 50.4 must be:
 - (a) effected by notice in writing by or on behalf of the relevant shareholder and delivered to the registered office of the Company; and
 - (b) where applicable, accompanied by a consent to act as a director, signed by the person appointed and in the form required by law.
- 50.6 The Directors may, by instrument in writing to the Company, appoint and remove any person as a director in addition to the persons appointed in accordance with clause 50.1, provided that any such appointment is ratified by Simple Majority of the shareholders at the next general meeting.
- 50.7 A shareholder must not put forward or instigate a resolution for the removal of a Director appointed by another shareholder under clause 50.1. A shareholder must vote against a resolution proposed at a general meeting for the removal of a Director appointed by another shareholder under clause 50.1. This does not apply if the appointee is disqualified from acting as a Director under the Corporations Act or the Constitution.

51. VOTING OF DIRECTORS

- 51.1 Each director is entitled to cast one vote at a meeting of the Directors.
- 51.2 Subject to clause 51.3, a resolution considered at a meeting of the Directors may be passed by a Simple Majority.
- 51.3 A resolution or proposed course of action to be considered at a meeting of the Directors and dealing with a matter listed in Item 1 of Schedule 1 must be passed by a Special Board Majority including at least one Investor Director (if any) and the parties must ensure that no Group Company undertakes any of the actions listed in Item 1 of Schedule 1 without the prior approval of a Special Board Majority including at least one Investor Director (if any).
- 51.4 A resolution or proposed course of action to be considered at a meeting of the Directors and dealing with a matter listed in Item 2 of Schedule 1 must be passed by a Special Board Majority and the parties must ensure that no Group Company undertakes any of the actions listed in Item 2 of Schedule 1 without the prior approval of a Special Board Majority.

52. RESPONSIBILITIES OF DIRECTORS

- 52.1 Subject to this constitution, the Directors are responsible for managing the business and affairs of the Company, including but not limited to:

- (a) strategic direction, marketing, business development and financial matters of the Company;
 - (b) establishing its general policies;
 - (c) establishing its strategic priorities and objectives;
 - (d) establishing its financial objectives and criteria;
 - (e) determining matters of a major or unusual nature which are not in its ordinary course of business; and
 - (f) developing and adopting a Business Plan and Budget for each Financial Year.
- 52.2 Subject at all times to the duties of each director to the Company and the shareholders at law (to the extent that such duties cannot be modified by agreement), a director may disclose to his or her appointor any information obtained in his or her capacity as a director, provided that the director uses reasonable endeavours to ensure that the person to whom the director discloses such information maintains the confidentiality of the information.
- 52.3 The parties acknowledge that regardless of any other provision contained in this constitution, each director must, at all times, act in good faith and in the interests of the Company as a whole. Subject to the foregoing, each party acknowledges that a Director appointed by a shareholder under clause 50.1 (or their alternate) is the nominee of that shareholder.

53. VACATION OF OFFICE

A director ceases to be a director if:

- 53.1 they are removed as contemplated in clause 50;
- 53.2 the Act so provides;
- 53.3 the director resigns by notice to the Company;
- 53.4 the Company in general meeting removes the director; or
- 53.5 the director becomes mentally incapable and the director's estate or property has had a personal representative or trustee appointed to administer it.

54. ALTERNATE DIRECTORS

- 54.1 A director may appoint an alternate for a specified period.
- 54.2 The appointor may terminate the alternate's appointment at any time.
- 54.3 An appointment or termination is effective only if:
 - (a) it is in writing;
 - (b) the appointor signs it; and
 - (c) the Company is given notice of it.
- 54.4 The alternate need not be a shareholder or director of the Company.
- 54.5 The alternate is entitled to notice of Directors' meetings.
- 54.6 If the appointor is not present, the alternate may:
 - (a) attend the Directors' meeting, count in the quorum, speak, and vote in the place of the appointor;

- (b) exercise any other powers (except the power to appoint an alternate) that the appointor may exercise.
- 54.7 A person may act as an alternate for more than one director.
- 54.8 If the appointor ceases to be a director, the alternate cannot exercise the appointor's powers.
- 54.9 Where:
 - (a) an appointor ceases to be a director; and
 - (b) that appointor's alternate purports to do an act as a director;that act is as valid, in relation to a person dealing with the Company in good faith and for value and without actually knowing that the appointor has ceased to be a director, as if the appointor had not ceased to be a director.
- 54.10 The Company may pay an alternate any remuneration the Directors decide, in reduction of the appointor's remuneration.
- 54.11 While acting as a director, an alternate is an officer of the Company and not the agent of the appointor.

55. REMUNERATION

- 55.1 The Company may pay to the directors a maximum total amount of directors' fees, set by the Company in general meeting (excluding salaries and normal employee benefits).
- 55.2 A director's remuneration may be:
 - (a) a fixed sum for each attendance at a Directors' meeting;
 - (b) a share of an aggregate fee;
 - (c) Securities, with the value of such Securities being the value as at the date of grant or issue to the director; or
 - (d) any combination of the above.The directors may divide the aggregate fee among themselves. If they do not agree the division, the aggregate fee is divided equally among them.
- 55.3 A share of a fixed sum of a director's remuneration accrues from day to day.
- 55.4 The Company may, at the discretion of the Directors, reimburse the directors for reasonable expenses incurred in the discharge of their obligations as directors. Such expenses will only be reimbursed after the Company receives a statement of account for those expenses.
- 55.5 If a director performs extra or special duties for the Company, the Company may pay to the director any special remuneration the Directors decide, in addition to the director's normal remuneration.
- 55.6 The Company may pay a former director, or the estate of a director who dies in office, a benefit for past services as the Directors decide.
- 55.7 The Company may establish or support superannuation or similar funds for the directors, as the Directors decide.

56. SHARE QUALIFICATION

- 56.1 A director need not be a shareholder of the Company.
- 56.2 A director, who is not a shareholder, may attend and speak at meetings of shareholders.

57. DIRECTOR'S INTEREST

- 57.1 A director may:
- (a) hold an office or place of profit (except as auditor) in the Company, on any terms the Directors decide;
 - (b) hold an office or otherwise be interested in any related body corporate or other body corporate in which the Company is interested;
 - (c) retain benefits for doing so.
- 57.2 Subject to the Act:
- (a) a director who has a material personal interest in a matter that is being considered at a Directors' meeting:
 - (1) may be present while the matter is being considered at the meeting;
 - (2) may be counted in a quorum for a meeting considering the matter;
 - (3) may vote on the matter;
 - (b) a director (or a Spouse, parent or child of a director, or any entity in which a director or a Spouse, parent or child of a director has an interest) may contract or make an arrangement with the Company (or a related body corporate or a body corporate in which the Company is interested) in any matter in any capacity;
 - (c) a director may sign for the Company, or attest the affixing of the common seal to, any document in respect of that contract or arrangement;
 - (d) a director may retain benefits under that contract or arrangement;
 - (e) the Company cannot avoid that contract or arrangement because of the director's interest.

58. DIRECTOR OF WHOLLY OWNED SUBSIDIARY

If the Company is a wholly owned subsidiary of a body corporate, a director may act in the best interests of the holding company.

PART 7 – PROCEEDINGS OF DIRECTORS

59. CIRCULATING RESOLUTIONS

- 59.1 The Directors may pass a resolution without a Directors' meeting being held, if a majority of the directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. An alternate appointed by a director may sign the document instead of that director.
- 59.2 Separate copies of a document may be used for signing by directors, if the wording of the resolution and statement is identical in each copy.

- 59.3 The resolution is passed when the last of the directors comprising that majority signs.
- 59.4 Passage of the resolution must be recorded in the Company's minute book.

60. MEETINGS

- 60.1 The Directors may meet, adjourn and otherwise regulate their meetings as they decide.
- 60.2 The Directors may meet in person, by telephone or other instantaneous means of audio or video conferencing or, subject to the Act, by any combination of the methods set out in this clause 60.2.
- 60.3 A Directors' meeting may be held using any technology consented to by all the directors. The consent may be a standing one. A director may only withdraw consent within a reasonable period before the meeting.
- 60.4 If a Directors' meeting is held by telephone link up or other contemporaneous audio or audio visual communication, a director is taken to be present unless the director states to the chairperson that the director is disconnecting his or her telephone or communication device.

61. CALLING MEETING

- 61.1 Any director may call a Directors' meeting.
- 61.2 On the request of any director, the company secretary must call a Directors' meeting.

