

# Constitution

## Risk Management and Safety Solutions Pty Ltd

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# Constitution of Risk Management and Security Systems Pty Ltd

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## 1 Definitions and interpretation

### 1.1 Definitions

In this Constitution:

**Board** means the Directors and alternates present at a meeting, duly convened as a Board meeting, at which a quorum is present.

**Business Day** means a day which is not a Saturday, Sunday or bank or public holiday in Brisbane, Queensland.

**Company** means Risk Management and Safety Solutions Pty Ltd ACN 095 575 054.

**Constitution** means the constitution for the time being of the Company as constituted by this document and any resolutions of the Company modifying this document.

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

**Director** means a person who is a director for the time being of the Company and **Directors** means more than one Director, and in relation to rules applying to meetings of the Board, including voting by Directors and material personal interests, references to Directors includes alternates.

**Financier** has the meaning given to it in rule 15.4(a)(i).

**Member** means a person who is, or who is registered as, a member of the Company or, in the case of joint holders of any Share, persons who are, or who are registered as, joint holders of that Share, and **Members** means more than one Member.

**Ordinary Share** means a fully paid ordinary share in the capital of Company, the terms of which are set out in rule 7.2.

**Register of Members** means the register of Members maintained pursuant to the Corporations Act.

**Replaceable Rules** means the replaceable rules applicable to a proprietary limited company with share capital set out in the Corporations Act.

**Secretary** means any person appointed for the time being as, or to perform the functions of, secretary of the Company.

**Share** means any share in the capital of the Company and **Shares** means more than one Share.

**Shareholders' Deed** means the shareholders' deed dated 10 October 2019, between the Company, Andrew Howarth, Coppabella Investments Pty Ltd and Southern Cross Venture Partners Management Pty Ltd, as amended from time to time.

**SXVP Shares** means Shares issued in the capital of the Company on the terms set out in Schedule 1.

### 1.2 Interpretation

In this Constitution:

- (a) the singular includes the plural (and vice versa);

- (b) words of any gender include all genders;
- (c) the words “including”, “include” and “includes” are to be construed without limitation;
- (d) a reference to legislation is to be construed as a reference to that legislation, any subordinate legislation under it, and that legislation and subordinate legislation as amended, re-enacted or replaced for the time being;
- (e) headings are used for convenience only and are not intended to affect the interpretation of this Constitution; and
- (f) unless the contrary intention appears, a word or expression defined in the Corporations Act and used, but not defined, in this Constitution has the same meaning given to it in the Corporations Act.

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## **2 Name of corporation**

The name of the company is Risk Management and Safety Solutions Pty Ltd.

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## **3 Status of the Constitution**

This Constitution displaces the Replaceable Rules. The Replaceable Rules do not apply to the Company.

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## **4 Shareholders' Deed**

To the extent permitted by law:

- (a) the terms of the Shareholders' Deed, so long as it remains in force, are paramount to this Constitution and prevail in the event of any inconsistency;
- (b) the Directors must, in the exercise of their office, have regard to and comply with the terms of the Shareholders' Deed, including without limitation any restrictions on the appointment or removal of Directors, the passing of resolutions (whether by the directors or otherwise), or entry into transactions, and the sale, transfer or issuing (or validity thereof) of shares; and
- (c) each Member agrees to exercise their rights as holder of Shares and take any steps which are necessary, including by voting in favour of a resolution amending this Constitution, to ensure that the terms of the Shareholders' Deed are applied in preference to the terms of this Constitution to the extent of the inconsistency.

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## **5 Members**

### **5.1 Number of Members**

The Company must have at least one Member.

### **5.2 Limit on number of Members**

- (a) The Company must have no more than 50 Members.
- (b) In determining the number of Members, the joint holders of any Share are counted as one Member.

### **5.3 *Becoming a Member***

Subject to the Corporations Act and this Constitution, a person becomes a Member on the registration of that person's name in the Register of Members.

### **5.4 *Interests recognised***

Subject to this Constitution, the Company is entitled to treat the Member who is the registered holder of any Share as the sole legal owner of that Share. Subject to the Corporations Act and this Constitution, the Company is not required to recognise any other interest in respect of any Share of any other person.

