



## **CONSTITUTION**

**EDEN HERMITAGE PTY LTD**

**ACN: 611 173 632**

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## **CHAPTER 1- PRELIMINARY**

### **Definitions**

1. In this Constitution Eden Hermitage Pty Ltd is referred to as the "Company".
2. Unless the context otherwise requires any words or expressions appearing and defined in the *Corporations Act* 2001 shall have the same meaning wheresoever appearing in this Constitution.
3. In this Constitution unless the contrary intention appears:
  - a) Words in the singular include the plural;
  - b) Words in the plural include the singular; and
  - c) Words importing a gender include every other gender.

### **Replaceable Rules**

4. The "replaceable rules" referred to in Sections 135 and 141 of the *Corporations Act* 2001, shall not apply to the Company.

## **CHAPTER 2 - SHARE CAPITAL AND VARIATION OF RIGHTS**

### **Share Capital**

5. The Company has pursuant to Section 124 and Section 254A of the *Corporations Act* 2001 the power to issue and cancel shares in the Company including the power to issue:
  - a) Any shares as described in Schedule A;
  - b) bonus shares (shares for whose issue no consideration is payable to the issuing company); and
  - c) preference shares (including redeemable preference shares); and
  - d) partly-paid shares (whether or not on the same terms for the amount of calls to be paid or the time for paying calls).
6. The Company can issue preference shares only if the rights attached to those preference shares with respect to:
  - a) repayment of capital;
  - b) participation in surplus assets and profits;
  - c) cumulative and non-cumulative dividends;
  - d) voting; and
  - e) priority of payment of capital and dividends in relation to other shares or classes of preference shares,are approved by special resolution of the Company.
7. The Company may in accordance with the provisions of Section 254B of the *Corporations Act* 2001 determine:
  - a) the terms on which its shares are issued; and
  - b) the rights and restrictions attaching to the shares.
8. Before issuing shares of a particular class, the directors of the Company must offer them to the existing holders of shares of that class. As far as practicable, the number of shares offered to each shareholder must be in proportion to the number of shares of that class that they already hold.

9. To make the offer, referred to in Rule 8, the directors must give the shareholders a statement setting out the terms of the offer, including:
  - a) the number of shares offered; and
  - b) the period for which it will remain open.
10. The directors may issue any shares not taken up under the offer, referred to in Rule 8, as they see fit.
11. The company may by resolution passed at a general meeting authorise the directors to make a particular issue of shares without complying with Rule 8.
12. The Company may in accordance with the provisions of Section 254G of the *Corporations Act 2001*:
  - a) convert an ordinary share into a preference share; and
  - b) convert a preference share into an ordinary share.
13. The Company can convert ordinary shares into preference shares only if the holder's rights with respect to:
  - a) repayment of capital;
  - b) participation in surplus assets and profits;
  - c) cumulative and non-cumulative dividends;
  - d) voting; and
  - e) priority of payment of capital and dividends in relation to other shares or classes of preference shares,are approved by special resolution of the Company.
14. The Company may in accordance with the provisions of Section 254H of the *Corporations Act 2001* convert all or any of its shares into a larger or smaller number of shares by resolution passed at a general meeting.

### **Capitalisation of Profits**

15. The Company may capitalise profits. The capitalisation need not be accompanied by the issue of shares.

### **Reduction of Share Capital**

16. The Company may in accordance with the provisions of Sections 256A to 256E, 258E and 258F of the *Corporations Act 2001* reduce its share capital.

### **Shares Held Upon Trust**

17. Except as required by law, the Company shall not recognise a person as holding a share upon any trust.
18. The Company is not be 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 an absolute right of ownership in the registered holder.
19. A person who holds shares in the Company as trustee for, or on behalf of, or on account of, a corporation shall within one month after his or her acquisition of the shares give the Company a notice in writing setting out full particulars of the beneficial ownership, including particulars of the name and Australian Company Number of the corporation.

## **Share Certificates**

- 20.** Every person whose name is entered as a member in the register of members shall be entitled without payment to receive a certificate ("Share Certificate"), in accordance with the provisions of Section 1070C of the *Corporations Act* 2001, specifying the shares held by that member. In the case of a share or shares held jointly by several persons, the Company shall not be bound to issue more than one Share Certificate, and delivery of a Share Certificate to one of several joint shareholders shall be sufficient delivery to all such shareholders. If a Share Certificate is defaced, lost or destroyed then that Share Certificate shall be replaced in accordance with the provisions of Section 1070D of the *Corporations Act* 2001.