62. FREQUENCY AND NOTICE

- 62.1 The Directors will meet at least four times a year.
- 62.2 Notice of a Directors' meeting must be given to each director and each alternate.
- 62.3 The notice must:
 - (a) specify the day, time and place of the meeting;
 - (b) be accompanied by an agenda;
 - (c) be given at least seven days before the meeting, unless all directors otherwise agree.
- 62.4 Non receipt of notice of a meeting, or failure to give notice of a meeting to a director or an alternate, does not invalidate anything done at the meeting if:
 - (a) the failure was accidental;
 - (b) the director or alternate gives notice to the Company that he or she waives the notice or agrees to the thing done at the meeting; or
 - (c) the director or alternate attends the meeting.

63. QUORUM

- 63.1 Subject to clause 63.2, a quorum for a Directors' meeting is two directors including:
 - (a) at least one director appointed by the Founder in accordance with clause 50.1 (if any); and
 - (b) at least one Investor Director (if any).

- 63.2 If a quorum in accordance with clause 63.1 is not present within 30 minutes from the start of a meeting of the Directors, the following provisions will apply:
- (a) the meeting will be adjourned to the day which is the fifth Business Day after the day on which the original meeting was to be held;
 - (b) the time and place of the adjourned meeting will be the same as for the original meeting;
 - (c) notice of the date, time and place of the adjourned meeting will be sent to all directors; and
 - (d) provided that more than one director is present (which must include at least one director appointed by the Founder under clause 50.1 (if any)), the directors present at the adjourned meeting will constitute a quorum.
- 63.3 In determining whether a quorum is present, the chairperson must count alternates. If a director is also an alternate, the chairperson must count the director as a director and separately as an alternate. If a person is an alternate for more than one director, the chairperson must count the person separately for each appointment.
- 63.4 The quorum must be present at all times during the meeting.
- 63.5 A Director must not fail to attend a meeting of Directors for the purpose of attempting to prevent a quorum being present.

64. CHAIRPERSON

- 64.1 The Directors may elect a director as chairperson for any period they decide by Simple Majority.
- 64.2 The Directors may remove the chairperson at any time by Simple Majority.
- 64.3 The Directors may decide that this office is an extra or special service for the Company, for the purpose of deciding special remuneration.
- 64.4 The chairperson is entitled to chair each Directors' meeting.
- 64.5 If there is no chairperson, or if the chairperson is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the directors present must elect one of themselves to chair the meeting.
- 64.6 If the chairperson is unable or unwilling to chair a part of a meeting, the directors present must elect one of themselves to chair that part.

65. DECISIONS OF DIRECTORS

- 65.1 Subject to the Act, each director has one vote.
- 65.2 If a director is also an alternate, the director has a vote as a director and a vote as an alternate. If a person is an alternate for more than one director, the person has one vote for each appointment.
- 65.3 Subject to this constitution, a resolution of the Directors is passed by a majority of votes cast.
- 65.4 The chairperson will have a deliberative vote. The chairperson will not have a casting vote.

66. BOARD OBSERVER

- 66.1 If either Skip or Square Peg has not appointed a director in accordance clause 50.1, Skip or Square Peg (as applicable):
- (a) may, but is not obliged to:
 - (1) appoint a person to attend meetings of the Directors of the Company as an observer (**Board Observer**); and
 - (2) remove any Board Observer appointed pursuant to this constitution and appoint another person in their place; and
 - (b) through the Board Observer, is entitled to receive all board papers including but not limited to all information provided under clause 67.4, participate in any Directors meetings and discuss and comment on any matters arising in any Directors meetings, but is not entitled to vote.
- 66.2 Any appointment or removal pursuant to this clause must be effected by notice in writing to the Company.
- 66.3 The absence of a Board Observer from any Directors meeting will not, notwithstanding any other provisions of this constitution, result in a quorum not being present for the meeting.
- 66.4 If at any time Skip or Square Peg ceases to hold Shares the office of their appointed Board Observer is vacated without need for any party to take any further action.

67. BUSINESS OBLIGATIONS

- 67.1 **Approval of Business Plan and Budgets**
- (a) The Directors must consider and adopt a Business Plan and Budget in accordance with clause 67.1(b) for each Financial Year:
 - (1) if they have not yet been adopted for the current Financial Year, within 90 days after the date of this constitution; and
 - (2) for each subsequent Financial Year, within 30 days before the commencement of that Financial Year.
 - (b) The Directors must consider and adopt a Business Plan and Budget for each Financial Year in the following manner:
 - (1) the managing director(s) (if any) or such other person nominated by the Directors will submit to the Directors a draft Business Plan and draft Budget for that Financial Year; and
 - (2) the Directors must consider the drafts and use all reasonable endeavours to amend and approve them as soon as practicable after submission.
- 67.2 **Amendment of Business Plan and Budgets**
- (a) The Directors may, either before or during the Financial Year to which a Business Plan or Budget relates, amend the relevant Business Plan or Budget.
 - (b) The Directors must ensure that, following an amendment, the Business Plan and Budget for that Financial Year remains consistent.

67.3 **Compliance with Business Plan and Budget**

During a Financial Year, the Company must, so far as is practicable, conduct its business in accordance with the Business Plan and Budget adopted by the Directors for that Financial Year.

67.4 **Reporting obligations**

- (a) The Company must ensure that the Directors receive management and financial information, and reports, sufficient to allow them to:
 - (1) understand the financial affairs of the Company; and
 - (2) control the efficient operation of the Company.
- (b) The information and reports referred to in clause 67.4(a) should include (but are not limited to):
 - (1) a profit and loss statement, balance sheet and cash flow statement of the Company, provided within 15 Business Days after the end of each month, reflecting the financial position at the end of that month and the Financial Year to date, which is prepared in accordance with applicable accounting standards;
 - (2) a profit and loss statement for that Financial Year, and balance sheet as at the end of that Financial Year, as soon as practicable following the end of each Financial Year; and
 - (3) Budget and Business Plan and any amendments to the Budget and Business Plan.
- (c) For so long as Skip and/or Square Peg holds Shares in the Company, they will have the right, at reasonable times and on reasonable notice to the Company, to view the books and records of the Company and any financial information reasonably required to comply with their respective regulatory obligations.

PART 8 – DIRECTORS’ POWER

68. GENERAL POWERS

68.1 The business of the Company is managed by or under the direction of the Directors.

68.2 Subject at all times to clause 68.3, the Directors may exercise all the powers of the Company except any powers that the Act or this constitution requires the Company to exercise in general meeting.

68.3 In discharging their duties under this constitution, the Act and the general law, the directors or other officers of the Company:

- (a) will include in their consideration the following factors:
 - (1) the likely consequences of any decision or act of the Company in the long term; and
 - (2) the interests of the Company’s employees; and
 - (3) the need to foster the Company’s business relationships with suppliers, customers and others; and
 - (4) the impact of the Company’s operations on the community and the environment; and

- (5) the desirability of the Company maintaining a reputation for high standards of business conduct; and
 - (6) the interests of the members of the Company; and
 - (7) the ability of the Company to create an overall positive impact on society and the environment; and
- (b) need not give priority to a particular factor referred to in clause 68.3(a) over any other factor (included in clause 68.3(a) or otherwise).

69. EXECUTION OF DOCUMENTS

- 69.1 The Company may execute a document without a common seal if the document is signed by:
- (a) two directors of the Company; or
 - (b) a director and a company secretary of the Company; or
 - (c) if the Company has a sole director who is also the sole company secretary - that director.
- 69.2 If the Company has a common seal, it may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:
- (a) two directors of the Company; or
 - (b) a director and a company secretary of the Company; or
 - (c) if the Company has a sole director who is also the sole company secretary - that director.
- 69.3 The Directors may decide, generally or in a particular case, that a director or company secretary may sign certificates for securities of the Company by mechanical or other means.
- 69.4 This clause does not limit the ways in which the Company may execute a document (including a deed).

70. NEGOTIABLE INSTRUMENTS

Negotiable instruments (including cheques) may be signed, drawn, accepted, endorsed or otherwise executed by any one director, or as the Directors decide.

71. COMMITTEE AND DELEGATE

- 71.1 The Directors may delegate any of their powers (including this power to delegate) to a committee of directors or to one director.
- 71.2 The Directors may revoke or vary that delegation.
- 71.3 A committee or delegate must exercise the powers delegated subject to any directions of the Directors. The effect of the committee or delegate exercising a power in this way is the same as if the Directors exercised it.
- 71.4 Part 7 applies with the necessary changes to meetings of a committee.

- 71.5 The Directors may decide that membership of a committee or acting as a delegate is an extra or special service for the Company, for the purpose of deciding special remuneration.

72. ATTORNEY AND AGENT

- 72.1 The Directors may appoint any person to be the attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) the Directors decide.
- 72.2 The Directors may delegate any of their powers (including the power to delegate) to an attorney or agent.
- 72.3 The Directors may revoke or vary:
- (a) the appointment; or
 - (b) any power delegated to the attorney or agent.