### **5.5 *Single member company***

If at any time the Company has only one Member then, unless the contrary intention appears:

- (a) a reference in a rule to 'the Members' is a reference to that Member; and
- (b) without limiting rule 5.5(a), a rule which confers a power or imposes an obligation on the Members to do a particular thing confers that power or imposes that obligation on that Member.

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## **6 Share Capital**

Subject to the Corporations Act, the Shareholders' Deed and this Constitution, Shares will be under the control of the Directors, so that Directors may allot, issue or otherwise dispose of Shares, or grant options over unissued Shares:

- (a) to such persons on such terms and conditions as the Directors think fit;
- (b) at such times as the Directors think fit;
- (c) subject to such special terms and conditions or restrictions and with such special rights and privileges attaching to them;
- (d) with or subject to any fixed, preferential, deferred or qualified rights or conditions in regard to dividends, interest, voting, return of capital, payment of calls or otherwise;
- (e) upon the terms that Shares are, or at the option of the Company are liable, to be redeemed; and
- (f) generally with and subject to such preferential, or special or qualified rights, privileges and conditions as the Directors think fit.

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## **7 Shares**

### **7.1 *Shares on issue by the Company***

The Shares on issue are:

- (a) Ordinary Shares; and
- (b) SXVP Shares, the terms of which are set out in Schedule 1 to this Constitution.

### **7.2 *Rights of Members with Ordinary Shares***

A Member holding Ordinary Shares, subject to this Constitution, shall be entitled to:

- (a) receive notices of meetings of Members;



- (b) attend meetings of Members;
  - (c) speak at meetings of Members;
  - (d) vote at meetings of Members;
  - (e) join in any demands for a poll at a meeting of Members;
  - (f) receive dividends; and
  - (g) on the winding up of the Company, receive a return of capital and any surplus capital in accordance with rule 35.
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## **8 Certificates for Shares**

- (a) A Member is entitled without payment to receive a certificate in respect of the Shares held by that person in accordance with the Corporations Act but, in respect of Shares held jointly by several persons, the Company need not issue more than one certificate.
  - (b) Delivery of a certificate for a Share to any one of the persons registered as joint holders is sufficient delivery to all those holders.
  - (c) A certificate for Shares shall be in a form that the Directors from time to time decide.
  - (d) Subject to rule 8(b), the provisions of the Corporations Act with respect to certificates which are lost or destroyed shall apply to certificates which are worn out or defaced. The Directors may exercise all the powers in relation to certificates which are lost, destroyed, worn out or defaced as are exercisable by the Company or its Directors under the Corporations Act in relation to certificates that are lost or destroyed.
  - (e) The Company:
    - (i) shall issue a certificate in replacement of a worn out or defaced certificate only if the certificate to be replaced is received by the Company for cancellation and is cancelled; and
    - (ii) may require the payment of any amount as the Directors determine in connection with the issue of a replacement certificate.
- 

## **9 Call on Shares**

### **9.1 Power to make calls**

Subject to the Corporations Act, this Constitution and the terms on which the Shares are on issue, the Board may make a call or calls on any Member in respect of any amount unpaid on any Share held by that Member.

### **9.2 Date of call and number of payments**

- (a) Subject to the terms on which the Shares are on issue, a call is made on the date the Board resolves to make a call or, where the date of any call is specified in terms on which the Shares are on issue, on the date the Board allots the Shares.
- (b) Subject to the terms on which the Shares are on issue, a call may be payable in one payment or in instalments.

### **9.3 Notice of call**

- (a) Subject to the terms on which the Shares are on issue, at least 14 days' notice must be given to the Member of the date on which the amount of the call or the instalment of the call must be paid.
- (b) Subject to the terms on which the Shares are on issue, the notice must state:
  - (i) the amount of the call or, as the case may be, the amount of each instalment;
  - (ii) the date (or dates) for payment;
  - (iii) the time (or times) for payment;
  - (iv) the place (or places) for payment;
  - (v) that interest is payable if payment is not made on or before the date (or dates) for payment; and
  - (vi) that a lien will arise if the amount of the call or the instalment is not paid in accordance with the notice.
- (c) Any unintentional omission or error in giving or not giving notice of a call or the non-receipt of notice of a call by any person entitled to receive notice does not invalidate the call.