## **Lien on Shares**

- 21.** The Company shall have a first and paramount lien on every share (not being a fully paid share) for all money (whether presently payable or not) called or payable at a fixed time in respect of that share, and the Company shall also have a first and paramount lien on all shares (other than fully paid shares) registered in the name of a sole holder for all money presently payable by him or her or his or her estate to the Company.
- 22.** The Directors may at any time declare any share to be wholly or in part exempt from the provisions of Rule 21.
- 23.** The Company's lien, if any, on a share shall extend to all dividends payable thereon.
- 24.** The Company may sell, in such manner as the directors think fit, any shares on which the Company has a lien, but no sale shall be made unless:
- a) a sum in respect of which the lien exists is presently payable; and
  - b) the Company has, not less than fourteen 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 death 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.
- 25.** To give effect to a sale, referred to in Rule 24, the directors of the Company may authorise a person to transfer the shares sold to the purchaser of the shares ("the Purchaser").
- 26.** Company shall register the Purchaser as the holder of the shares ("the Shareholder") comprised in any such transfer.
- 27.** The Shareholder is not bound to see to the application of the purchase money, nor shall the Shareholder's title to the shares be affected by any irregularity or invalidity in connection with the sale.
- 28.** The proceeds of a sale referred to in Rule 24, 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 upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

## **Calls on Shares**

- 29.** The Directors may if shares in the Company are partly paid, make calls upon the members in respect of any money unpaid on those shares, either in accordance with the terms on which the shares are on issue or in accordance with the Rules set out hereunder.
- 30.** Each member shall, upon receiving 14 days' notice specifying the time or times and place of payment, pay to the Company the amount called on that member's shares.

31. The directors may revoke or postpone a call.
32. 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.
33. The joint holders of a share are jointly and severally liable to pay all calls in respect of the share.
34. 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 may determine, but the directors may waive payment of that interest wholly or in part.
35. Any sum that, by the terms of issue of a share, becomes payable on allotment or at a fixed date, shall for the purpose of these Rules 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 these Rules or where applicable, the *Corporations Act 2001*, as to payment of interest and expenses, forfeiture, or otherwise apply as if the sum has become payable by virtue of a call duly made and notified.
36. The directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.
37. The directors may accept from a member the whole or part of the amount unpaid on a share although no part of that amount has been called up.
38. The directors may authorise payment by the Company of interest upon the whole or any part of an amount accepted pursuant to Rule 37, until the amount becomes payable, at such rate, not exceeding the prescribed rate as is agreed upon between the directors and the member paying the sum in advance.
39. For the purposes of Rule 38, 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.

### **Transfer of Shares**

40. Subject to these Rules any member may transfer all or any of his, her or its shares by instrument in writing ("instrument of transfer") in any usual or common form or in any other form that the directors approve. The instrument of transfer shall be executed by or on behalf of both the transferor and the transferee.
41. 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.
42. 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 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 thereupon the Company shall subject to the powers vested in the directors by these Rules, register the transferee as a shareholder.
43. The directors may refuse to register a transfer of shares in the Company if the shares are not fully-paid; or the Company has a lien on the shares.

44. The directors may suspend registration of transfers of shares in the Company at the times and for the periods they determine. The periods of suspension must not exceed 30 days in any one calendar year.
45. The directors of the Company may refuse to register a transfer of shares in the Company for any reason.
46. Before any member or any person entitled to an interest in shares of the Company, such as a trustee in bankruptcy or personal representative, sells or transfers any shares in the Company, that member or trustee or personal representative, must give notice in writing to the directors that he, she or it desires to make such a sale or transfer. Such notice shall appoint the directors of the Company as the agents of the member or trustee or personal representative for the purposes of the sale or transfer. The price at which the shares are to be sold or transferred, shall be agreed upon by the directors and the member or trustee or personal representative or where no agreement as to price can be reached, at a price determined by the Auditor of the Company or if there is no Auditor by an independent expert valuer whose appointment is mutually agreed upon by the directors and the member or trustee or personal representative.
47. The purchaser or transferee of the shares must be approved of by all the directors. Where approval of the purchaser or transferee is not unanimous the Managing Director shall offer on behalf of the member or trustee or personal representative the shares for sale at the agreed or determined price, to the other members of the Company. In the event of all or any of the shares not being sold pursuant to this Rule the member or trustee or personal representative may sell or transfer those shares to any person as he, she or it sees fit.
48. Any shareholder, being a natural person, may transfer any share, which he or she holds, to his or her wife, husband, son or daughter. The provisions of Rules 46 and 47 do not apply to a transfer under this Rule.

## **Transmission of Shares**

### **On Death**

49. If a shareholder who does not own shares jointly dies, the Company will recognise only the personal representative of the deceased shareholder as being entitled to the deceased shareholder's interest in the shares.
50. If the personal representative gives the directors the information they reasonably require to establish the representative's entitlement to be registered as holder of the shares:
  - a) the personal representative may by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; and
  - b) the personal representative is entitled, whether or not registered as the holder of the shares, to the same rights as the deceased shareholder.
51. On receiving an election under Rule 50(a), the Company must register the personal representative as the holder of the shares.
52. If a shareholder who owns shares jointly dies, the Company will recognise only the survivor as being entitled to the deceased shareholder's interest in the shares. The estate of the deceased shareholder is not released from any liability in respect of the shares.

