

Constitution of FlyOnE Pty Ltd

ACN 642 524 696

A Company limited by Shares under the *Corporations Act 2001 (Cth)*

Table of Contents

1.	Interpretation	1
2.	Powers	2
3.	Liability of members	3
4.	Share capital	3
5.	Unissued capital	3
6.	Preference shares	3
7.	Classes of shares	3
8.	Shares held on trust	4
9.	Share certificates	4
10.	Lien	4
11.	Sale of shares subject to lien	4
12.	Calls on shares	5
13.	Transfer of shares	6
14.	Transmission of shares	6
15.	Forfeiture of shares	7
16.	Alteration of capital	8
17.	General meetings	8
18.	General meeting procedure	8
19.	Chairman	9
20.	Voting rights and poll	9
21.	Casting vote	10
22.	Proxies and powers of attorney	10
23.	Restrictions on voting	11
24.	Number of directors	12
25.	Retirement of directors	12
26.	Appointment and removal of directors	12
27.	Remuneration of directors	12
28.	Vacation of office of director	13
29.	Offices of profit in company	13
30.	Powers and duties of directors	13
31.	Directors' meetings	14
32.	Alternate directors	15
33.	Chairman of directors	16
34.	Delegation of committee directors	16
35.	Managing director	17
36.	Associate directors	17
37.	Secretary	17
38.	Execution of documentation	17
39.	Inspection of records	18
40.	Dividends and reserves	18
41.	Capitalisation of profits	19
42.	Prescribed advances	20
43.	Notices	22
44.	Winding up	22
45.	Directors' indemnities and insurance	23

Table of Contents

1. Interpretation

1.1 In this Constitution:

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

Company means FlyOnE Pty Ltd ACN 642 524 696.

Date of Offer means the date in which the Company first opens a public offer for the sale of shares in the Company, including but not limited to a Crowd-Sourced Equity Crowdfunding platform.

Prescribed Advance means each advance of funds which:

- (a) is made available by the Company to any member by way of loan; and
- (b) is not fully repaid by the member by the end of the financial year in which it was made.

Prescribed Advance Rate means that rate determined in accordance with section 109N of the Tax Act.

Secretary means any person appointed to perform the duties of a secretary of the Company.

Secured Advance means a Prescribed Advance where:

- (a) 100% of the value of the Prescribed Advance is secured by a mortgage over real property that has been registered in accordance with the law of a State or Territory; and
- (b) when the loan is first made, the market value of that real property (less the amounts of any other liabilities secured over that property in priority to the Prescribed Advance) is at least 110% of the amount of the Prescribed Advance.

Tax Act means the *Income Tax Assessment Act 1936* (Cth).

1.2 Except so far as a contrary intention appears, in a provision of this Constitution that deals with a matter dealt with in a particular provision of the Act, the provision of this Constitution has the same meaning as in that provision of the Act.

1.3 Unless the contrary intention appears, a reference in this Constitution to:

- (a) a document includes any variation or replacement of it despite any change in the identity of the parties;
- (b) one gender includes the others;
- (c) the singular includes the plural and the plural includes the singular;
- (d) a person, partnership, corporation, trust, association, joint venture, unincorporated body, government body or other entity includes any other of them;
- (e) a clause, subclause or paragraph is to a clause, subclause or paragraph of this Constitution;
- (f) a party to a document includes the party's executors, administrators, successors, substitutes (including a person who becomes a party by novation) and permitted assigns;

- (g) any statute, ordinance, code or other law includes regulations and other instruments under any of them and consolidations, amendments, re-enactments or replacements of any of them;
 - (h) money is to Australian dollars, unless otherwise stated; and
 - (i) writing means printing, typewriting and all other means of representing or reproducing words in visible form, including handwriting.
- 1.4 The words include, including, such as, for example and similar expressions are not to be construed as words of limitation.
- 1.5 Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- 1.6 Headings and any table of contents or index are for convenience only and do not affect the interpretation of this Constitution.
- 1.7 The provisions of the Act relating to a company's internal management which are described as replaceable rules do not apply to the Company.
- 1.8 The Company is a proprietary company and accordingly:
- (a) the number of members of the Company (counting joint holders of shares as one person and not counting any person in the employment of the Company or of its subsidiaries or any person who while previously in the employment of the Company or of its subsidiaries was and thereafter has continued to be a member of the Company) shall not be more than 50, unless as exempted by the Corporations Amendment (Crowd-sourced Funding for Proprietary Companies) Act 2018; and
 - (b) the Company is prohibited from engaging in any activity that would require the lodgement of a prospectus under chapter 6D of the Act or a corresponding law other than an offer of shares to:
 - (1) existing members of the Company; or
 - (2) employees of the Company or a subsidiary of the Company.

2. Powers

The provisions of section 124 of the Act apply to this company and the Company has all the rights powers and privileges of a natural person and, without limitation, has power to:

- (a) issue and cancel shares in the Company;
- (b) issue debentures of the Company;
- (c) grant options over unissued shares in the Company;
- (d) distribute any of the property of the Company among the members, in kind or otherwise;
- (e) give security by charging uncalled capital;
- (f) grant a fixed and/or floating charge on property of the Company;
- (g) procure the Company to be registered or recognised as a body corporate in any place outside any State or Territory of the Commonwealth of Australia;

- (h) do any other act that it is authorised to do by any other law (including a law of a foreign country);
- (i) issue bonus shares;
- (j) issue preference shares (including redeemable preference shares); and
- (k) issue partly paid shares.

3. Liability of members

The liability of the members is limited.

4. Share capital

The capital of the Company may be increased and the shares in the capital for the time being either forming part of the original capital or of any increase in capital may be divided from time to time into several classes and they may be attached to any of such shares such preferential, deferred, qualified or special rights, privileges or conditions as may be determined by or in accordance with this Constitution.