### **9.4 Revocation, postponement or extension of calls**

Subject to the terms on which the Shares are on issue, before the Company receives any amount due under any call or instalment, the Board may resolve to revoke, postpone or extend the period within which that call or instalment must be paid. If the Board so resolves, the Board must notify all persons on whom the call was made.

### **9.5 Interest on unpaid calls**

- (a) If an amount called is not paid on or before any date specified in the notice for payment, the Member must pay interest on the amount unpaid from the date specified in the notice of the call for payment until and including the date of actual payment. The interest rate may be determined by the Board. Interest will accrue and compound daily.
- (b) The Board may waive the right to require the payment of interest.

### **9.6 Joint holders**

Each joint holder of any Share is jointly and severally liable to pay each call or instalment and interest and any other amount in respect of that Share.

### **9.7 Differentiation between Members of amounts payable on calls**

The terms on which Shares are on issue may differ between Members as to the amount to be paid on any call or instalment and the date (or dates) on which payment is to be made.

### **9.8 Payment of calls in advance**

- (a) The Board may accept any sum in respect of any amount uncalled or called but not yet payable on any Share. The Board may authorise payment by the Company of interest upon the whole or any part of any sum so accepted until the date on which

the sum paid is payable under a call. The interest rate will be determined by the Board.

- (b) Any sum so accepted is:
  - (i) to be treated as a loan to the Company, not as share capital of the Company, until the date on which the sum is payable under a call or instalment; and
  - (ii) not to be taken into account in determining an entitlement to vote or the amount of any distribution in respect of any Share.
- (c) The Board may repay any sum so accepted at any time on giving the Member not less than ten days' notice.

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## **10 Lien**

### **10.1 Lien**

- (a) The Company has a first and paramount lien:
  - (i) on each partly paid Share (and any distribution in respect of it, including dividends) in respect of any call (including any instalment) due and payable but unpaid and any interest and any other amount owing in respect of that Share;
  - (ii) on each Share in respect of any payment which the Company is required by law to pay (and has paid) in respect of the Share; and
  - (iii) on each Share acquired under an employee incentive scheme for any money payable to the Company in relation to them, including any loan under an employee incentive scheme.
- (b) By notice, the Board may discharge or waive, in whole or in part, any lien or declare any Share to be wholly or partly exempt from a lien, but otherwise no act or omission is to be taken as discharging or a waiver or grant of an exemption from any lien. A lien may not be discharged or waived otherwise.

### **10.2 Enforcement of lien**

- (a) The Board may sell or otherwise dispose of any Share the subject of a lien, if:
  - (i) a sum in respect of which the lien exists is due and payable but is unpaid;
  - (ii) the Company has provided notice to the Member or, if the Company has notice of the death, bankruptcy or the mental incapacity of the Member, provided notice to the person entitled to be registered as the holder of that Share:
    - (A) setting out that amount due but unpaid or required to be paid or outstanding;
    - (B) requiring payment of that amount; and
    - (C) stating that the Share is liable to be sold or otherwise disposed of if payment of that amount is not made within 14 days after the date of the notice; and

- (iii) the amount specified in the notice is not paid in full in accordance with the notice.
- (b) The terms on which and manner by which any Share may be sold or otherwise disposed of are to be determined by the Board.
- (c) Interest accrues and compounds daily at the rate determined by the Board on the amount due but unpaid, costs and expenses paid in connection with the enforcement of the lien and the sale or other disposal of the Shares.
- (d) The Company may receive the net proceeds of the sale or other disposal of any Share and execute an instrument of transfer in respect of the Share. The Company must apply the net proceeds of the sale or disposal of any Share in or towards satisfaction of firstly, costs and expenses paid or payable in connection with the enforcement of the lien and the sale or other disposal of that Share and secondly, all amounts due but unpaid, and accrued interest on all those amounts.
- (e) The Company must pay any balance of the net proceeds of sale or other disposal to the Member whose Share has been sold or otherwise disposed of.
- (f) The purchaser is entitled to assume that the proceeds of sale or other disposal have been applied in accordance with this Constitution and is not responsible for the application of the purchase money by the Company.