### **On Bankruptcy**

53. If a person entitled to shares because of the bankruptcy of a shareholder gives the directors the information they reasonably require to establish the person's entitlement to be registered as holder of the shares, the person may by giving a written and signed notice to the Company, elect to be registered as the holder of the shares.



- 54.** On receiving an election under Rule 53, the Company must register the person as the holder of the shares.
- 55.** Rules 53 and 54 have effect subject to the *Bankruptcy Act* 1966.

### **On Mental Incapacity**

- 56.** If a person entitled to shares because of the mental incapacity of a shareholder gives the directors the information they reasonably require to establish the person's entitlement to be registered as the holder of the shares;
- a) the person may by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; and
  - b) the person is entitled, whether or not registered as the holder of the shares, to the same rights as the shareholder.
- 57.** On receiving an election under Rule 56(a), the Company must register the person as the holder of the shares.

### **Forfeiture of Shares**

- 58.** 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 of the Company may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on the member requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued.
- 59.** The notice shall name a further day (not earlier than the expiration of 14 days from the date of service of the notice) on or before which the payment required by the 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.
- 60.** If the requirements of a notice served pursuant to Rules 58 and 59 are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors of the Company to that effect. Such a forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.
- 61.** A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors of the Company think fit, and, at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.
- 62.** A person whose shares have been forfeited shall cease 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 him or her 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 his or her liability ceases if and when the Company receives payment in full of all the money (including interest) so payable in respect of the shares.
- 63.** 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.
- 64.** 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.

- 65. Upon 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.
- 66. The title of the transferee to the share is not affected by an irregularity or invalidity in connection with the forfeiture, sale or disposal of the share.
- 67. The provisions of these Rules as to forfeiture apply in the case of non-payment of any sum that, by the terms of issue of a share, becomes payable at a fixed time, as if that sum had been payable by virtue of a call duly made and notified.

### **CHAPTER 3 - MEETINGS OF MEMBERS**

#### **Calling a Meeting of Members**

- 68. A director may call a meeting of the Company's members.
- 69. Meetings of the Company's members may also be called in accordance with the provisions of Sections 249D to 249F of the *Corporations Act* 2001.
- 70. At least 21 days' notice must be given of a meeting of the Company's members and such notice must be given in accordance with the provisions of Sections 249H to 249L of the *Corporations Act* 2001.
- 71. When a meeting of the Company's members is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 1 month or more.

#### **Quorum at a Meeting of Members**

- 72. The quorum for a meeting of the Company's members where the Company has two or more members is two members and the quorum must be present at all times during the meeting. Where the Company has one member, one member in person shall be quorum. For the purposes of this regulation "Member" includes a person attending as a proxy or attorney or as representing a corporation which is a member or other duly authorised representative.
- 73. In determining whether a quorum is present, individuals attending as proxies or body corporate representatives are to be counted. However, if a member has appointed more than one proxy or representative, then only one of them is to be counted. If an individual is attending both as a member and as a proxy or body corporate representative, that individual is only to be counted once.
- 74. A meeting of the Company's members, that does not have a quorum present within 30 minutes after the time for the meeting set out in the notice of meeting, is adjourned to the date, time and place the directors specify. If the directors do not specify one or more of those things, the meeting is adjourned to:
  - a) if the date is not specified-the same day in the next week; and
  - b) if the time is not specified-the same time; and
  - c) if the place is not specified-the same place.
- 75. If no quorum is present at the resumed meeting of the Company's members within 30 minutes after the time for the meeting, the meeting is dissolved.

#### **Chairing a Meeting of Members**

- 76. The directors may elect an individual to chair meetings of the Company's members.
- 77. The directors at a meeting of the Company's members must elect an individual present to chair the meeting (or part of it) if an individual has not already been elected by the directors to chair it or, having been elected, is not available to chair it, or declines to act, for the meeting (or part of the meeting).

- 78.** The members at a meeting of the Company's members must elect a member present to chair the meeting (or part of it) if:
- a) a chairman has not previously been elected by the directors to chair the meeting; or
  - b) a previously elected chairman is not available, or declines to act, for the meeting (or part of the meeting).
- 79.** The chairman must adjourn a meeting of the Company's members if the members present with a majority of votes at the meeting agree or direct that the chairman must do so.

### **Proxies**

- 80.** A member of the Company who is entitled to attend and cast a vote at a meeting of the Company's members may appoint a person as the member's proxy to attend and vote for the member at the meeting.
- 81.** The appointment of a proxy may specify the proportion or number of votes that the proxy may exercise.
- 82.** Each member may appoint a proxy. If the member is entitled to cast two or more votes at the meeting, they may appoint two proxies. If the member appoints two proxies and the appointment does not specify the proportion or number of the member's votes each proxy may exercise, each proxy may exercise half of the votes.
- 83.** Any fractions of votes resulting from the application of Rules 81 and 82 are to be disregarded.
- 84.** A proxy appointed to attend and vote for a member has the same rights as that member, except where those rights are qualified by the appointment.