5. Unissued capital

Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, shares in the Company for the time being unissued (whether forming part of the original capital or of any increase in capital) shall be under the control of the directors who may allot or otherwise dispose of the same to such persons or person on such terms and conditions and with such rights and privileges annexed thereto and at such time as the directors may think fit and with full power to give to any person the call of any shares during such time and for such consideration as the directors think fit and in particular such shares or any of them may be issued by the directors with a preferential deferred or qualified right to dividends and in the distribution of assets of the Company on winding up or otherwise and with a special or qualified right of voting or without a right of voting.

6. Preference shares

Subject to the Act, any preference shares may, with the sanction of a resolution, be issued on the terms that they are, or at the option of the Company are liable, to be redeemed.

7. Classes of shares

- 7.1 If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the Company is being wound up, be varied with the consent in writing of the holders of three-quarters of the issued shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the shares of the class.
- 7.2 The provisions of this Constitution relating to general meetings apply so far as they are capable of application and mutatis mutandis to every such separate meeting except that:
 - (a) a quorum is constituted by:
 - (1) where the Company has only one member, that member; or
 - (2) where the Company has two or more members, two members present in person; and
 - (b) any holder of shares of the class, present in person or by proxy, may demand a poll.

- 7.3 The rights conferred on the holders of the shares of any class issued with preferred or other rights shall, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking equally with the first-mentioned shares.

8. Shares held on trust

- 8.1 Except as required by law, the Company shall not recognise a person as holding a share on any trust.
- 8.2 The Company is not bound by or compelled in any way to recognise (whether or not it has notice of the interest or rights concerned) any equitable, contingent, future or partial interest in any share or unit of a share or (except as otherwise provided by this Constitution or by law) any other right in respect of a share except any absolute right of ownership in the registered holder.

9. Share certificates

It shall be a condition of any shares in the capital of the Company that the Company shall be under no obligation to complete and have ready for delivery any certificate or certificates relating to such shares unless the person who is registered as the holder of such shares either as original subscriber transferee or otherwise howsoever makes a written request of the Company for the completion and delivery of such certificates in which case the Company shall complete and deliver to such registered holder the relevant certificate within one calendar month of the receipt by it of the aforesaid request. In respect of a share or shares held jointly by several persons, the Company is not bound to issue more than one certificate and delivery of a certificate for a share to one of several joint holders is sufficient delivery to all such holders.

10. Lien

- 10.1 The Company has a first and paramount lien and charge for unpaid calls and unpaid instalments due in respect of the specific shares registered in the name of a holder in respect of which such calls or instalments is or are due and unpaid.
- 10.2 The directors may at any time exempt a share wholly or in part from the provisions of this clause.
- 10.3 The Company's lien (if any) on a share extends to all dividends payable in respect of the share.

11. Sale of shares subject to lien

- 11.1 Subject to clause 11.2, the Company may sell, in such manner as the directors think fit, any shares on which the Company has a lien.
- 11.2 A share on which the Company has a lien shall not be sold unless:
- (a) a sum in respect of which the lien exists is presently payable; and
 - (b) the Company has, not less than 14 days before the date of the sale, given to the registered holder for the time being of the share or the person entitled to the share by reason of the debt or bankruptcy of the registered holder a notice in writing setting out, and demanding payment of, such part of the amount in respect of which the lien exists as is presently payable.
- 11.3 For the purpose of giving effect to a sale mentioned in clause 11, the directors may authorise a person to transfer the shares sold to the purchaser of these shares.

- 11.4 The Company shall register the purchaser as the holder of the shares comprised in any such transfer and the purchaser is not bound to seek the application of the purchase money.
- 11.5 The title of the purchaser to the shares is not affected by any irregularity or invalidity in connection with the sale.
- 11.6 The proceeds of a sale mentioned in clause 11 shall be applied by the Company in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue (if any) shall (subject to any like lien for sums not presently payable that existed on the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

12. Calls on shares

- 12.1 The directors may from time to time make calls on the members in respect of any money unpaid on their shares and not by the conditions of allotment thereof made payable at fixed times and each member shall pay to the Company at the time or times and place so specified the amount called on the member's shares.
- 12.2 A call may be revoked or postponed as the directors may determine.
- 12.3 A call shall be deemed to have been made at the time when the resolution of the directors authorising the call was passed and may be required to be paid by instalments.
- 12.4 The joint holders of a share are jointly and severally liable to pay all calls in respect of the share.
- 12.5 If a sum called in respect of a share is not paid before or on the day appointed for payment of the sum, the person from whom the sum is due shall pay interest on the sum from the day appointed for payment of the sum to the time of actual payment at such rate not exceeding 8% per annum as the directors determine, but the directors may waive payment of that interest wholly or in part.
- 12.6 Any sum that, by the terms of the issue of a share, becomes payable on allotment or at a fixed date shall for the purposes of this Constitution be deemed to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable, and, in case of non-payment, all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise apply as if the sum had become payable by virtue of a call duly made and notified.
- 12.7 The directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be made and the times of payment.
- 12.8 The directors may accept from a member the whole or a part of the amount unpaid on a share although no part of that amount has been called up.
- 12.9 The directors may authorise payment by the Company of interest on the whole or any part of an amount so accepted, until the amount becomes payable, at such rate, not exceeding the prescribed rate, as is agreed on by the directors and the member paying the sum.
- 12.10 For the purposes of clause 12.9, the prescribed rate of interest is:
- (a) if the Company has, by resolution, fixed a rate, the rate so fixed; and
 - (b) in any other case, 8% per annum.