PART 9 – EXECUTIVE OFFICERS

73. MANAGING DIRECTOR

- 73.1 The Directors may appoint one or more of themselves as managing director, for any period and on any terms (including, subject to this constitution, as to remuneration) the Directors decide.
- 73.2 Subject to any agreement between the Company and the managing director, the Directors may remove or dismiss the managing director at any time, with or without cause.
- 73.3 The Directors may delegate any of their powers (including the power to delegate) to a managing director.
- 73.4 The Directors may revoke or vary:
- (a) the appointment; or
 - (b) any power delegated to the managing director.
- 73.5 A managing director must exercise the powers delegated subject to any directions of the Directors. The effect of the managing director exercising a power in this way is the same as if the Directors exercised it.
- 73.6 A person ceases to be managing director if the person ceases to be a director.
- 73.7 As at 30 September 2021, the managing director of the Company is Michael James Smith.

74. COMPANY SECRETARY

- 74.1 The first company secretary of the Company is the person specified in the application for registration of the Company as company secretary.
- 74.2 The Directors may appoint one or more company secretaries, for any period and on any terms (including as to remuneration) the Directors decide.

- 74.3 Subject to any agreement between the Company and the company secretary, the Directors may remove or dismiss the company secretary at any time, with or without cause.
- 74.4 Unless the Directors otherwise decide, the company secretary is the public officer of the Company.

75. INDEMNITY

- 75.1 To the extent permitted by the Act, the Company:
- (a) must indemnify each person who is or has been an Officer of the Company against any liability incurred by the person as an Officer of the Company;
 - (b) may pay a premium for a contract insuring an Officer of the Company against that liability;
 - (c) may, provided that it is approved by a Simple Majority in a general meeting, indemnify an employee, authorised agent, auditor or general adviser of the Company.
- 75.2 Subject to the Act, the Company may enter into an agreement or deed with an Officer of the Company under which the Company must do all or any of the following:
- (a) keep a set of the Company's books (including minute books) and allow the Officer and the Officer's advisers access to the books for any period agreed;
 - (b) indemnify the Officer against any liability incurred by the Officer as an Officer;
 - (c) keep the Officer insured for any period agreed in respect of any act or omission by the Officer while an Officer.

PART 10 – FOUNDER

76. FOUNDER ROLES AND RESPONSIBILITIES

Subject to any Business Plan to the contrary, the roles and responsibilities of each Related Principal will be determined by the Directors from time to time. The Founder must procure that their respective Related Principal performs such roles and responsibilities diligently and in good faith.

PART 11 – DIVIDENDS

77. WHO MAY DETERMINE DIVIDENDS

- 77.1 Subject to any special rights or restrictions attached to a Share, the repayment in full of any loans by shareholders to the Company, the Act and clause 51.4, the Directors may pay Dividends as they decide.
- 77.2 The Directors may determine that a Dividend will be payable on a Share and fix:
- (a) the amount;
 - (b) the time for payment; and
 - (c) the method of payment.

The methods of payment may include the payment of cash, the issue of Shares or other Securities, the grant of options and the transfer of assets.

77.3 If the Directors do not exercise their power under this clause, the Company in general meeting may.

78. DIVIDENDS FOR DIFFERENT CLASSES

Dividends may be paid:

- 78.1 on shares of one class but not another;
- 78.2 at different rates for different classes.

79. DIVIDENDS PROPORTIONAL TO PAID UP CAPITAL

- 79.1 Subject to any special rights or restrictions attached to a Share:
 - (a) the holder of a fully paid Share is entitled to the full Dividend on the Share (whether the issue price was paid or credited or both);
 - (b) the holder of a partly paid Share is not entitled to a greater proportion of a Dividend than the proportion which the amount paid (not credited) is of the total amounts paid and payable (excluding amounts credited) on the share.
- 79.2 Amounts paid or credited as paid in advance of a call are ignored.

80. TRANSFERS BEFORE PAYMENT OF DIVIDEND

If a Dividend on a Share is paid after the transfer of the Share but before registration, the transferor is entitled to the Dividend.

81. NO INTEREST

Interest is not payable on a Dividend.

82. CALLS

The Directors may deduct from a Dividend payable to a shareholder any money presently payable by the shareholder to the Company for calls or otherwise in respect of any shares held by the shareholder.

83. CAPITALISING PROFITS

- 83.1 The Directors may capitalise any profits and distribute that capital to the shareholders, in the same proportions as the shareholders are entitled in a distribution by Dividend.
- 83.2 The Directors may decide to apply that capital in either or both of the following ways:
 - (a) in paying up amounts unpaid on shares already issued;
 - (b) in paying up in full any unissued shares or other securities in the Company.
- 83.3 The shareholders must accept that application of capital in full satisfaction of their interests in the capital.

84. TRANSFER OF SHARES

The Directors may settle any problem about a distribution under this Part in any way. This may include:

- 84.1 rounding down amounts to the nearest whole number;
- 84.2 ignoring fractions;
- 84.3 valuing assets for distribution;
- 84.4 paying cash to any shareholder on the footing of the valuation of the assets;
- 84.5 vesting assets in a trustee on trust for the shareholders entitled.

85. NOTICE OF DIVIDEND

The Company must give to the shareholders notice of any Dividend.

86. PAYMENTS

- 86.1 The Company may pay Dividends and other amounts in respect of a share by crediting a financial institution account authorised by the shareholder.
- 86.2 Any joint holder of a Share may give an effective receipt for the Dividend or other amounts paid in respect of the share.

87. DIVIDEND REINVESTMENT PLAN

The Directors may:

- 87.1 implement a dividend reinvestment plan on any terms, under which the Dividends of participants are applied in subscribing for securities of the Company or a related body corporate;
- 87.2 amend, suspend or end the plan.

88. DIVIDEND SELECTION PLAN

The Directors may:

- 88.1 implement a dividend selection plan on any terms, under which participants may choose:
 - (a) to receive a Dividend from the Company out of profits derived from a particular source;
 - (b) to forego a Dividend from the Company in place of another distribution from the Company or another body corporate or a trust;
- 88.2 amend, suspend or end the plan.

PART 12 – WINDING UP

89. DISTRIBUTION OF ASSETS

Subject to any special rights or restrictions attached to Shares including those set out in Schedule 2:

- 89.1 if on a winding up there are enough assets to repay all capital to shareholders, all capital must be repaid to the shareholders and any surplus must be distributed among the shareholders in proportion to the number of fully paid Shares held by them and for this purpose a partly paid Share is treated as a fraction of a Share equal to the proportion which the amount paid bears to the total issue price of the Share before the winding up began;
- 89.2 if on a winding up there are not enough assets to repay all capital to shareholders, the available assets must be distributed among the shareholders in proportion to the number of fully paid Shares held by them and for this purpose a partly paid Share is treated as a fraction of a Share equal to the proportion which the amount paid bears to the total issue price of the Share before the winding up began (without the necessity of a call up).

90. DISTRIBUTION OF PROPERTY IN KIND

- 90.1 Subject to any special rights or restrictions attached to Shares, on a winding up, the liquidator may, with the sanction of a Special Shareholder Majority:
- (a) distribute among the shareholders the whole or any part of the property (in its actual state) of the Company;
 - (b) decide how to distribute the property as between the shareholders or different classes of shareholders.
- 90.2 The liquidator may, with the sanction of a Special Shareholder Majority, distribute the property contrary to the legal rights of the shareholders, or give or remove special rights in respect of any class of shareholders. However, a dissenting shareholder has the same rights as if section 507 of the Act applied.
- 90.3 The liquidator may settle any problem about a distribution under this clause in any way. This may include:
- (a) rounding down amounts to the nearest whole number;
 - (b) ignoring fractions;
 - (c) valuing assets for distribution;
 - (d) paying cash to any shareholder on the footing of the valuation of the assets;
 - (e) vesting assets in a trustee on trust for the shareholders entitled;
 - (f) capitalising profits and distributing capital as if the liquidator were the Directors.
- 90.4 A shareholder need not accept a security carrying a liability.

91. COMMISSIONS

- 91.1 The Company must not pay to a director, the Directors or a liquidator a commission or fee for sale of assets on a winding up, unless approved by the shareholders.
- 91.2 The Company must notify the shareholders of the amount of the proposed commission or fee at least seven days before the shareholders' meeting.

PART 13 – RECORDS

92. REGISTER

The Company must keep a register of shareholders.

93. BRANCH REGISTER

93.1 The Company may keep a branch register of shareholders in any place.

93.2 The Directors may regulate the transfer of shares among the main register of shareholders and branch registers of shareholders.

94. INSPECTION

The Company must allow inspection of any register of shareholders only as required by the Act.

95. EVIDENCE OF REGISTER

Unless proved incorrect, the register of shareholders is sufficient evidence of the matters shown in the register.