### **10.3 Continuing liability**

If the net proceeds from the sale or other disposal are less than the sum of the amount:

- (a) due but unpaid in respect of that Share;
- (b) the costs and expenses paid or payable in connection with the enforcement of the lien and the sale or other disposal; and
- (c) interest on those amounts (**Shortfall**),
- (d) the person (or persons), whose Share has been sold or otherwise disposed of, continues to be liable for and must pay to the Company an amount equal to the Shortfall together with interest.

### **10.4 Protection of lien**

The Board may determine to do anything to protect any lien.

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## **11 Forfeiture**

### **11.1 Notice regarding forfeiture**

If any Member does not pay the amount of any call or instalment in respect of any Share when it is due, the Board may give notice to the Member or, if the Company has notice of the death, bankruptcy or the mental incapacity of the Member, give notice to the person entitled to be registered as the holder of that Share:

- (a) requiring payment of:
  - (i) the unpaid call or instalment;
  - (ii) any costs and expenses incurred by the Company as a result of the non-payment of the call or instalment and the amount of the costs and expenses; and

- (iii) interest that has accrued and compounded (on a daily basis) on the amount of the unpaid call or instalment;
- (b) demanding payment of those amounts within 14 days after the date of the notice;
- (c) stating the place where payment is to be made; and
- (d) stating that the Share and any distribution in respect of it not yet made are liable to be forfeited and that on forfeiture the Shares may be sold or otherwise disposed of if payment of the amount demanded is not made in full within 14 days after the date of the notice.

## **11.2 Forfeiture**

- (a) If payment of the amount demanded is not made in full in accordance with the notice, any Share or distribution, the subject of the notice, may be forfeited on a resolution of the Board to that effect.
- (b) The Board may accept the surrender of any Share which may be forfeited. If the Board accepts the surrender, that Share will be treated as having been forfeited.
- (c) If any Share is forfeited, notice of forfeiture will be given to the registered holder of that Share, or, as the case may be, each joint holder, and the date and details of the forfeiture will be recorded in the Register of Members.
- (d) The Board may sell or dispose otherwise of any forfeited Share on behalf of the Member. The terms and manner of sale or disposal are to be determined by the Board.
- (e) At any time before any forfeited Share is sold or disposed otherwise of, the Board may cancel the forfeiture on terms determined by it.
- (f) On forfeiture of any Share, the holder of that Share ceases to be a Member and ceases to have any right as a Member in respect of that forfeited Share (including in respect of any distribution), but remains liable to pay to the Company for:
  - (i) all amounts payable by the holder to the Company at the date of forfeiture;
  - (ii) further costs or expenses incurred by the Company in respect of the forfeiture; and
  - (iii) interest to accrue and to compound daily at a rate determined by the Board on those amounts from the date of forfeiture until payment of amounts and accrued interest in full.
- (g) The liability of a Member continues until:
  - (i) the Member pays all those amounts and accrued interest in full; or
  - (ii) the Company receives and applies the net proceeds from the sale or other disposal of the forfeited Share an amount which is equal to or greater than all those amounts and accrued interest.
- (h) The Company may receive the net proceeds from the sale or other disposal of any forfeited Share and execute an instrument of transfer in respect of the forfeited Share. The Company must apply the net proceeds of any sale or other disposal of any Share in or towards satisfaction of firstly, costs and expenses paid or payable in connection with the enforcement of the forfeiture and the sale or other disposal of

that Share and secondly, all amounts due but unpaid, and accrued interest on all those amounts.

- (i) The Company must pay the balances (if any) of the net proceeds of sale or other disposal to the Member whose forfeited Share has been sold or otherwise disposed of.
- (j) The purchaser of any forfeited Share is entitled to assume that the proceeds of the sale or other disposal have been applied in accordance with this Constitution and is not responsible for the application to the purchase money by the Company.

### **11.3 Continuing liability**

If the net proceeds from the sale or other disposal of any Share are less than the sum of the amount:

- (a) due but unpaid in respect of that Share;
- (b) the costs and expenses paid or payable in connection with the enforcement of the forfeiture and the sale or other disposal; and
- (c) interest on those amounts (**Shortfall**),

the person (or persons), whose Share has been sold or otherwise disposed of, continues to be liable for and must pay to the Company an amount equal to the Shortfall together with interest.