13. Transfer of shares

- 13.1 Shareholders holding shares as of the Date of Offer shall not be permitted to dispose of more than 20% of their shareholding on a public market for a period of 12 months following any public capital raise, including but not limited to Crowd-Sourced Funding (CSF).
- 13.2 Subject to this Constitution and clause 13.1 above, shareholders holding shares as of Date of Offer must first offer any shares they wish to sell to other shareholders holding shares as of Date of Offer at the same price and on the same terms as any offer received from an outside party.
- 13.3 In the event no existing shareholder exercises the right of first refusal, the transferor of shares is free to sell the shares to any outside party at a price not less than the offer given to the shareholders holding shares as of the Date of Offer.
- 13.4 In the event more than one shareholder express desire to purchase the shares, the shares shall be allocated on a pro rata basis relative to the number of shares held by each shareholder as of the Date of Offer.
- 13.5 Subject to this Constitution and clauses 13.1 and 13.2 above, a member may transfer all or any of the member's shares by instrument in writing in any usual or common form or in any other form that the directors approve.
- 13.6 An instrument of transfer referred to in clause 13.5 shall be executed by or on behalf of both the transferor and the transferee.
- 13.7 A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the Register of Members in respect of the shares.
- 13.8 The instrument of transfer must be left for registration at the registered office of the Company, together with such fee (if any) not exceeding \$1.00 as the directors require, accompanied by the Certificate of the shares to which it relates and such other information as the directors properly require to show the right of the transferor to make the transfer, and when that has occurred the Company shall, subject to the powers vested in the directors by this Constitution, register the transferee as a shareholder.
- 13.9 The directors shall refuse to register a transfer of a share if on registration of the transfer the number of members of the Company would exceed the maximum prescribed by clause 1.8.
- 13.10 The directors may in their absolute and uncontrolled discretion decline to register any proposed transfer of shares to a person without assigning any reason for such refusal and may also decline to register any proposed transfer of shares on which the Company has a lien.
- 13.11 If the directors so decline to register a transfer of any share they shall within one month after the date on which the instrument of transfer was lodged with the Company send to the transferee notice of their decision.
- 13.12 The registration of transfers may be suspended at such times and for such periods as the directors from time to time determine not exceeding in the whole 30 days in any year.

14. Drag Along

- 14.1 If the holders of at least sixty percent (60%) of the outstanding shares of the Company, including any shares held by directors, officers, or major shareholders (collectively, the "Dragging Shareholders"), receive a bona fide offer from an unaffiliated third party to purchase all or substantially all of the shares of the Company (the "Offer"), the Dragging Shareholders shall have the right, but not the obligation, to require all other shareholders (the "Dragged

Shareholders") to sell their shares on the same terms and conditions as those offered to the Dragging Shareholders (the "Drag-Along Right").

- 14.2 Upon deciding to exercise the Drag-Along Right, the Dragging Shareholders shall notify all Dragged Shareholders in writing of the Offer. This notification will detail the terms of the Offer, including but not limited to the purchase price, form of consideration, and closing conditions, and shall include a copy of any formal offer documents.

14.3

15. Transmission of shares

- 15.1 In the case of the death of a member, the survivor or survivors where the deceased was a joint holder, and the legal person or representatives of the deceased where the deceased was a sole holder, shall be the only person recognised by the Company as having any title to the member's interest in the shares, but this clause does not release the estate of a deceased joint holder from any liability in respect of a share that had been jointly held by the deceased with other persons.
- 15.2 Subject to the *Bankruptcy Act 1966* (Cth), a person becoming entitled to a share in consequence of the death or bankruptcy of a member may, on such information being produced as is properly required by the directors, elect either to be registered himself or herself as holder of the share or to nominate some other person to be registered as the transferee of the share.
- 15.3 If the person becoming entitled elects to be registered himself or herself, the person shall deliver or send to the Company a written notice signed by the person stating that election.
- 15.4 If the person becoming entitled elects to have another person registered, the person shall execute a transfer of the share to that other person.
- 15.5 All the limitations, restrictions and provisions of these rules relating to the right to transfer, and the registration of transfer of shares are applicable to any such notice or transfer as if the death or bankruptcy of the member had not occurred and the notice or transfer were a transfer signed by that member.
- 15.6 Where the registered holder of a share dies or becomes bankrupt, the registered holder's personal representative or the trustee of the registered holder's estate, as the case may be, is, on the production of such information as is properly required by the directors, entitled to the same dividends and other advantages, and to the same rights (whether in relation to meetings of the Company, or to voting or otherwise), as the registered holder would have been entitled to if the registered holder had not died or become bankrupt.
- 15.7 Where two or more persons are jointly entitled to any share in consequence of the death of the registered holder, they shall, for the purpose of this Constitution, be deemed to be joint holders of the share.

16. Forfeiture of shares

- 16.1 If a member fails to pay a call or instalment of a call on the day appointed for payment of the call or instalment, the directors may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice (**Call Notice**) on the member requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued.
- 16.2 The Call Notice shall name a further day (not earlier than the expiration of 14 days from the date of service of the Call Notice) on or before which the payment required by the Call Notice is to be made and shall state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made will be liable to be forfeited.

- 16.3 If the requirements of a Call Notice are not complied with, any share in respect of which the Call Notice has been given may at any time thereafter, before the payment required by the Call Notice has been made, be forfeited by a resolution of the directors to that effect.
- 16.4 Such a forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.
- 16.5 A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and, at any time before a sale or disposition, the forfeiture may be cancelled on such terms as the directors think fit.
- 16.6 A person whose shares have been forfeited ceases to be a member in respect of the forfeited shares, but remains liable to pay to the Company all money that, at the date of forfeiture, was payable by the person to the Company in respect of the shares (including interest at the rate of 8% per annum from the date of forfeiture on the money for the time being unpaid if the directors think fit to enforce payment of the interest), but the persons' liability ceases if and when the Company receives payment in full of all the money (including interest) so payable in respect of the shares.
- 16.7 A statement in writing declaring that the person making the statement is a director or a secretary of the Company, and that a share in the Company has been duly forfeited on a date stated in the statement, is prima facie evidence of the facts stated in the statement as against all persons claiming to be entitled to the share.
- 16.8 The Company may receive the consideration (if any) given for a forfeited share on any sale or disposition of the share and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of.
- 16.9 On the execution of the transfer, the transferee shall be registered as the holder of the share and is not bound to see the application of any money paid as consideration.
- 16.10 The title of the transferee to the share is not affected by any irregularity or invalidity in connection with the forfeiture, sale or disposal of the share.
- 16.11 The provisions of this Constitution as to forfeiture apply in the case of non-payment of any sum met, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if that sum had been payable by virtue of a call duly made and notified.