96. MINUTE BOOK

96.1 The Company must keep minute books in which it records within one month:

- (a) proceedings and resolutions of meetings of the members;
- (b) proceedings and resolutions of Directors' meetings (including meetings of a committee of directors);
- (c) resolutions passed by members without a meeting;
- (d) resolutions passed by directors without a meeting.

96.2 The Company must ensure that minutes of a meeting are signed within a reasonable time after the meeting by one of the following:

- (a) the chair of the meeting;
- (b) the chair of the next meeting.

96.3 The Company must ensure that minutes of the passing of a resolution without a meeting are signed by a director within a reasonable time after the resolution is passed.

96.4 A minute that is so recorded and signed is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

97. FINANCIAL RECORDS

The Company must keep the financial records required by the Act.

98. INSPECTION

Unless authorised by the Directors or the Company in general meeting or the Act, a shareholder is not entitled to inspect the Company's books other than as set out in this constitution.

PART 14 – GENERAL

99. RESTRICTIONS ON BUSINESS

During any such time as the Company is making a CSF offer, or has one or more CSF shareholders, or any longer period required by the Act, neither the Company nor any related party of the Company:

- 99.1 may carry on a business which has the substantial purpose of investing in securities or interests in other entities or schemes; or
- 99.2 be a listed corporation or included in the official list of a financial market operated outside the Commonwealth of Australia.

100. DISPUTE RESOLUTION

100.1 **General**

- (a) The parties must try to resolve any dispute or claim in connection with this constitution or its performance (**Dispute**) in accordance with this clause 100. The parties must not commence any Court proceedings (other than an application for an urgent interlocutory or declaratory relief) until these proceedings are exhausted.
- (b) Unless otherwise agreed by the disputing parties, all procedures in this clause 100 will occur in Sydney, New South Wales.
- (c) A party must continue to perform this constitute despite the application of this clause 100.
- (d) This clause 100 continues indefinitely.

100.2 **Negotiation**

- (a) A party may at any time give any other party or parties notice of a Dispute (**Dispute Notice**). The date upon which the Dispute Notice is delivered is referred to as the Dispute Notice Date.
- (b) The other party or parties to the Dispute must deliver to each other a written response (**Answer**) within 10 Business Days after the Dispute Notice Date. The Dispute Notice and the Answer must include:
 - (1) a statement of each party's position and a summary of arguments supporting that position; and
 - (2) what action (if any) that party thinks will resolve the Dispute.
- (c) Representatives of all parties to the Dispute who are authorised to resolve the Dispute must meet within 20 Business Days of the Dispute Notice Date to negotiate in good faith to resolve the Dispute.

100.3 **Mediation**

If the Dispute has not resolved within 20 Business Days of the Dispute Notice Date it will be mediated in accordance with the Australian Disputes Centre Guidelines for Commercial Mediation current at the Dispute Notice Date. Those Guidelines are

incorporated into this constitution. Where there is any inconsistency between those Guidelines and this constitution, this constitution prevails.

101. WARRANTIES AND REPRESENTATIONS

101.1 Each shareholder warrants and represents to each of the other shareholders that, as at the date it became a shareholder:

- (a) it has full authority to be the registered holder and (except where the shareholder becomes a shareholder as trustee of a trust) beneficial owner of the Shares;
- (b) this constitution constitutes a legal, valid and binding obligation on it; and
- (c) to its knowledge, there are no actions, claims, proceedings or investigations pending or threatened against it which could have a material effect upon the subject matter of this constitution.

101.2 Each shareholder warrants and represents to each of the other shareholders that:

- (a) it has not relied; and
- (b) it will not rely during the currency of this constitution,

on any representation or communication with respect to the subject matter of this constitution made by another shareholder on, or before, the date of this constitution, except as made in or under this constitution.

102. RESTRAINT

102.1 **Engage**

'engage in' means to:

- (a) carry on, participate in or provide financial advice or services;
- (b) own assets, shares or units (legally or beneficially); or
- (c) act as a director, consultant, adviser, contractor, principal, agent, manager, employee, beneficiary, partner, associate, trustee or financier.

102.2 **Prohibited activities**

The Founder and its Related Principal (**Restrained Party**) must not (and, in the case of the Founder, must procure that its Related Principal does not):

- (a) engage in a business or activity that:
 - (1) is the same or similar to the Business or any material part of the Business; and
 - (2) competes with the Business or any material part of the Business;
- (b) solicit, canvass, approach or accept an approach from a person who was at any time during the preceding one year a customer of the Group with a view to obtaining their custom in a business that is:
 - (1) the same or similar to the Business, or any material part of the Business; and
 - (2) competes with the Business or any material part of the Business;

- (c) interfere with the relationship between any Group Company and its customers, employees or suppliers; or
- (d) approach, solicit, encourage, induce or help to induce an employee of any Group Company to leave their employment.

102.3 **Duration of prohibition**

This restraint begins on the date when the Restrained Party becomes a shareholder or is employed or otherwise engaged by the Company (as applicable) and ends:

- (a) one year after the date when the Restrained Party (or, in the case of the Founder's Related Principal, the Founder) stops being a shareholder;
- (b) nine months after the date when the Restrained Party (or, in the case of the Founder's Related Principal, the Founder) stops being a shareholder;
- (c) six months after the date when the Restrained Party (or, in the case of the Founder's Related Principal, the Founder) stops being a shareholder; and
- (d) three months after the date when the Restrained Party (or, in the case of the Founder's Related Principal, the Founder) stops being a shareholder.

102.4 **Geographic application of prohibition**

This restraint applies only if the activity prohibited by clause 102.2 occurs within:

- (a) for so long as the Restrained Party (or, in the case of the Founder's Related Principal, the Founder) is a shareholder, any country in which a Group Company carries on the Business;
- (b) after the Restrained Shareholder Party (or, in the case of the Founder's Related Principal, the Founder) has ceased to be a shareholder, any country in which a Group company carried on the Business as at the date on which the Restrained Party (or, in the case of the Founder's Related Principal, the Founder) ceased to be a shareholder;
- (c) Australia;
- (d) New South Wales;
- (e) within 20 kilometres from the Premises; and
- (f) within 10 kilometres from the Premises.

102.5 **Severance**

- (a) Each provision of this clause 102 must be read together to impose the greatest lawful restraint upon the Restrained Party.
- (b) Clause 115.11 applies to any unlawful restraint.

102.6 **Exceptions**

This clause 102 does not restrict a Restrained Party from:

- (a) performing any services for or on behalf of the Company (including in their capacity as employee, director or advisor);
- (b) holding 5% or less of the shares of a listed company; or

- (c) engaging in any activities which are approved by the Directors (including at least one of Investor Director (if any)).

102.7 **Acknowledgements**

Each Restrained Party acknowledges that:

- (a) all of the prohibitions and restrictions in this clause 102 are reasonable in the circumstances and necessary to protect the goodwill of the Business;
- (b) damages are not an adequate remedy if the Restrained Party breaches this clause 102; and
- (c) the other shareholders or the Company may apply for injunctive relief if:
 - (1) the Restrained Party breaches or threatens to breach this clause 102; or
 - (2) it believes the Restrained Party is likely to breach this clause 102.

103. CONFIDENTIALITY

103.1 **Confidential Information**

- (a) For the purposes of this constitution, **Confidential Information** means all information (whether written or oral) disclosed by a party (**Disclosing Party**) to the other party (**Receiving Party**) which is either:
 - (1) identified as confidential by the Disclosing Party at the time of disclosure; or
 - (2) of a nature which should reasonably be regarded by the Receiving Party as confidential,but does not include information which:
 - (3) was in the public domain when it was given to the Receiving Party;
 - (4) becomes, after being given to the Receiving Party, part of the public domain, except through disclosure contrary to this constitution;
 - (5) was in the Receiving Party's possession at the time of disclosure;
 - (6) the Receiving Party lawfully receives from a third party which has the right to disclose it to the Receiving Party; or
 - (7) the Receiving Party is required by law, by an order of a court or tribunal or by the requirements of a stock exchange to disclose.
- (b) The conduct of the business of the Company, negotiations between the parties and the activities of the Company are Confidential Information and is deemed to:
 - (1) have been disclosed by each party to the other; and
 - (2) be of a nature which should reasonably be regarded by each party as confidential.