### **Notice of a Meeting of Members**

- 85.** The Company must, when a meeting of the members is called, send to each member, along with the notice of the meeting, a proxy appointment form and a notice as to the appointment of proxies which:
- a) Advises that for the appointment of a proxy to be effective the proxy appointment form and if the appointment is signed by the appointer's attorney – the authority under which the appointment was signed or a certified copy of the authority, must be received at least 48 hours before the meeting; and
  - b) refers to the relevant Sections of the *Corporations Act 2001* that deal with the appointment of proxies, the rights of proxies, proxy documents and the validity of proxy votes, namely Sections 249X to 250C of the *Corporations Act 2001*.
- 86.** Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes:
- a) the appointing member dies; or
  - b) the member is mentally incapacitated; or
  - c) the member revokes the proxy's appointment; or
  - d) the member revokes the authority under which the proxy was appointed by a third party; or
  - e) the member transfers the share in respect of which the proxy was given.

### **Voting at a Meeting of Members**

- 87.** At a meeting of the members of the Company, but subject to any rights or restrictions attached to any class of shares:

- a) each member has, on a show of hands, one vote;
  - b) each member has, on a poll, one vote for each share held; and.
  - c) each body corporate representative has, unless otherwise specified in his or her appointment, all the powers that a body corporate has as a member (including the power to vote on a show of hands).
- 88.** The chairman of a meeting of the Company's members has, subject to any conflict of interest, a casting vote, and also, if the chairman is a member, any vote the chairman has in his or her capacity as a member.
- 89.** If a share is held jointly and more than one member votes in respect of that share at a meeting of the Company's members, only the vote of the member whose name appears first in the register of members counts.
- 90.** A challenge to a right to vote at a meeting of the Company's members:
- a) may only be made at the meeting; and
  - b) must be determined by the chairman, whose decision is final.
- 91.** A resolution put to the vote at a meeting of the Company's members must be decided on a show of hands unless a poll is demanded.
- 92.** On a show of hands at a meeting of the Company's members, a declaration by the chairman is conclusive evidence of the result. Neither the chairman nor the minutes need to state the number or proportion of the votes recorded in favour or against.
- 93.** At any meeting of the Company's members, a poll may be demanded, in accordance with the provisions of Section 250L of the *Corporations Act* 2001, on any resolution, other than a resolution concerning the election of the chairman of the meeting or a resolution concerning the adjournment of the meeting.
- 94.** A poll demanded must be taken when and in the manner the chairman directs.

### **Minutes of Meeting of Members**

- 95.** Minutes of all meetings of the Company must be taken and recorded in accordance with the provisions of Section 251A of the *Corporations Act* 2001.

## **CHAPTER 4 - DIRECTORS**

### **Appointment, Termination and Resignation of Directors and Alternate Directors**

- 96.** Until otherwise determined by the Company in a General Meeting, the Company may have ONE Director or up to but no more than eight Directors.
- 97.** The Company may appoint a person as a director by resolution passed in general meeting.
- 98.** The directors of the Company may appoint a person as a director. A person can be appointed as a director in order to make up a quorum for a directors' meeting even if the total number of directors of the Company is not enough to make up that quorum.
- 99.** If a person is appointed under Rule 97 as a director of the Company, the Company must confirm the appointment by resolution within 2 months after the appointment is made. If the appointment is not confirmed, the person ceases to be a director of the Company at the end of those 2 months.

- 100.** A director may, with the approval of the other directors of the Company, appoint an alternate director to exercise some or all of the director's powers for a specified period.
- 101.** If the appointing director requests the Company to give the alternate director notice of directors' meetings, the Company must do so.
- 102.** When an alternate director exercises the director's powers, the exercise of the power is just as effective as if the powers were exercised by the director.
- 103.** The appointing director may terminate the alternate director's appointment at any time.
- 104.** The Company:
- a) may by resolution remove a director from office; and
  - b) may by resolution appoint another person as a director instead.
- 105.** An appointment of, or termination of the appointment of, or resignation of, a director or an alternate director must be in writing. A copy of the written appointment, or termination, or resignation, must be given to the Company at its registered office.
- 106.** The Company must give the Australian Securities and Investments Commission notice of the appointment, or termination of the appointment, or resignation of a director or an alternate director, in accordance with the provisions of Section 205B of the *Corporations Act 2001*.
- 107.** Section 201F of the *Corporations Act 2001* applies in the event of the death or bankruptcy of a director who is the only director and is also the only member of the Company.

#### **Powers and Duties of Directors**

- 108.** The business of the Company is to be managed by or under the direction of the directors.
- 109.** The directors may exercise all the powers of the Company except any powers that the *Corporations Act 2001* or this Constitution require the Company to exercise in general meeting.
- 110.** Any two directors of the Company may sign, draw, accept, endorse or otherwise execute a negotiable instrument.
- 111.** Notwithstanding Rule 110, the directors of the Company may determine that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

#### **Appointment of Attorney**

- 112.** 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 they think fit.