17. Alteration of capital

- 17.1 The Company may by resolution:
- (a) increase its share capital by the creation of new shares of such amount as is specified in the resolution;
 - (b) issue new shares of up to 5% of total share capital for the purpose of an Employee Stock Ownership Plan.
 - (c) convert all or any of its shares into a larger or smaller number of shares; and
 - (d) cancel shares that, at the date of the meeting, have not been taken or agreed to be taken by any person or had been forfeited and reduce its authorised share capital by the amount of the shares so cancelled.
- 17.2 Subject to the Act, the Company may, by special resolution, reduce its share capital, or any other capital reserve fund.

18. General meetings

- 18.1 Any director may, whenever the director thinks fit, convene a general meeting.
- 18.2 A notice of a general meeting shall specify the place, the date and the hour of meeting and, shall state the general nature of the business to be transacted at the meeting. A general meeting may be held at two or more venues using any technology that gives members as a whole a reasonable opportunity to participate.
- 18.3 It is not necessary for a notice of an annual general meeting to state that the business to be transacted at the meeting includes the declaring of a dividend, the consideration of accounts and the reports of the directors and auditors, the election of directors in the place of those retiring or the appointment and fixing of the remuneration of the auditors.

19. General meeting procedure

- 19.1 Subject to clause 18.3, no business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- 19.2 For the purpose of determining whether a quorum is present, a person attending as a proxy, or as representing a corporation that is a member, shall be deemed to be a member.
- 19.3 If the Company has only one member, a declaration made in accordance with section 249B of the Act will have the same effect as if a general meeting of members had passed such resolution.
- 19.4 If a quorum is not present within half an hour from the time appointed for the meeting:
- (a) where the meeting was convened on the requisition of members - the meeting shall be dissolved; or
 - (b) in any other case:
 - (1) the meeting stands adjourned to such day and at such time and place, as the directors determine or, if no determination is made by the directors, to the same day in the next week at the same time and place; and
 - (2) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting:
 - (A) two members constitute a quorum; or
 - (B) where two members are not present - the meeting shall be dissolved.

20. Chairman

- 20.1 If the directors have elected one of their number as chairman of the meeting, that director shall preside as chairman at every general meeting.
- 20.2 Where a general meeting is held and:
- (a) a chairman has not been elected as provided by clause 20.1; or
 - (b) the chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act,
- the members present shall elect one of their number to be chairman of the meeting.

- 20.3 The chairman may with the consent of any meeting at which a quorum is present, and shall if so directed by the meeting, adjourn a meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 20.4 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- 20.5 Except as provided by clause 20.4, it is not necessary to give any notice of an adjournment or of the business to be transacted as an adjourned meeting.

21. Voting rights and poll

- 21.1 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
- (a) by the chairman;
 - (b) by at least three members present in person or by proxy;
 - (c) by a member or members present in person or by proxy and representing not less than one-tenth of the total voting rights of all of the members having the right to vote at the meeting; or
 - (d) by a member or members holding shares in the Company conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right.
- 21.2 Unless a poll is so demanded, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 21.3 The demand for a poll may be withdrawn.
- 21.4 If a poll is duly demanded, it shall be taken in such manner and (subject to clause 21.5) either at once or after an interval or adjournment or otherwise as the chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded.
- 21.5 A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith.

22. Casting vote

In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, in addition to the chairman's deliberative vote (if any), has a casting vote.

23. Proxies and powers of attorney

- 23.1 Subject to any rights or restrictions for the time being attached to any class or classes of shares:
- (a) at meetings of members or classes of members each member entitled to vote may vote in person or by proxy or attorney; and

- (b) on a show of hands every person present who is a member or a representative of a member has one vote, and on a poll every person present in person or by proxy or attorney has one vote for each share the person holds.
- 23.2 In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy or by attorney, shall be accepted to the exclusion of the votes of the other joint holders and, for this purpose, seniority shall be determined by the order in which the names stand in the register of members.
- 23.3 If a member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the laws relating to mental health, the member's committee or trustee or such other person as properly has the management of the member's estate may exercise any rights of the member in relation to a general meeting as if the committee, trustee or other person were the member.
- 23.4 An instrument appointing a proxy shall be in writing under the hand of the appointor or of the appointor's attorney duly authorised in writing or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised.
- 23.5 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on a resolution except as specified in the instrument.
- 23.6 An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- 23.7 An instrument appointing a proxy shall be in the following form or in a form that is as similar to the following form as the circumstances allow.

FlyOnE Pty Ltd ACN 642 524 696

I/We, _____ of _____
being a member/members of the above named company, hereby appoint
_____ of _____
or, in that person's absence, _____ of _____
as my/our proxy to vote for me/us on my/our behalf at the general/annual general
meeting of the Company to be held on the ____ day of ____ 20__ and at
any adjournment of that meeting.

This form is to be used in favour of / against the resolution.

Signed this ____ day of ____

_____ [Signature].

- 23.8 An instrument appointing a proxy shall not be treated as valid unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, is or are deposited, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, at the registered office, of the Company or at such other place within the state as is specified for that purpose in the notice convening the meeting.
- 23.9 A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal, revocation of the instrument (or of the authority under which the instrument was executed) or of the power, or the transfer of the shares in respect of which the instrument or power is given, if no intimation in writing of the death, unsoundness of mind, revocation or transfer has been

received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

24. Restrictions on voting

- 24.1 A member is not entitled to vote at a general meeting unless all calls and other sums presently payable by the member in respect of shares in the Company have been paid.
- 24.2 An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- 24.3 Any such objection shall be referred to the chairman of the meeting, whose decision is final.
- 24.4 A vote not disallowed pursuant to such an objection is valid for all purposes.

25. Number of directors

- 25.1 The Company must have at least two directors with a majority of directors, excluding any alternate directors, ordinarily residing in Australia unless there are only two directors in which event at least one director must ordinarily reside in Australia
- 25.2 The names of the first directors shall be determined in writing by the subscriber to this Constitution.
- 25.3 Subject to this Constitution the Company may from time to time by ordinary resolution passed at a general meeting increase or reduce the number of directors (subject to clause 25.1) .