103.2 **Obligations of Receiving Party**

- (a) The Receiving Party must:

- (1) use the Confidential Information solely as contemplated by this constitution, unless further use of the Confidential Information is specifically authorised in writing by the Disclosing Party;
 - (2) keep all Confidential Information secret and confidential;
 - (3) use reasonable care to protect the Confidential Information, whether in storage or in use, against public disclosure;
 - (4) not disclose the Confidential Information to, or in the presence of, any director, officer, employee, adviser, financier, potential financier or agent of the Receiving Party, unless that person:
 - (A) has a need to know the Confidential Information in connection with the shareholder's shareholding in the Company; and
 - (B) has made an undertaking to keep Confidential Information strictly confidential.
- (b) The Receiving Party must:
- (1) promptly notify the Disclosing Party if it becomes aware of any breach of confidentiality by any person to whom it has divulged Confidential Information or by any person who has become aware of Confidential Information; and
 - (2) provide the Disclosing Party and each other party all reasonable assistance in connection with any proceedings against such person for breach of confidentiality or otherwise.

103.3 **Shareholder's information**

- (a) Nothing in this clause 103 is to be treated as prohibiting or restraining any information concerning the business or affairs of the Company:
 - (1) which is received by a Director, whether orally or otherwise, from being disclosed by that Director to:
 - (A) the party which appointed that Director; or
 - (B) to any other person to whom that party has a duty to disclose such information, provided they undertake to keep confidential the information disclosed;
 - (2) which is in the possession of a party that is a Related Body Corporate of another corporation, from being disclosed to that corporation, provided that the corporation undertakes to keep confidential the information disclosed;
 - (3) from being disclosed to a potential purchaser of Shares provided that such purchaser undertakes to keep confidential the information disclosed; or
 - (4) from being disclosed with the prior written consent of each party to whom the Confidential Information relates; or
 - (5) where the shareholder is a fund (however structured including as a unit trust or partnership) to its advisers, investors, members, limited partners and unitholders provided that the shareholder, acting

reasonably, considers it necessary or desirable to disclose the Confidential Information in connection with its reporting obligations.

- (b) The parties agree to take no action to prohibit or prevent any such disclosure as long as such disclosure complies with the restrictions set out in clause 103.

103.4 **Return of Confidential Information**

- (a) Subject to clause 103.4(c), all:
 - (1) Confidential Information provided by a Disclosing Party to a Receiving Party; and
 - (2) copies made by the Receiving Party's directors, officers or employees or any other person to whom the Receiving Party disclosed the Confidential Information in accordance with this constitution,must be returned to the Disclosing Party on receipt of a request from the Disclosing Party for its return, except to the extent that the Receiving Party is obliged by law to keep records of its business.
- (b) Subject to clause 103.4(c), if the Receiving Party has generated its own internal documents containing the Confidential Information:
 - (1) these may be destroyed rather than returned to the Disclosing Party; and
 - (2) the Receiving Party must provide to the Disclosing Party written confirmation that the destruction has taken place.
- (c) Clauses 103.4(a) and 103.4(b) do not apply to:
 - (1) the Receiving Party's director's papers, or the minutes of the Receiving Party's board or any committee of that board to the extent that such papers and minutes contain the level of detail consistent with the normal practices of the Receiving Party; or
 - (2) documents that are created or retained by any legal advisers of the Receiving Party where those documents are required to be held, or it is the usual practice of the legal adviser to hold those documents, for the purposes of any relevant professional standards, practices, codes or insurance policies applicable to the legal adviser.
 - (3) Confidential Information that cannot be returned, destroyed, deleted or erased because it is stored electronically on off-site servers as a result of automatic data back-up in accordance with the normal practices of the Receiving Party, provided that the Receiving Party complies with any reasonable conditions required by the Disclosing Party in relation to the storage, use or access of the Confidential Information and makes no attempt to access the Confidential Information from the servers unless permitted by clause 103.4(c)(1) or 103.4(c)(2) or with the prior written consent of the Disclosing Party.

103.5 **Enforcement**

- (a) Nothing in this constitution prohibits the Receiving Party from disclosing the contents of this constitution to the extent necessary to enable it to enforce its rights under this constitution or any other agreement.

- (b) If a shareholder (or a director appointed by that shareholder) discloses Confidential Information other than as permitted by this constitution, the Company and/or the Business may suffer loss and/or damage. Each shareholder acknowledges and agrees that:
 - (1) monetary damages may not be an adequate remedy for the Company; and
 - (2) the Company is entitled to seek an injunction or any other remedy available at law or in equity, at the Company's discretion, to protect the Confidential Information.
- (c) Each shareholder is liable for and agrees to indemnify, on a full indemnity basis, the Company in respect of:
 - (1) any loss, damage, cost, charge, expense (including legal expenses on a solicitor client basis), penalty, fine or payment which the suffers, incurs or is liable for, as a result of a breach by that shareholder of this clause 103; and
 - (2) any claim or action taken against the Company as a result of a breach by that shareholder of this constitution.

104. INTELLECTUAL PROPERTY RIGHTS

All intellectual property rights owned by the Company:

- 104.1 are, and must remain, the property of the Company; and
- 104.2 must not be used by any of the other parties unless otherwise agreed in writing by the Company.

105. CONTROL OF SHAREHOLDERS

- 105.1 A shareholder that is trustee of a trust must not, without the consent of the Directors:
 - (a) allow any change to the power (whether legally enforceable or not) to control the trust;
 - (b) do anything which could bring about its removal or retirement as trustee;
 - (c) default under the provisions of the trust deed;
 - (d) allow its right of subrogation as trustee of the trust to be restricted; or
 - (e) allow the vesting date of the trust to be determined.
- 105.2 A shareholder that is a corporation must not, without the consent of the Directors, allow any change to the power (whether legally enforceable or not) to control the corporation.

106. LIMITATION OF LIABILITY

If a party enters into this constitution as a trustee, responsible entity, investment manager, general partner, custodian, subcustodian or nominee (as the case may be) (**Relevant Party**) of a trust, fund or entity (as applicable) (the **Relevant Entity**):

- 106.1 the Relevant Party enters into this constitution only in its capacity as trustee responsible entity, investment manager, general partner, custodian, subcustodian or nominee (as

the case may be) of the Relevant Entity and in no other capacity. A liability arising under or in connection with this constitution is limited to and can be enforced against the Relevant Party only to the extent to which it can be satisfied out of property of its Relevant Entity out of which the Relevant Party is actually indemnified for the liability. This limitation of the Relevant Party's liability applies despite any other provision of this constitution or any other document and extends to all liabilities and obligations of the Relevant Party in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this constitution;

- 106.2 a party may not sue the Relevant Party in any capacity other than as trustee, responsible entity, investment manager, general partner, custodian, subcustodian or nominee (as the case may be) of the Relevant Entity, including seeking the appointment of a receiver, a liquidator, an administrator or any similar person to the Relevant Party (except in relation to property of the Relevant Entity) or prove in the liquidation, administration or arrangement of or affecting the Relevant Party (except in relation to property of the Relevant Entity);
- 106.3 the provisions of this clause 106 do not apply to any obligation or liability of the Relevant Party to the extent that it is not satisfied because under the constituent document or trust deed (as applicable) establishing its Relevant Entity or by operation of law there is a reduction in the extent of the Relevant Party's indemnification out of the assets of the Relevant Entity, as a result of the Relevant Party's fraud, negligence or wilful default;
- 106.4 no attorney, agent, receiver or receiver and manager appointed in accordance with this deed has authority to act on behalf of the Relevant Party in a way which exposes the Relevant Party to any personal liability and no act or omission of any such person will be considered fraud, negligence or wilful default of the Relevant Party for the purpose of clause 106.3;
- 106.5 the Relevant Party is not obliged to do or refrain from doing anything under this deed (including, without limitation, incur any liability) unless the Relevant Party's liability is limited in the same manner as set out in clauses 106.1 to 106.4; and
- 106.6 this clause 106 applies notwithstanding any other provision of this constitution.

107. RESTRICTIONS ON AMENDING THIS CONSTITUTION

Notwithstanding any other clause of this constitution, the following clauses and parts of this constitution may not be amended or removed other than with a Special Shareholder Majority (including the affirmative vote of Skip (for so long as it holds more than 7.5% of the Shares on issue) and Square Peg (for so long as it holds more than 7.5% of the Shares on issue)) or as required by the Act:

- 107.1 clause 16.1;
- 107.2 clause 24.4(a)(3);
- 107.3 clause 25.8;
- 107.4 clause 26.1(a);
- 107.5 clause 51.3;
- 107.6 clause 66;
- 107.7 clause 67.4(c);
- 107.8 this clause 107;

- 107.9 clause 116.38;
- 107.10 clause 116.39;
- 107.11 clause 116.40;
- 107.12 clause 116.42;
- 107.13 Item 1 of Schedule 1;
- 107.14 Schedule 2; or
- 107.15 any other clause that may directly or indirectly affect the operation of any of the above as it relates to Skip or Square Peg.