#### **Provision of Power of Attorney**

- 113.** Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorneys as the directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him.

#### **Managing Director**

- 114.** The directors of the Company may appoint one or more of themselves to the office of managing director of the Company for the period, and on the terms (including as to remuneration), as the directors see fit.

- 115.** A person ceases to be the managing director of the Company, if they cease to be a director of the Company.
- 116.** The directors of the Company may confer on the managing director any of the powers that the directors can exercise.
- 117.** The directors of the Company may revoke or vary:
- a) the appointment of the managing director; or
  - b) any of the powers conferred on the managing director.

#### **Committee of Directors**

- 118.** The directors of the Company may delegate any of their powers to a committee of directors.
- 119.** A committee of directors must exercise the powers delegated to it in accordance with any directions of the directors of the Company. The effect of the committee exercising a power in this way is the same as if the directors exercised it.
- 120.** The delegation, by the directors of the Company, of powers to a committee of directors must, in accordance with the provisions of Section 251A of the *Corporations Act 2001*, be recorded in the Company's minute book.

#### **Director's Interest in Contract with the Company**

- 121.** If a director of the Company has an interest in a contract or proposed contract with the Company (other than as a member) and the director discloses the nature and extent of the interest at a meeting of the directors:
- a) the director may vote on whether the Company enters into the contract; and
  - b) the contract may be entered into; and
  - c) the director may vote on matters involving the contract; and
  - d) if the disclosure is made before the contract is entered into:
    - i. the director may retain benefits under the contract even though the director has an interest in the contract; and
    - ii. the Company cannot avoid the contract merely because of the existence of the interest.

#### **Directors' Remuneration and Expenses**

- 122.** The directors of the Company are to be paid the remuneration that the Company determines by resolution.
- 123.** The Company may also pay the directors' travelling and other expenses that they properly incur:
- a) in attending directors' meetings or any meetings of a committee of directors; and
  - b) in attending any general meetings of the Company; and
  - c) in connection with the Company's business.

### **CHAPTER 5 - DIRECTORS' MEETINGS**

#### **Resolutions Without A Directors' Meeting**

- 124.** The directors of the Company may pass a resolution without a directors' meeting being held if all the directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- 125.** Separate copies of a document may be used for signing by the directors of the Company, if the wording of the resolution and statement is identical in each copy.

**126.** The resolution is passed when the last director signs.

### **Use of Technology**

**127.** The directors of the Company may hold a meeting at two (2) or more venues using technology that gives the directors as a whole a reasonable opportunity to participate in the meeting and allows the parties present to hear and be heard by each other person present and adjourn and otherwise regulate the meeting as they determine.

### **Calling Directors' Meetings**

**128.** A directors' meeting may be called by a director giving reasonable notice individually to every other director.

### **Chairing Directors' Meetings**

**129.** The directors may elect a director to chair their meetings.

**130.** The directors may determine the period for which the director is to be the chairman.

**131.** The directors must elect a director present to chair a meeting, or part of it, if:

- a) a director has not already been elected to chair the meeting; or
- b) a previously elected chairman is not available or declines to act, for the meeting or the part of the meeting.

### **Quorum At Directors' Meetings**

**132.** Unless the directors determine otherwise, the quorum for a directors' meeting is 2 directors and the quorum must be present at all times during the meeting. In the event that the Company has only one DIRECTOR and that Director records his decision or declaration to particular effect, the recording of the decision or declaration in writing shall be deemed to be a resolution passed at a meeting of the Company's Directors.

### **Passing Of Directors' Resolutions**

**133.** A resolution of the directors must be passed by a majority of the votes cast by directors entitled to vote on the resolution.

**134.** The chairman has a casting vote if necessary in addition to any vote he or she has in his or her capacity as a director.

**135.** Minutes of all meetings of directors must be taken and recorded in accordance with the provisions of Section 251A of the *Corporations Act 2001*.

## **CHAPTER 6- MISCELLANEOUS**

### **Secretary**

**136.** The directors of the Company may or may not in accordance with the provisions of the *Corporations Act 2001*, appoint a secretary and may appoint one or more assistant or deputy secretaries.

**137.** A secretary or an assistant or deputy secretary holds office on the terms and conditions (including as to remuneration) that the directors determine.

### **Company Seal**

**138.** The Company may, in accordance with the provisions of Section 123 of the *Corporations Act 2001*, have a common seal and a duplicate seal.

**139.** If the Company has a common seal it may use the common seal to execute documents in accordance with the provisions of Section 127 of the *Corporations Act 2001*.

### **Inspection of Books**

- 140.** The directors of the Company, or the Company by a resolution passed at a general meeting, may authorise a member to inspect books of the Company.

### **Payment of Dividends**

- 141.** In accordance with the provisions of Section 254T of the *Corporations Act 2001* a dividend may only be paid out of profits of the Company.

- 142.** The directors of the Company may determine that a dividend is payable and fix:

- a) the amount; and
- 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, the grant of options and the transfer of assets.

- 143.** Interest is not payable on a dividend.