26. Retirement of directors

- 26.1 There shall be no requirement that at any annual general meeting any director shall retire from office. Each director will retain office until otherwise removed under clause 27.2.
- 26.2 The Company at a meeting at which a director retires or is required to retire under the provisions of this Constitution may fill the vacated office by electing a person thereto, and in default the retiring director shall, if offering himself or herself for re-election and not being disqualified under the Act or under this Constitution from holding office as a director, be deemed to have been re-elected unless at that meeting it is expressly resolved not to fill the vacated office or unless a resolution for the re-election of that director is put to the meeting and lost.

27. Appointment and removal of directors

- 27.1 The directors shall have power at any time and from time to time to appoint any person to be a director either to fill a casual vacancy or as an addition to the existing directors but so that the total number of directors shall not at any time exceed the number fixed in accordance with this Constitution. Any director so appointed shall hold office only until the next annual meeting and shall be eligible for re-election.
- 27.2 A shareholder holding more than 5% but not exceeding 20% of the total issued shares of the Company shall have the right to appoint one director.
- 27.3 A shareholder holding more than 20% of the total issued shares of the Company shall have the right to appoint two directors to the Board of Directors.
- 27.4 If a director appointed by a shareholder under the clauses 27.2 and 27.3 ceases to hold office, the shareholder who made the appointment shall have the right to appoint a replacement director, provided that the shareholder continues to hold the requisite percentage of shares.

27.5 The Company may by ordinary resolution remove any director before the expiration of the director's period of office and may, by an ordinary resolution, appoint another person in place of the director removed from office.

27.6 There will be no shareholding qualification for directors.

28. Remuneration of directors

28.1 The directors will be paid such remuneration as is from time to time determined by the Company in general meeting.

28.2 That remuneration will be deemed to accrue from day to day.

28.3 The directors may also be paid all travelling and other expenses properly incurred by them in attending and returning from meetings of the directors or any committee of the directors or general meetings of the Company or otherwise in connection with the business of the Company.

29. Vacation of office of director

Subject to section 201F of the Act, the office of a director will automatically be vacated if the director:

- (a) becomes bankrupt or makes any arrangement or composition with the director's creditors generally;
- (b) dies or becomes a person whose person or estate is liable to be dealt with in any way under the laws relating to mental health;
- (c) resigns the director's office by notice in writing to the Company; or,
- (d) is prohibited from being a director by reason of any order made under the Act.

30. Offices of profit in company

30.1 A director may hold any other office or place of profit (except that of auditor) under the Company in conjunction with the office of director and on such terms as to remuneration and otherwise as the directors or the Company in general meeting may arrange.

30.2 No director will be disqualified by the director's office from holding any office or place of profit (except that of auditor) under the Company or under any company in which this company shall be a shareholder or otherwise interested or from contracting with the Company either as vendor purchaser or otherwise nor shall any such contract or arrangement or any contract or arrangement entered into by or on behalf of the Company in which any director shall be in any way interested be avoided nor shall any director be liable to account to the Company for any profit arising from any such office or place of profit or realised by any such contract or arrangement or any contract or arrangement by reason only of such director holding that office or of the fiduciary relations thereby established but it is declared that the nature of the director's interest must be disclosed by the director at the meeting of the directors at which the contract or arrangement is first taken into consideration if the director's interest then exists or in any other case at the first meeting of the directors after the acquisition of the director's interest.

30.3 If a director becomes interested in any contract or arrangement after it is made or entered into the disclosure of the director's interest must be made at the first meeting of directors held after the director becomes so interested.

- 30.4 A director may vote in respect of any contract or arrangement in which the director is interested and also may execute the director's signature to the common seal of the Company.
- 30.5 A general notice that a director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company shall be a sufficient disclosure under this clause as regards such director and the said transactions and after such general notice it shall not be necessary for such director to give a special notice relating to any particular transaction with that firm or company.
- 30.6 It shall be the duty of the Secretary to record in the Minutes any disclosure made or any general notice aforesaid given by a director in pursuance of clause 29.5.

31. Powers and duties of directors

- 31.1 Subject to the Act and to any other provision of this Constitution, the business of the Company will be managed by the directors, who may pay all expenses incurred in promoting and forming the Company, and may exercise all such powers of the Company as are not, by the Act or by this Constitution, required to be exercised by the Company in general meeting.
- 31.2 Without limiting the generality of clause 31.1 the directors may exercise all the powers of the Company to raise or borrow any money in any manner whatsoever either alone or jointly with another or others (including but without limitation by way of overdraft account, letters of credit or bill acceptance and discounting facility) and to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- 31.3 If the directors or any of them or any other person shall become or be about to become personally liable for the payment of any sum primarily due from the Company the directors may execute or cause to be executed any mortgage charge or security over or affecting the whole or any part of the assets of the Company by way of indemnity to secure the directors or persons so becoming liable as aforesaid from any loss in respect of such liability.
- 31.4 The directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the directors), for such period and subject to such conditions as the directors think fit.
- 31.5 Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.
- 31.6 All cheques, bills of exchange, promissory notes and other negotiable instruments shall be signed, drawn, accepted, made or endorsed, as the case may be, for and on behalf of the Company by such persons and in such manner as the directors may from time to time determine.

32. Directors' meetings

- 32.1 Subject to clause 32.4, the directors may meet together with despatch of business and adjourn and otherwise regulate directors' meetings as the directors think fit.
- 32.2 A director may at any time, and a secretary shall on the requisition of a director, convene a meeting of the directors.
- 32.3 For the purpose of any meeting of directors convened at any time, one or more of the directors may be present at that meeting by means of telephone or other electronic device provided that at all times the directors present by means of telephone or other electronic device shall be able to hear and may be heard by all other directors at the meeting.