PART 15 – CSF PROVISIONS

108. CSF PROVISIONS

- 108.1 The Company may, from time to time, make a CSF offer.
- 108.2 If at any time the Company is making a CSF offer, or has one or more CSF shareholders, the following provisions set out in this clause 108.2 apply:
 - (a) notwithstanding anything contained in this constitution, if the Act prohibits an act being done in connection with a CSF offer, or as a result of the Company having one or more CSF shareholders, the act shall not be done;
 - (b) nothing contained in this constitution prevents an act being done that the Act requires to be done in connection with a CSF offer, or as a result of the Company having one or more CSF shareholders;
 - (c) if the Act requires an act to be done or not to be done in connection with a CSF offer, or as a result of the Company having one or more CSF shareholders, authority is given for that act to be done or not to be done (as the case may be);
 - (d) if the Act requires this constitution to contain a provision in connection with a CSF offer, or as a result of the Company having one or more CSF shareholders, and it does not contain such a provision, this Constitution is deemed to contain that provision;
 - (e) if the Act requires this constitution to not contain a provision in connection with a CSF offer, or as a result of the Company having one or more CSF shareholders, and it does contain such a provision, this constitution is deemed to not contain that provision; and
 - (f) if any provision of this constitution is or becomes inconsistent with the Act in connection with a CSF offer, or as a result of the Company having one or more CSF shareholders, this constitution is deemed not to contain that provision to the extent of the inconsistency.

PART 16 – NOTICES AND INTERPRETATION

109. IN WRITING

Notice must be in writing and in English, and may be given by an authorised representative of the sender.

110. NOTICE TO SHAREHOLDERS

- 110.1 The Company may give notice to a shareholder:
- (a) personally;
 - (b) by sending it by post to the address of the shareholder in the register of shareholders or the alternative address (if any) nominated by the shareholder;
 - (c) by sending it to the fax number or electronic address (if any) nominated by the shareholder.
- 110.2 The Company may give notice to a person entitled to a Share because of a Transmission Event in the same ways.
- 110.3 Notice to joint shareholders must be given to the joint shareholder named first in the register of shareholders.
- 110.4 Notice to a person, entitled to a Share because of a Transmission Event, is taken to be notice to the shareholder.
- 110.5 A notice to a shareholder is sufficient, even if the shareholder (whether or not a joint shareholder) is dead, mentally incapacitated, a minor, bankrupt or an externally-administered body corporate, and the Company has notice of that event.
- 110.6 A person, entitled to a Share because of a transfer, Transmission Event or otherwise, is bound by every notice given in respect of the share.

111. NOTICE TO DIRECTORS

The Company may give notice to a director or alternate director:

- 111.1 personally;
- 111.2 by sending it by post to the director's or alternate director's usual residential or business address or any other address nominated by them;
- 111.3 if a notice calling a meeting - by sending it to the fax or electronic address (if any) nominated by the director or alternate, only if all the directors have consented to the use of that technology;
- 111.4 if any other notice - by sending it to the fax or electronic address (if any) nominated by the director or alternate.

112. NOTICE TO THE COMPANY

A person may give notice to the Company:

- 112.1 by leaving it at the Company's registered office;
- 112.2 by sending it by post to the Company's registered office;

112.3 by sending it to the fax or electronic address (if any) of the Company's registered office.

113. ADDRESSES OUTSIDE AUSTRALIA

A notice sent by post to or from a place outside Australia must be sent by air mail.

114. TIME OF SERVICE

- 114.1 A notice sent by post within Australia is taken to be given three Business Days after posting.
- 114.2 A notice sent by post to or from a place outside Australia is taken to be given seven Business Days after posting.
- 114.3 A notice sent by fax, or other electronic means, is taken to be given on the Business Day after it is sent (if the sender's transmission report shows that the whole notice was sent to the correct facsimile number).

115. INTERPRETATION

In this constitution, unless the context otherwise requires:

- 115.1 reference to a clause, schedule or annexure is to a clause or schedule of, or an annexure to, this constitution;
- 115.2 singular includes plural and plural includes singular;
- 115.3 words of one gender include all other genders;
- 115.4 'including', or similar words, does not limit what else might be included;
- 115.5 'dispose' and 'disposal' have the meanings given to those terms in clause 23.3;
- 115.6 reference to legislation includes any amendment to it, any legislation substituted for it, and any statutory instruments issued under it and in force;
- 115.7 reference to a person includes a corporation, firm, government body and any other entity;
- 115.8 reference to a thing includes part of that thing;
- 115.9 headings do not affect interpretation;
- 115.10 another grammatical form of a defined expression has a corresponding meaning;
- 115.11 a provision must be read down to the extent necessary to be valid. If it cannot be read down, it must be severed. All other provisions of this constitution are unaffected;
- 115.12 a promise, representation, warranty or indemnity:
- (a) on the part of two or more persons binds them jointly and severally; and
 - (b) in favour of two or more persons is for the benefit or them jointly and severally;
- 115.13 the Company must not exercise any power in contravention of the Act;
- 115.14 a provision must not be construed to the disadvantage of a party because that party was responsible for including that provision and/or that provision benefits that party; and
- 115.15 all Shares held a Shareholder and any person(s) to whom that Shareholder may transfer Shares pursuant to a permitted transfer under clause 24.1 will be aggregated together

for the purpose of determining the availability of any rights under this constitution, and the relevant Shareholders may apportion such rights as among themselves in any manner they deem appropriate.

116. DEFINITIONS

In this constitution:

- 116.1 **Act** means the *Corporations Act 2001* (Cth);
- 116.2 **Associate** has the meaning given in the Act;
- 116.3 **Bad Leaver** means a person who ceases to be employed or engaged by a Group Company, as a result of his or her termination by the Group Company because he or she has committed:
- (a) fraud;
 - (b) an indictable criminal offence;
 - (c) a breach of a restrictive covenant in favour of a Group Company.;
 - (d) a material breach of his or her employment or consulting agreement; or
 - (e) where his or her employment is otherwise terminated by the Group Company for reasons which would permit summary dismissal as a matter of law or under his or her employment contract;
- or a person who has ceased to be employed or engaged by a Group Company and subsequently breaches a restrictive covenant in favour of a Group Company.
- 116.4 **Board Observer** has the meaning given to that term in clause 66.1;
- 116.5 **Budget** means the operating and financial targets and forecasts of the Company for a Financial Year;
- 116.6 **Business** means:
- (a) the business known or referred to as “Zero Co”, being the establishment of a “closed-loop” household goods company that delivers personal-care and home-claiming products direct to homes without the single-use plastic packaging;
 - (b) the business described in the Business Plan; and
 - (c) any other activities carried on by the Group or any Group Company from time to time;
- 116.7 **Business Day** means any day except a Saturday or Sunday or other public holiday in Sydney, New South Wales;
- 116.8 **Business Plan** means the plan for the business of the Company, as approved by the Directors, including:
- (a) the strategic, business development and marketing objectives of the Company for a Financial Year; and
 - (b) business and financial forecasts for the Company for future Financial Years;

- 116.9 **Company** means Zeroco.com.au Pty Limited ACN 633 757 954;
- 116.10 **CSF offer** has the meaning given in the Act;
- 116.11 **CSF shareholder** has the meaning given in the Act;
- 116.12 **Directors** means all or some of the directors of the Company acting as a board and may include an alternate director;
- 116.13 **Dividend** includes interim dividend and bonus;
- 116.14 **Encumbrance** means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set off or any other security agreement or arrangement in favour of any person;
- 116.15 **Event of Default** means any of the events or circumstances described in clause 26.1;
- 116.16 **Exit Event** means:
- (a) an IPO;
 - (b) a sale to a third party purchaser of all (or substantially all) of the assets and business undertakings of the Company; or
 - (c) the sale by Shareholders (in one transaction or a series of connected transactions) to a third party purchaser of all of the issued shares in the capital of the Company;
- 116.17 **Excluded Issue** means:
- (a) an issue of Securities under a Share Plan;
 - (b) Securities issued in connection with share splits or the issue of dividends which is approved by a Special Majority resolution of the Directors;
 - (c) Securities issued as part of an IPO which is approved by a Special Majority resolution of the Directors; or
 - (d) Securities constituting all or part of the consideration for a bona-fide acquisition of assets or shares by the Company which is approved by a Special Majority resolution of the Directors;
- 116.18 **Financial Year** means any of:
- (a) the period from the date of registration of the Company to the following 30 June;
 - (b) the period from each subsequent 1 July to each following 30 June;
- 116.19 **Founder** means Mike Smith Pty Limited ACN 146 886 473 as trustee for the Mike Smith Family Trust;
- 116.20 **Good Leaver** means a person who ceases to be employed or engaged by the Company in circumstances where they are not a Bad Leaver including by reason of that person's death or TPD, but does not include any person that is deemed not to be a Good Leaver under clause 25.4;
- 116.21 **Group** means the Company and the Subsidiaries, and Group Company means any one of them;
- 116.22 **Insolvency Event** means the occurrence of any one or more of the following events in relation to any person:

- (a) an application is made to a court for an order that it be wound up, declared bankrupt or that a provisional liquidator or receiver or receiver and manager be appointed, unless the application is withdrawn, struck out or dismissed within 21 days of it being made or any a writ of execution is levied against it or its property;
 - (b) a liquidator or provisional liquidator is appointed;
 - (c) an administrator or a controller is appointed to any of its assets;
 - (d) it enters into an arrangement or composition with one or more of its creditors, or an assignment for the benefit of one or more of its creditors where the person is unable to pay their debts as and when they fall due;
 - (e) it proposes a reorganisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors, or its winding up or dissolution;
 - (f) it is insolvent as disclosed in its accounts or otherwise, or it is insolvent under an applicable law;
 - (g) it becomes an insolvent under administration as defined in section 9 of the Act;
 - (h) it fails, or is taken to have failed, to comply with a statutory demand as a result of section 459F(1) of the Act; or
 - (i) anything occurs under the law of any jurisdiction which has a substantially similar effect to any of the above clauses of this definition;
- 116.23 **Investor Director** means a Director appointed by either Skip or by Square Peg in accordance with clause 50.1.
- 116.24 **IPO** means an initial public offering of Shares made under a prospectus or similar offer document stating that the Company has or will apply, in conjunction with the offering, for quotation of the Shares on a stock exchange;
- 116.25 **Officer** means a director or secretary of the Company or of a Group Company or both;
- 116.26 **Premises** means the principal place of business from which the Company conducts the Business from time to time;
- 116.27 **Related Body Corporate** has the meaning given in the Act;
- 116.28 **Related Principal** means, with respect to the Founder (and any person to whom the Founder transfers shares pursuant to a permitted transfer under clause 23.2(b)), Michael James Smith;
- 116.29 **Relative** means:
- (a) a Spouse;
 - (b) a child or remoter issue, a brother, sister, niece or nephew, or the Spouse of any of them;
- 116.30 **Reorganisation Event** means any one or more of the following:
- (a) a distribution of cash or securities by way of return of capital;
 - (b) a bonus issue of Shares in the Company;

- (c) a share split, consolidation or other similar in respect of the share capital of the Company;
 - (d) any other internal reorganisation, recapitalisation or similar event with respect to the share capital of the Company;
- 116.31 **Respective Proportion** means in respect of each Shareholder, the proportion that the aggregate number of Shares held by that Shareholder bears to the aggregate number of Shares on issue at the relevant time;
- 116.32 **Securities** means a security of the Company and includes the Shares, options, any convertible notes, warrants or other securities capable of conversion into Shares issued by the Company;
- 116.33 **Security Interest** means:
- (a) a 'security interest' as defined in the *Personal Property Securities Act 2009* (Cth);
 - (b) any third party rights or interests including a mortgage, lien, charge, pledge, assignment by way of security, security interest, encumbrance, title retention, preferential right or trust arrangement, claim, covenant, easement or any other security arrangement or any other arrangement having the same effect;
 - (c) a right, interest or arrangement which has the effect of giving another person priority over creditors including any right of set-off;
 - (d) a right that a person (other than the owner) has to remove something from land (known as a profit à prendre), easement, public right of way, restrictive or positive covenant, lease, or licence to use or occupy; or
 - (e) an agreement to create any of them or allow them to exist;
- 116.34 **Seed Preference Shares** means seed preference shares in the capital of the Company having the rights set out in Schedule 2;
- 116.35 **Share** means:
- (a) an ordinary share in the capital of the Company;
 - (b) a Seed Preference Share; and
 - (c) a share in any other class of shares issued by the Company from time to time, as applicable;
- 116.36 **Share Plan** has the meaning given in clause 16.1;
- 116.37 **Simple Majority** means more than 50% of the votes that are entitled to be cast by persons present (either in person or, where proxies or representatives are allowed, by proxy or representative) in relation to a particular resolution;
- 116.38 **Skip** means Skip Enterprises Pty Limited ACN 108 337 113 as trustee for the Farquhar Trust;
- 116.39 **Special Board Majority** means at least 66% of the votes that are entitled to be cast by directors in relation to a particular resolution.
- 116.40 **Special Shareholder Majority** means at least 66% of the votes that are entitled to be cast by shareholders present (either in person or, where proxies or representatives are allowed, by proxy or representative) in relation to a particular resolution.

- 116.41 **Spouse** of a person means:
- (a) that person's husband, wife, widow or widower (whether or not remarried);
 - (b) anyone else who, although not legally married to that person, in the Directors' opinion, lives or lived with that person on a genuine domestic basis as the husband or wife of that person;
- 116.42 **Square Peg** means Square Peg 2020, LP.
- 116.43 **Subsidiary** means a subsidiary of the Company, as defined by section 9 of the Act;
- 116.44 **TPD** means total permanent disablement of the Founder (or its Related Principal) or the Founder (or its Related Principal) being permanently unable to perform his duties due to physical or mental illness, ill-health, accident or otherwise;
- 116.45 **Transmission Event** means:
- (a) if a shareholder is an individual - death, bankruptcy, or becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health;
 - (b) if a shareholder is a body corporate - the deregistration or winding up of the shareholder or the succession by another body corporate to the assets and liabilities of the shareholder.
- 1.2 **Unvested Shares** means any Shares that are subject to vesting pursuant to clause 25 and have not vested pursuant to clause 25;
- 1.3 **Vesting Period** means the period beginning on 15 September 2020 and ending on the third anniversary of that date; and
- 1.4 **Vested Shares** means any Shares that have vested pursuant to clause 25.

Schedule 1 – Resolutions requiring a Special Majority

Item 1 - Matters to be determined by a Special Board Majority resolution of the Directors including at least one Investor Director (if any) are:

1. The entry into of any agreement by the Company with related parties.
2. The entry into, and amendment of contracts where the obligation of the Company is greater than 25% of budgeted operating expenses in any financial year other than as set out in the Company's operating budget as approved by the Directors.
3. Incurring capital expenditure of more than 25% of budgeted capital expenditure in any financial year above the budget approved by the Directors other than in connection with an acquisition of the Company of any business (including via shares or assets).
4. Making a material change in the nature of the Business or principal activities of the Company.
5. Creating any class of Securities with rights that are superior to the rights of the Seed Preference Shares.
6. Reducing the Founder's salary below \$150,000 per annum or resolving to defer or withhold payment the Founder's salary.
7. Increasing the maximum number of directors or otherwise altering the structure of the board.

Item 2 – Decisions reserved for Special Board Majority resolution of the Directors are:

8. Appointing an external administrator, liquidator or receiver to the Company or any proposal to wind up the Company or make any composition or arrangement with creditors.
9. Sale or disposal of the Company's main undertaking or 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 where the sales proceeds.
10. The entry into, and amendment of any agreement for the acquisition by the Company of any business (including via shares or assets) for cash or non-cash consideration in excess of the equivalent of \$250,000.
11. Granting any Security Interest of any nature in respect of all or any material part of the Company's undertaking, property, assets or the issuance of any guarantee in favour of the obligations of a third party securing borrowings in excess of the Debt Threshold (as defined below).
12. Borrowing from external financial institutions a sum in any one or series of related borrowings that would cause the Company's debt to equity ratio to exceed 50:50 (the **Debt Threshold**).
13. Undertaking of any capital reorganisations such as a return of capital, share buy back, share cancellation, share splits or subdivisions, share consolidations or bonus share issues.
14. The declaration or payment of any dividend or other distribution of profit of the Company, other than on a proportionate basis to all ordinary shareholders.
15. Removing or materially changing the terms of engagement of the Founder and any employee that reports directly to the Founder (or who would reasonably be expected to report directly to the Founder) or paying any such person a bonus.
16. Appointing a director other than in accordance with clause 50.1.

Item 3 – Decisions reserved for Special Shareholder Majority resolution of the shareholders are:

1. Alteration of rights attaching to any existing Share, debenture, preference share or any other security in the Company.
2. Subject to clause 107, alteration of this constitution.
3. Appointing an external administrator, liquidator or receiver to the Company or any proposal to wind up the Company or make any composition or arrangement with creditors.

Schedule 2 – Seed Preference Share Terms

1. Seed Preference Shares

- 1.1 These terms set out the terms of the Seed Preference Shares which may be issued by the Company.
- 1.2 Despite any other clause of these terms the Company is not required to comply with these Seed Preference Share Terms to the extent that to do so would contravene the Act.