- 144.** The directors of the Company may pay dividends as they see fit, subject to Rules 141 to 143 and subject to the terms on which shares in the Company are on issue.

- 145.** The directors of the Company may deduct from any dividend payable to a member all sums of money, if any, presently payable by that member to the Company on account of calls or otherwise in relation to shares in the Company.

- 146.** Any dividend 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 just first named in that register; or
- b) to such other address as the holder or joint holders in writing directs or direct.

### **Loans – COMPANY/MEMBER**

#### **Approval of Loan to a Member by the Company**

- 147.** The directors may at any time and from time to time lend any sum or sums out of the capital of the Company and any other monies held by the Company to any member/s on the terms as the directors see fit as long as no such loan shall be made without a resolution of the directors.

#### **Approval of Loan to the Company by a Member**

- 148.** A member may at any time and from time to time lend any sum or sums to the Company on the terms agreed to between the Company and the member provided that no such loan shall be made without the resolution of the members in a general meeting.

#### **Terms of Loan**

- 149.** Any loan approved by the directors or the members as the case may be pursuant to this clause shall be on the following terms:

- a) this instrument together with the resolutions of the loan agreement plus any formal loan agreement shall form the written loan agreement;
- b) the rate of interest payable on the loan shall be equal to or exceed the Interest Rate;
- c) the maximum term shall be:
  - (i) 25 years for a loan if:



- A. 100% of the value of the loan is secured by a mortgage over real property that has been registered in accordance with the law of the State or Territory;
  - B. when the loan is first made, the market value of that real property (less the amount of any other liability secured over that property in priority to the loan) is at least 110% of the amount of the loan; and
- (ii) 7 years for any other loan; and
  - (iii) the borrower may repay the loan in full at any time before the end of the term ;
- d) loan repayments shall be made which are equal to or greater than the minimum yearly repayment requirements in accordance with Division 7A of Part III of the ***Income Tax Assessment Act 1936*** or any applicable substituted or re-enacted provisions in any act.

### **Indemnity**

- 150.** Every officer, auditor or agent of the Company shall be indemnified out of the property of the Company against any liability incurred by him or her in his or her capacity as officer, auditor or agent in defending any proceedings, whether civil or criminal, in which judgement is given in his or her favour or in which he or she is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the *Corporations Act 2001*, granted to him or her by a court.

## **SCHEDULE A**

### **Class of shares**

- 1.1** Notwithstanding any rights or restrictions conferred on holders as described in this Schedule, all rights and restrictions attaching to any shares in respect of dividends are subject to the provisions of the constitution.
- 1.2** Subject to Clause 2 and the power therein to issue shares of classes determined by the directors, the Company may also issue Subscriber shares and the shares of the classes referred to below in this clause. The Subscriber shares (if any) will be redeemable preference shares and the rights, privileges and conditions attaching to Subscriber shares are as follows:
- a) They will only be issued upon registration of the Company and will only be issued to persons specified in the application for the Company's registration under the Law as persons who consent to become Members of the Company;
  - b) Subject to the provisions of Section 254J of the Law, the next issue of shares of any class or classes after the issue of the Subscriber shares and payment up in full thereof will be deemed to have been issued for the purposes of redeeming the Subscriber shares provided that the proceeds of shares so issued is at least equal to the consideration paid for the Subscriber shares on issue. Upon the issue of such shares, each of the Subscriber shares will ipso facto be redeemed for the consideration paid for it, and the issued capital of the Company will then stand at an amount equal to the shares which comprised the next issue of shares;
  - c) They will carry no right to participate in any distribution of surplus assets or profits;
  - d) They will rank as to repayment of capital on winding-up of the Company before any other class of shares then on issue;
  - e) They will carry no right to dividends;
  - f) They will carry the right at meetings of the Company's Members to exercise one vote for each Subscriber share held; and
  - g) Upon the redemption of the Subscriber shares in the manner provided in this Constitution, the Company will cease to be authorised to issue shares of this class.

### **1.3 Ordinary, "A" & "B" class shares**

The rights, privileges and conditions attaching to Ordinary, "A" and "B" shares are as follows:

- a) They will confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members and to exercise one vote for every share held.
- b) They will confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
- c) Upon a winding up of the Company they will confer to the holders thereof the right to repayment of capital paid upon such shares and to participate in any distribution of surplus assets or profits of the Company.

### **1.4 "C" class shares**

The rights, privileges and conditions attaching to "C" shares are as follows:

- a) They will not confer on the holders thereof any right to dividends or any right to vote at any meeting of the Company's Members but the holders thereof will be entitled to notice of and to attend any meeting of the Company's Members.

- b) Upon a winding up of the Company they will confer to the holders thereof the right to repayment of capital paid upon such shares and to participate in any distribution of surplus assets or profits of the Company ranking equally with Ordinary shares.