- 32.4 If the Company has only one director, a declaration made in accordance with section 248B of the Act will have the same effect as if a meeting of directors had passed such resolution.
- 32.5 Subject to this Constitution, questions arising at a meeting of directors shall be decided by a majority of votes of directors present and voting and any such decisions shall for all purposes be deemed a decision of the directors.
- 32.6 In case of an equality of votes, the chairman of the meeting, in addition to the chairman's deliberative vote (if any), has a casting vote.
- 32.7 If there is an equality of votes for and against any resolution proposed or submitted at any meeting of the directors of the Company, such resolution will be put to a general meeting of the Company convened for that purpose.
- 32.8 If there is an equality of votes for and against any resolution proposed or submitted at any general meeting of members of the Company then such resolution or the question to be determined by it, whether it be or concern an issue of law or fact or policy of management of the Company or any other matter or question concerning the affairs of the Company, will be submitted to an Arbitrator who will be nominated by the members of the Company and if the members are unable to agree, by the President of the Law Society of Western Australia for the time being.
- 32.9 The Arbitrator so appointed must act as an expert and not as an Arbitrator and the Arbitrator's decision will be final in all respects.
- 32.10 On the making of the determination by the Arbitrator the members and directors of the Company shall (so far as they may legally do so) convene or cause to be convened a general meeting of the Company for the purpose of passing any resolution or resolutions necessary to give effect to the determination of such Arbitrator and the members and directors of the Company shall (so far as they may legally do so) vote in favour of each and every resolution and shall do or incur in doing all acts and things necessary to give effect to such determination.
- 32.11 Subject to section 248B of the Act, at a meeting of directors, the number of directors whose presence is necessary to constitute a quorum is such number as is determined by the directors and, unless so determined, is two.
- 32.12 If there is a vacancy in the office of director, the remaining directors may act but, if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, they may act only for the purpose of increasing the number of directors to a number sufficient to constitute such a quorum or of convening a general meeting of the Company.
- 32.13 A resolution in writing signed by all the directors for the time being entitled to receive notice of a meeting of the directors shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more directors. A facsimile or other electronic communication addressed to or received by the Company and purporting to be signed or authorised by a director shall for the purposes of this clause be deemed to be a writing signed by such director.
- 32.14 All acts done by any meeting of the directors or of a committee of directors or by any person acting as a director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a director or a member of the committee, or to act as, a director, or that a person so appointed was disqualified, as valid as if the person had been duly appointed and was qualified to be a director or to be a member of the committee.

33. Alternate directors

- 33.1 A director may, with the approval of the directors, appoint a person (whether a member of the Company or not) to be an alternate director in the appointor's place during such period as the appointor thinks fit.
- 33.2 An alternate director is entitled to a notice of meetings of the directors and, if the appointor is not present at such a meeting, is entitled to attend and vote in the appointor's stead.
- 33.3 An alternate director may exercise any powers that the appointor may exercise and the exercise of any such power by the alternate director shall be deemed to be the exercise of the power by the appointor.
- 33.4 An alternate director is not required to have any share qualifications.
- 33.5 The appointment of an alternate director may be terminated at any time by the appointor notwithstanding the period of the appointment of the alternate director has not expired, and terminates in any event if the appointor vacates office as a director.
- 33.6 An appointment, or the termination of an appointment, of an alternate director shall be effected by a notice in writing signed by the director who makes or made the appointment and served on the Company.

34. Chairman of directors

- 34.1 The directors shall elect one of their number as chairman of their meetings and may determine the period for which the chairman is to hold office.
- 34.2 Where such a meeting is held and:
- (a) a chairman has not been elected as provided by clause 34.1; or
 - (b) the chairman is not present within ten minutes after the time appointed for the holding of the meeting or is unwilling to act,
- the directors present shall elect one of their number to be a chairman of the meeting.

35. Delegation of committee directors

- 35.1 The directors may delegate any of their powers to a committee or committees consisting of such of their number as they think fit.
- 35.2 A committee to which any powers have been so delegated shall exercise the power delegated in accordance with any directions of the directors and a power so exercised shall be deemed to have been exercised by the directors.
- 35.3 The members of such a committee may elect one of their number as chairman of their meetings.
- 35.4 Where such a meeting is held and:
- (a) a chairman has not been elected as provided by clause 35.3; or
 - (b) the chairman is not present within ten minutes after the time appointed for the holding of the meeting or is unwilling to act,
- the members present may elect one of their number to be chairman of the meeting.

- 35.5 A committee may meet and adjourn as it thinks proper.
- 35.6 Questions arising at a meeting of a committee shall be determined by a majority of votes of the members present and voting.
- 35.7 In the case of an equality of votes, the chairman in addition to the chairman's deliberative vote (if any), has a casting vote.

36. Managing director

- 36.1 The directors may from time to time appoint one or more of their number to the office of managing director for such period and on such terms as they think fit, and, subject to the terms of any agreement entered into in a particular case, may revoke any such appointment
- 36.2 A managing director so appointed shall not, while holding that office, be subject to retirement by rotation or be taken into account in determining the rotation of a retirement of directors, but the managing director's appointment automatically terminates if the managing director ceases from any cause to be a director.
- 36.3 A managing director shall, subject to the terms of any agreement entered into in a particular case, receive such remuneration (whether by way of salary, commission or participation and profits, or partly in one way and partly in another) as the directors determine.
- 36.4 The directors may, on such terms and conditions and with such restrictions as they think fit, confer on a managing director any of the powers exercisable by them.
- 36.5 Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the directors.
- 36.6 The directors may at any time withdraw or vary any of the powers so conferred on a managing director.

37. Associate directors

- 37.1 The directors may from time to time appoint any person to be an associate director and may from time to time terminate any such appointment.
- 37.2 The directors may from time to time determine the powers, duties and remuneration of any person so appointed.
- 37.3 The person so appointed is not required to hold any shares to qualify for appointment but, except by the invitation and with the consent of the directors, does not have any right to attend or vote at any meeting of directors.

38. Secretary

A secretary of the Company holds office on such terms and conditions, as to remuneration and otherwise, as the directors determine.