2. General rights attaching to Seed Preference Shares

- 2.1 Subject to clauses 3 through 8 of these terms, each Seed Preference Share confers on the holders of that Seed Preference Share all of the rights attaching to one fully paid ordinary share in the capital of the Company including with respect to voting rights and will be entitled to vote on an as converted basis. Holders of Seed Preference Shares are entitled to receive notice of and attend general meetings of the Company equally with holders of ordinary shares.

3. Dividends

- 3.1 Each Seed Preference Share is entitled to any dividend declared on ordinary shares equal to the dividend that would be payable on the number of ordinary shares into which such Seed Preference Share would convert into if it were to be so converted pursuant to clause 4 of these terms on the relevant dividend record date.

4. Conversion

- 4.1 Each Seed Preference Share will be convertible into ordinary shares. The initial conversion price is equal to the issue price of the relevant Seed Preference Share, with the conversion price adjusted pursuant to the operation of the terms of these Seed Preference Shares (**Conversion Price**). Each Seed Preference Share will be convertible into such number of fully paid ordinary shares as is determined by dividing the initial conversion price by the Conversion Price in effect at the time of conversion.
- 4.2 Each holder of Seed Preference Shares is entitled to convert some or all of its Seed Preference Shares into ordinary shares at any time and without payment of additional consideration on 10 Business Days written notice to the Company (**Conversion Notice**).
- 4.3 A notice given by a holder of Seed Preference Shares pursuant to clause 4.2 of these terms must state:
 - (a) the number of Seed Preference Shares to be converted into ordinary shares; and
 - (b) the date on which such conversion is to occur (which must be no less than 10 Business Days after the date of such Conversion Notice) (**Conversion Date**).
- 4.4 On the Conversion Date:
 - (a) the relevant Seed Preference Shares will be converted (by way of variation of rights, and not by way of redemption, cancellation or a new issue or allotment) into a number of ordinary shares determined by dividing the relevant purchase price paid per Seed Preference Share by the Conversion Price and multiplying that figure by the number of Seed Preference Shares to be converted and rounded to the nearest whole share; and

- (b) the Company will issue new share certificates to the relevant holder or holders of Seed Preference Shares relating to the new holding of Seed Preference Shares and ordinary shares.

5. Anti-dilution

5.1 If, prior to the conversion of any Seed Preference Shares, the Company:

- (a) reconstructs its share capital, the number of shares into which a Seed Preference Share may be converted must be reconstructed in the same manner; or
- (b) issues ordinary shares or is deemed to have issued ordinary shares in accordance with clause 5.1(c) of these terms at a price less than that paid by the holder of Seed Preference Shares, the Conversion Price will be amended as follows (calculated to the nearest tenth of a cent):

$$CP_2 = CP_1 * (A + B) \div (A + C).$$

Where:

CP₂ = the Conversion Price in effect immediately after such issue of equity securities;

CP₁ = the Conversion Price in effect immediately prior to such issue of equity securities;

A = the number of ordinary shares of the Company issued or issuable upon exercise of options or securities convertible into ordinary shares immediately prior to such issue or upon conversion or exchange of all convertible preference shares outstanding (assuming exercise of all outstanding options or securities convertible into ordinary shares, immediately prior to such issue), but excluding any Seed Preference Shares that have not been converted;

B = the number of ordinary shares that would have been issued if such equity securities had been issued at a price per share equal to CP₁ (determined by dividing the aggregate consideration received by the Company in respect of such issue by CP₁); and

C = the number of such equity securities issued in such transaction.

- (c) For the purposes of clause 5.1(b) of these terms, if the Company issues any options or convertible securities or fixes a record date for the determination of holders of any class of securities entitled to receive any such options or convertible securities, then the maximum number of ordinary shares (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such options or, in the case of convertible securities the conversion or exchange of such convertible securities, shall be deemed to be an issue of ordinary shares issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date. Upon the expiration or termination of any unexercised option or unconverted or unexchanged convertible security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the Conversion Price pursuant to the terms of clause 5.1(b) of these terms, the Conversion Price shall be readjusted to such Conversion Price as would have obtained had such option or convertible security (or portion thereof) never been issued. The consideration per share received by the Company for options and convertible securities deemed to have been issued pursuant to this clause

5.1(c), shall be determined by dividing: (i) the total amount, if any, received or receivable by the company as consideration for the issue of such options or convertible securities, plus the minimum aggregate amount of additional consideration payable to the Company upon the exercise of such options or the conversion or exchange of such convertible securities, by (ii) the maximum number of ordinary shares issuable upon the exercise of such options or the conversion or exchange of such convertible securities.

Clause 5.1(c): Worked example

Seed Investor subscribes for 897,326 Series Seed Preference Shares at a price per share of \$1.39. Post-closing the company has 3,948,236 Ordinary Shares and 1,794,653 Series Seed Preference Shares (including Seed Investor's Series Seed shares plus the other Series Seed shares) on issue.

A year after closing the company issues 400,000 new Series A Preference Shares at price of \$0.695 per share convertible to Ordinary Shares on a one-for-one basis with no further payments required. These are convertible securities issued for a lower price and will result in a deemed issue of 400,000 Additional Ordinary Shares.

The formula will then applied as follows:

- $CP1 = \$1.39$
- $A = 3,948,236$ (excluding Series Seed Preference Shares)
- $B = 200,000$ ($\$278,000$ consideration \div $\$1.39$)
- $C = 400,000$
- Current Series Seed Conversion Price is $\$1.39$ per share (also the original issue price)
adjusted Series Seed Conversion Price = $\$1.39 \times (4,148,236) \div (4,348,236) = \1.326

The Series Seed Conversion Price is now set at \$1.326. This means:

- *The conversion ratio is now $1.39/1.326 = 1.048$ and Seed Investor is now entitled to receive 940,635 Ordinary Shares on a conversion. After the Series A investment there will be 4,888,871 Ordinary Shares on a fully diluted basis.*

5.2 The following issues will not trigger an anti-dilution adjustment:

- (a) ordinary shares (or options to purchase such ordinary shares) issued under an employee incentive scheme; or
- (b) shares (or options to purchase such share) issued as consideration other than for cash pursuant to a merger, consolidation, acquisition or similar transaction or combination of transactions approved by the Directors.

6. Ranking

With respect to amounts to be paid or repaid in respect of the Seed Preference Shares under these Seed Preference Share Terms, Seed Preference Shares will:

- (a) rank equally among themselves; and
- (b) rank senior to all other shares on issue in the capital of the Company.

7. Preferential return of capital

7.1 In this clause “**Liquidation Event**” means:

- (a) the liquidation, dissolution or winding up of the Company;
- (b) the distribution of all or substantially all of the Company’s capital to the Company’s shareholders (whether by return of capital, share buy-back, dividend or otherwise);
- (c) a sale of all or substantially all of the shares in the Company for cash or liquid securities;
- (d) a sale, lease, liquidation or other disposition in a single transaction or a series of related transactions of all material or substantially all assets or intellectual property of the Company or the Business, for which it is resolved that the shareholders will receive the sale proceeds;
- (e) the closing of the issue or sale of ordinary shares in the Company to the public in a firm commitment public offering and the quoting of the ordinary shares of the Company, and the listing of the Company, on an internationally recognised stock exchange;
- (f) an exit by way of granting an exclusive license of the Company’s Intellectual Property Rights and milestone payments, for which it is resolved that the shareholders will receive the associated proceeds obtained by the Company; or
- (g) a merger or consolidation in which: (i) the Company or one of its Subsidiaries is a constituent party; and (ii) the Company issues shares pursuant to such merger or consolidation, except a merger or consolidation involving the company or one of its Subsidiaries in which the shares of the company on issue immediately before such merger or consolidation continue to represent, or are converted into or exchanged for shares that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the issued shares of the surviving or resulting corporation or, if the surviving or resulting corporation is a wholly owned Subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation.

7.2 If any Liquidation Event occurs, the holders of the Seed Preference Shares will be entitled to receive out of the proceeds of that Liquidation Event, in preference to any payments to the holders of any other shares or securities in the capital of the Company, the greater of:

- (a) an amount equal to the amount paid up on the Seed Preference Share plus any declared but unpaid dividends in respect of a Seed Preference Share (**Preference Amount**); or
- (b) the amount that would be payable to the holder in respect of each Seed Preference Share if all Seed Preference Shares were converted to ordinary shares immediately prior to the Liquidation Event.

8. Variation of class rights

8.1 The rights attached to the Seed Preference Shares may only be cancelled, varied or modified with the agreement (whether by resolution or written consent) of the holders of at least 75% in aggregate of the Seed Preference Shares on issue.

8.2 If shareholders holding at least 75% in aggregate of the Seed Preference Shares on issue agree (whether by resolution or written consent) to the cancellation, variation or modification, it takes effect:

- (a) if no later date is stated in the resolution or consent; on the date of the resolution or consent; or
- (b) on a later date specified in the resolution or written consent.