### **1.5 "D" class shares**

The rights, privileges and conditions attaching to "D" shares are as follows:

- a) They will confer to the holders thereof the right to receive notice of and to attend any meeting of the Company's Members and to exercise one vote for every share held.
- b) They will not confer on the holders thereof any right to dividends.
- c) Upon a winding up of the Company they will confer to the holders thereof the right to repayment of capital paid upon such shares ranking equally with Ordinary shares but not to participate in any distribution of surplus assets or profits of the Company.

### **1.6 "E" & "F" class shares**

The rights, privileges and conditions attaching to "E" and "F" shares are as follows:

- a) They will not confer on the holders thereof any right to vote at any meeting of the Company's Members but the holders thereof will be entitled to notice of and to attend any meeting of the Company's Members.
- b) They will confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
- c) Upon a winding up of the Company they will confer to the holders thereof the right to repayment of capital paid upon such shares ranking equally with Ordinary shares but not to participate in any distribution of surplus assets or profits of the Company.

### **1.7 "G" class shares**

The rights, privileges and conditions attaching to "G" shares are as follows:

- a) They will not confer on the holders thereof any right to vote at any meeting of the Company's Members but the holders thereof will be entitled to notice of and to attend any meeting of the Company's Members.
- b) They will confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
- c) Upon a winding up of the Company they will confer to the holders thereof the right to repayment of capital paid upon such shares and to participate in any distribution of surplus assets or profits of the Company ranking equally with Ordinary shares.

### **1.8 "H" redeemable preference class shares**

The rights, privileges and conditions attaching to the "H" redeemable preference shares are as follows:

- a) They will entitle the holders thereof to receive notice of and to attend any meeting of the Company's Members but will not confer any right to vote at such meetings except in one or more of the following circumstances:
  - 1) on a proposal to reduce the share capital of the Company;
  - 2) on a proposal that affects rights attached to the "H" redeemable preference shares;
  - 3) on a proposal for the disposal of the whole property, business and undertaking of the Company; and or

- 4) during the winding up of the Company.
- b) They will confer to the holders thereof the right to receive from the profits of the Company a non-cumulative preferential dividend at the rate of 5% per annum on the capital for the time being paid up thereon in priority to the payment of any dividend on any other share in the Company.
- c) Upon a reduction of capital or winding up of the Company they will as regards return of paid up capital rank in priority to all other shares in the Company, but they will not confer any right to participate in any distribution of surplus assets or profits of the Company.
- d) Subject to Sections 254J and 254K of the Law they will, at the option of the Company, be liable to be redeemed at the consideration paid for the "H" redeemable preference share on or before 30 June 2050, by giving written notice to the holders at their respective registered addresses and each such notice will be accompanied by the Company's cheque for the amount payable to the holder to whom such notice is sent. The redemption will take place on the seventh day after the date of posting such notice, and any "H" redeemable preference shares not so redeemed on 30 June 2050 will not thereafter be capable of being redeemed.

### **1.9 "I" redeemable preference class shares**

The rights, privileges and conditions attaching to the "I" redeemable preference shares are as follows:

- a) They will entitle the holders thereof to receive notice of and to attend any meeting of the Company's Members but will not confer any right to vote at such meetings except in one or more of the following circumstances:
  - 1) on a proposal to reduce the share capital of the Company;
  - 2) on a proposal that affects rights attached to the "I" redeemable preference shares;
  - 3) on a proposal for the disposal of the whole property, business and undertaking of the Company; and or
  - 4) during the winding up of the Company.
- b) They will confer to the holders thereof the right to participate in any dividend declared and payable by the Company on the class of share held.
- c) Upon a reduction of capital or a winding up of the Company they will as rank regards return of paid up capital after any issued "I" redeemable preference shares but in priority to all other shares in the Company, but they will not confer any right to participate in any distribution of surplus assets or profits of the Company.
- d) Subject to Sections 254J and 254K of the Law they will, at the option of the Company, be liable to be redeemed at the consideration paid for the "I" redeemable preference share on or before 1 May 2060, by giving written notice to the holders at their respective registered addresses and each such notice must be accompanied by the Company's cheque for the amount payable to the holder to whom such notice is sent. The redemption will take place on the seventh day after the date of posting such notice, and any "I" redeemable preference shares not so redeemed on 1 May 2060 will not thereafter be capable of being redeemed.

### **1.10 "J" class shares**

The rights, privileges and conditions attaching to "J" shares are as follows:

- a) They will not confer on the holders thereof any right to vote at any meeting of the Company's Members but will be entitled to notice of and to attend any meeting of the Company's Members.
- b) They will confer to the holders thereof the right to participate in any dividends declared and payable by the Company on the class of share held.
- c) Upon a winding up of the Company they will confer to the holders thereof the right to repayment of capital paid upon such shares ranking equally with Ordinary shares but not to participate in any distribution of surplus assets or profits of the Company.
- d) In the event of the death, bankruptcy, mental incapacity or serious or prolonged ill health of a sole Director who is also the only Member entitled to vote at a meeting of the Company's Members which results in that person being unable to carry out the duties of a Director, the holders of "J" shares will have the right to appoint a new Director by the passing of an ordinary resolution of the holders of "J" shares.