39. Execution of documentation

- 39.1 If the Company has a common seal, the directors shall provide for the safe custody of the seal.
- 39.2 No document, writing or other material shall be executed by the Company except by the authority of the directors or of a committee of the directors authorised in that behalf.
- 39.3 Without limiting the manner in which the Company may execute any agreement, deed, share certificate (if any) or other document, the Company may execute any such document either

with or without the use of a common seal. Every document which is executed shall be signed (whether with or without the common seal):

- (a) (where the Company has a sole director and secretary) by that person; or
- (b) (where the Company has more than one director) by at least one director, a director and secretary or a director and another person specifically authorised by the directors for that purpose.

39.4 A director may be appointed as a director in whose presence any document or instrument may be executed by the Company notwithstanding that the director is interested in the contract or arrangement to which the document or instrument relates.

40. Inspection of records

The directors shall determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of members other than directors, and a member other than a director does not have the right to inspect any document of the Company except as provided by law or authorised by the directors or by the Company in general meeting.

41. Dividends and reserves

- 41.1 The Company in general meeting may declare a dividend if, and only if the directors have recommended a dividend.
- 41.2 A dividend shall not exceed the amount recommended by the directors.
- 41.3 The directors may authorise the payment by the Company to the members of such interim dividends as appear to the directors to be justified by the profits of the Company.
- 41.4 Interest is not payable by the Company in respect of any dividend.
- 41.5 The directors may, before recommending any dividend, set aside out of the profits of the Company such sums as they think proper as reserves, to be applied, at the discretion of the directors, for any purpose for which the profits of the Company may be properly applied.
- 41.6 Pending any such application, the reserves may, at the discretion of the directors, be used in the business of the Company or be invested in such investments as the directors think fit.
- 41.7 The directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends where transferring those profits to a reserve.
- 41.8 Subject to the rights of persons (if any) entitled to shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect of which the dividend is paid.
- 41.9 All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid, but, if any share is issued on terms providing that it will rank for dividend as from a particular date, that share ranks for dividend accordingly.
- 41.10 An amount paid or credited as paid on a share in advance of call shall not be taken for the purposes of this clause to be paid or credited as paid on the share.
- 41.11 The directors may deduct from any dividend payable to a member all sums of money (if any) presently payable by the member to the Company on account of calls or otherwise in relation to shares in the Company.

- 41.12 Any general meeting declaring a dividend may, by resolution, direct payment of the dividend wholly or partly by the distribution of specific assets, including paid up shares in, or debentures of, any other corporation, and the directors shall give effect to such a resolution.
- 41.13 Where a difficulty arises in regard to such a distribution, the directors may settle the matter as they consider expedient and fix the value for distribution of the specific assets or any part of those assets and may determine that cash payments will be made to any members on the basis of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as the directors consider expedient.
- 41.14 Any dividend, interest or other money payable in cash in respect of shares may be paid by cheque sent through the post directed to:
- (a) The address of the holder as shown in the Register of Members, or in the case of joint holders, to the address shown in the Register of Members as the address of the joint holder first named in that Register; or
 - (b) To such other address as the holder or joint holders in writing directs or direct.
- 41.15 Any one of two or more joint holders may give effectual receipts for any dividends, interest or other money payable in respect of the shares held by them as joint holders.

42. Capitalisation of profits

- 42.1 Subject to clause 42.2 the Company in general meeting may resolve that it is desirable to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss and account or otherwise available for distribution to members, and that that sum be applied, in any of the ways mentioned in clause 42.3 for the benefit of members in the proportions to which those members would have been entitled in a distribution of that sum by way of dividend.
- 42.2 The Company shall not pass a resolution as mentioned in clause 42.1 unless the resolution has been recommended by the directors.
- 42.3 The ways in which a sum may be applied for the benefit of members under clause 42.1 are:
- (a) in paying up any amounts unpaid on shares held by members;
 - (b) in paying up in full unissued shares or debentures to be issued to members as fully paid; or
 - (c) partly as mentioned in paragraph 42.3(a) and partly as mentioned in paragraph 42.3(b).
- 42.4 The directors shall do all things necessary to give effect to the resolution and, in particular, to the extent necessary to adjust the rights of the members among themselves, may:
- (a) issue fractional certificates or make cash payments in cases where shares or debentures become issuable in fractions; and
 - (b) authorise any person to make, on behalf of all the members entitled to any further shares or debentures on the capitalisation, an agreement with the Company providing for the issue to them, credited as fully paid up, of any such further shares or debentures or for the payment up by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised,

and any agreement made under an authority referred to in paragraph 42.4(b) is effective and binding on all the members concerned.

43. Prescribed advances

- 43.1 The Company may, in its discretion, advance funds by way of loan to a member from time to time. Where any advance of funds made by the Company is a Prescribed Advance, this clause 3 shall apply to that advance unless otherwise agreed in writing by the Company and the member to whom the Prescribed Advance is made.
- 43.2 In respect of each Prescribed Advance which is a Secured Advance, the Prescribed Advance, together with all interest and Money Owing in respect of that Prescribed Advance, must be fully repaid by the date immediately preceding the 25th anniversary of the date on which the Prescribed Advance was made (regardless of whether or not any demand for repayment has been made).
- 43.3 In respect of each Prescribed Advance which is not a Secured Advance, the Prescribed Advance, together with all interest and Money Owing in respect of that Prescribed Advance, must be fully repaid by the date immediately preceding the seventh anniversary of the date of the Prescribed Advance (regardless of whether or not any demand for repayment has been made).
- 43.4 Notwithstanding subclauses 43.2 and 43.3, a Prescribed Advance and all Money Owing become immediately due and payable to the Company by the member to whom the Prescribed Advance has been made (notwithstanding any delay or previous waiver of the provisions of this clause 43.4 by the Company) in each and every of the following events:
- (a) if the relevant member defaults in making any payment due under this clause 3;
 - (b) if the relevant member defaults in the due and punctual performance or observance of any covenant, condition, agreement or provision on its part to be performed or observed pursuant to this clause 3;
 - (c) if the relevant member is a corporation, in the event of:
 - (1) the appointment of an administrator or provisional liquidator in respect of that member;
 - (2) the member being wound up (whether voluntarily or involuntarily);
 - (3) dissolution occurring in relation to that member;
 - (4) a receiver, receiver and manager or trustee being appointed in respect of the member or its property;
 - (5) a ground for winding up occurring in relation to the member;
 - (6) the member ceasing or threatening to cease to carry on its business;
 - (7) the member being deemed to be or stating that it is unable to pay its debts when they fall due;
 - (8) the member entering into, or resolving to enter into any arrangement, composition or compromise with or an assignment for the benefit of all or any class of its creditors;
 - (9) an application being made which is not dismissed or withdrawn within ten Business Days or an order, resolution being passed or proposed, a meeting being convened or any other action being taken to cause anything described above;

- (d) if the relevant member is an individual, in the event that the member becomes an insolvent under administration as defined in section 9 of the Act; or
 - (e) anything analogous to or having a similar effect to anything described in sub-paragraphs 43.4(c) and 43.4(d) above under the law of any relevant jurisdiction.
- 43.5 In respect of each Prescribed Advance a member to whom the Prescribed Advance is made must (regardless of whether or not any demand for repayment has been made) make the minimum yearly repayment as prescribed by division 7A of the Tax Act in each financial year after the year in which the Prescribed Advance was made until the Prescribed Advance is repaid in full.
- 43.6 All money paid by a member to whom a Prescribed Advance is made to the Company will be applied in the following order:
 - (a) against any interest payable in accordance with clause 43.7;
 - (b) in satisfaction of the member's obligation to make minimum yearly repayments as set out in clause 43.5;
 - (c) in repayment of Prescribed Advances in the order in which they were made by the Company to the member (the intention of the parties being that the first Prescribed Advance is repaid first); and
 - (d) against any other Money Owing by the member to the Company.
- 43.7 A member to whom a Prescribed Advance is made must pay to the Company interest on the Prescribed Advance (or so much of it as remains unpaid from time to time) at the Prescribed Advance Rate. Interest must be calculated daily and paid:
 - (a) yearly in arrears on or before 30 June each year; or
 - (b) monthly in arrears on the last day of each calendar month if so required by the Company in writing at its absolute discretion which may be exercised at any time and from time to time throughout the term of the Prescribed Advance.
- 43.8 A member to whom a Prescribed Advance has been made shall pay to the Company on demand the following amounts which if unpaid may, at the Company's election, be added to and form part of the Money Owing:
 - (a) all costs charges and expenses of and relating to a Prescribed Advance including but not limited to the Company's legal costs on a solicitor and own client basis, stamp duties, registration and other fees and charges; and
 - (b) all money which the Company shall pay or become liable to pay in exercising any rights or remedies of the Company pursuant to this clause 3 or arising out of any default by the relevant member in duly performing or observing any of the covenants or agreements on the part of the member contained in this clause 3.
- 43.9 A certificate signed by the Company shall be prima facie evidence of the existence of a member's debt to the Company in respect of a Prescribed Advance and the amount of the Money Owing to the Company by that member.
- 43.10 For the purposes of this clause 3, **Money Owing** means all Prescribed Advances made by the Company to a member together with all interest and all money owing to the Company by the relevant member and all actual and contingent liabilities (and whether matured or not) of the relevant member to the Company and all other sums payable to the Company by the relevant member or pursuant to this clause 3.

- 43.11 Time is of the essence in respect of any obligation contained in this clause 3 to be observed or performed by a member to whom a Prescribed Advance has been made.

44. Notices

- 44.1 A notice may be given by the Company to any member either by:
- (a) serving it on the member personally;
 - (b) sending it by post to the member at the member's address as shown in the Register of Members or the address supplied by the member to the Company for the giving of notices to the member; or
 - (c) sending it to the fax number or electronic address (if any) nominated by the member.
- 44.2 Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, pre-paying and posting a letter containing the notice, and to have been effected three days after it is posted.
- 44.3 A notice sent by fax or other electronic means is taken to be given on the business day after it is sent.
- 44.4 A notice may be given by the Company to the joint holders of a share by giving the notice to the joint holder first named in the Register of Members in respect of the share.
- 44.5 A notice may be given by the Company to a person entitled to a share in consequence of the death or bankruptcy of a member by serving it on that person personally or by sending it to the person by post addressed to the person by name, or by the title of representative of the deceased or assignee of the bankrupt, or by any like description, at the address (if any) within the State supplied for the purpose by the person or, if such an address has not been supplied, at the address to which the notice might have been sent if the death or bankruptcy had not occurred.
- 44.6 Notice of every general meeting must be given in the manner authorised by clause 4 to:
- (a) every member;
 - (b) every person entitled to a share in consequence of the death or bankruptcy of a member who, but for the person's death or bankruptcy, would be entitled to receive notice of the meeting; and
 - (c) the auditor for the time being of the Company.
- 44.7 No other person is entitled to receive notices of general meetings.

45. Winding up

- 45.1 If the Company is wound up, the liquidator may, with the sanction of a special resolution, divide among the members in kind the whole or any part of the property of the Company and may for that purpose set such value as it considers fair on any property to be so divided and may determine how the division is to be carried out as between the members or different classes of members.
- 45.2 The liquidator may, with the sanction of a special resolution, vest the whole or any part of any such property in trustees on such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no member is compelled to accept any shares or other securities in respect of which there is any liability.

46. Directors' indemnities and insurance

- 46.1 To the extent permitted by law, the Company must:
- (a) indemnify a person who is or has been an Officer of the Company against liability incurred by the person as such an Officer to another person (other than the Company or a related body corporate); and
 - (b) indemnify a person who is or has been an Officer or Auditor of the Company against liability for costs and expenses incurred by the person in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted or in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Act.
- 46.2 The Company may pay, or agree to pay, at the discretion of the directors, a premium in respect of a contract insuring a person who is or has been an Officer of the Company against the liability incurred by the person as such an Officer, except for a liability arising out of conduct involving a wilful breach of duty in relation to the Company or a contravention of section 182 or section 183 of the Act. In the case of a Director, any such premium will be paid in addition to any remuneration paid to that Director by the Company in accordance with this Constitution.
- 46.3 For the purpose of clauses 46.1 and 46.2, **Officer** has the meaning given to that term in section 9 of the Act.