### **1.11 "K" class dividend access share**

The rights, privileges and conditions attached to the "K" Class dividend access shares are as follows:

- a) They will not confer to the holders any right to vote at any meeting of the Company's Members but the holders thereof will be entitled to notice of and to attend any meeting of the Company's Members.
- b) They will confer to the holders thereof the right to participate in any dividend declared and payable by the Company on the class of share held.
- c) Upon a winding up of the Company they will confer to the holders thereof the right to repayment of capital paid upon such shares ranking equally with Ordinary shares but not to participate in any distribution of surplus assets or profits of the Company.
- d) Subject to Sections 254J and 254K of the Law they will, at the option of the Company, be liable to be redeemed at the consideration paid for the "K" dividend access share on or before 1 May 2060, by giving written notice to the holders at their respective registered addresses and each such notice must be accompanied by the Company's cheque for the amount payable to the holder to whom such notice is sent. The redemption will take place on the seventh day after the date of posting such notice, and any "K" dividend access share not so redeemed on 1 May 2060 will not thereafter be capable of being redeemed.

### **1.12 "L" class dividend access share**

The rights, privileges and conditions attaching to the "L" Class dividend access shares are as follows:

- a) They will not confer to the holders any right to vote at any meeting of the Company's Members but the holders thereof will be entitled to notice of and to attend any meeting of the Company's Members.
- b) They will confer to the holders thereof the right to participate in any dividend declared and payable by the Company on the class of share held.
- c) Upon a winding up of the Company they will confer to the holders thereof the right to repayment of capital paid upon such shares ranking equally with Ordinary shares but not to participate in any distribution of surplus assets or profits of the Company.
- d) Subject to Sections 254J and 254K of the Law they will, at the option of the Company, be liable to be redeemed at the consideration paid for the "L" dividend access share on or before 1 May 2060, by giving written notice to the holders at their respective registered addresses and each such notice must be accompanied by the

Company's cheque for the amount payable to the holder to whom such notice is sent. The redemption will take place on the seventh day after the date of posting such notice, and any "L" dividend access share not so redeemed on 1 May 2060 will not thereafter be capable of being redeemed.

#### **1.13 "M" class dividend access share**

The rights, privileges and conditions attaching to the "M" Class dividend access shares are as follows:

- a) They will not confer to the holders any right to vote at any meeting of the Company's Members but the holders thereof will be entitled to notice of and to attend any meeting of the Company's Members.
- b) They will confer to the holders thereof the right to participate in any dividend declared and payable by the Company on the class of share held.
- c) Upon a winding up of the Company they will confer to the holders thereof the right to repayment of capital paid upon such shares ranking equally with Ordinary shares but not to participate in any distribution of surplus assets or profits of the Company.
- d) Subject to Sections 254J and 254K of the Law they will, at the option of the Company, be liable to be redeemed at the consideration paid for the "M" dividend access share on or before 1 May 2060, by giving written notice to the holders at their respective registered addresses and each such notice must be accompanied by the Company's cheque for the amount payable to the holder to whom such notice is sent. The redemption will take place on the seventh day after the date of posting such notice, and any "M" dividend access share not so redeemed on 1 May 2060 will not thereafter be capable of being redeemed.

#### **1.14 "N" class dividend access share**

The rights, privileges and conditions attaching to the "N" Class dividend access shares are as follows:

- a) They will not confer to the holders any right to vote at any meeting of the Company's Members but the holders thereof will be entitled to notice of and to attend any meeting of the Company's Members.
- b) They will confer to the holders thereof the right to participate in any dividend declared and payable by the Company on the class of share held.
- c) Upon a winding up of the Company they will confer to the holders thereof the right to repayment of capital paid upon such shares ranking equally with Ordinary shares but not to participate in any distribution of surplus assets or profits of the Company.
- d) Subject to Sections 254J and 254K of the Law they will, at the option of the Company, be liable to be redeemed at the consideration paid for the "N" dividend access share on or before 1 May 2060, by giving written notice to the holders at their respective registered addresses and each such notice must be accompanied by the Company's cheque for the amount payable to the holder to whom such notice is sent. The redemption will take place on the seventh day after the date of posting such notice, and any "N" dividend access share not so redeemed on 1 May 2060 will not thereafter be capable of being redeemed.

## Members' Agreement

The Members at registration of the Company agree to this Constitution.

### **The Member**

---

Eng Hung Koh of 43 Cathies Lane, WANTIRNA SOUTH, VIC 3152(1 ORD Share):

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**Eng Hung Koh**  
Member

**Dated:** \_\_\_\_\_

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Name of Witness

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Witness Signature

### **The Member**

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Chuo Lau of 43 Cathies Lane, WANTIRNA SOUTH, VIC 3152(1 ORD Share):

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**Chuo Lau**  
Member

**Dated:** \_\_\_\_\_

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Name of Witness

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Witness Signature