### **11.4 Cancellation of forfeited Shares**

By resolution passed at a general meeting, the Company may cancel any forfeited Share.

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## **12 Share Buy Backs**

Subject to the Corporations Act, the Company may buy shares in itself.

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## **13 Reconstruction of Capital**

The Company may convert all or any of its Shares into a larger or smaller number of Shares in accordance with the Corporations Act.

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## **14 Reduction of Capital**

The Company may reduce its share capital in accordance with the Corporations Act.

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## **15 Transfers**

### **15.1 Transfer of Shares**

- (a) Subject to the Corporations Act, the Shareholders' Deed and this Constitution, a Member may transfer any Share held by the Member by an instrument of transfer:
  - (i) in any form prescribed by the Board; or
  - (ii) if the Board does not prescribe a form, in any common form.
- (b) A Share may not be transferred other than in accordance with this rule.

- (c) An instrument of transfer must set out:
  - (i) the name and address of the transferor or transferors;
  - (ii) the name and address of the transferee or transferees;
  - (iii) the Share or Shares being transferred;
  - (iv) the Share number or numbers (if any);
  - (v) any amount unpaid on the Share or Shares;
  - (vi) if the Share or Shares being transferred is or are to be held non-beneficially; and
  - (vii) the jurisdiction of registration of the Company.
- (d) The instrument of transfer must be signed by, or on behalf of, both the transferor and the transferee or, in the case of joint holders, all joint holders (but the Board may dispense with the execution of the instrument by the transferee if the Board thinks fit).

## **15.2 Registration of transfers**

A Member transferring a Share remains the holder of that Share until the transfer is registered and the name of the person to whom the Share is being transferred is entered in the Register of Members.

## **15.3 Transfer procedure**

- (a) Subject to rule 15.4, the Directors are not required to register a transfer of Shares unless:
  - (i) the transfer is left at the Company's registered office or the office of the Register,
  - (ii) the transfer is accompanied by a certificate for the Shares dealt with in the transfer, unless the Directors waive production of the certificate on receiving satisfactory evidence of the loss or destruction of the certificate; and
  - (iii) the Directors have been given any further information they reasonably require to establish the right of the person transferring the Shares to make the transfer.
- (b) Except where the issue of a certificate is to replace a lost or destroyed certificate, the Company must register all registrable transfer forms and issue certificates without charge.

## **15.4 Right to refuse registration**

- (a) Subject to rule 15.4(b) the Directors must not decline to register any transfer of Shares nor suspend registration thereof where:
  - (i) such transfer is in favour of a financier, mortgagee or charge (other than a Related Body Corporate or associate of a shareholder of the Company) or any nominee of a financier, mortgagee or chargee (**Financier**); or

- (ii) such transfer is by or on behalf of a Financier in favour of any person who is not a Related Body Corporate or associate of a shareholder of the Company; and
- (iii) the transfer is as contemplated by, or pursuant to, any mortgage, charge or other security interest granted to any Financier,

and a certificate by any officer of the Financier that the relevant transfer is within this rule 15.4(a) will be conclusive evidence of that fact.

- (b) The Directors may refuse to register any transfer of Shares, units or other securities on which stamp duty or other taxes of a similar nature are payable but unpaid, until such stamp duty or other taxes have been paid.

### **15.5 Company may suspend registration**

- (a) Subject to this Constitution, the Board may suspend the registration of transfers at the times and for the period of time it determines.
- (b) A period of suspension of registration must not exceed 30 days in any calendar year.

### **15.6 Retention of instruments of transfer**

Instruments of transfer in respect of transfers that are registered may be retained by the Company for such period of time as the Board may determine. Instruments of transfer in respect of transfers that the Company refuses to register must be returned to the transferor within a reasonable period of time.

### **15.7 Destroying instruments of transfer**

- (a) Subject to the Corporations Act, the Company may destroy an instrument of transfer or any other title document five years after registration of the transfer.
- (b) The Company is not responsible for any loss in respect of any document destroyed in accordance with the Corporations Act or this Constitution.

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## **16 Issue of certificate after registration of transfer**

### **16.1 Delivery of transfer and title documents**

Subject to the Corporations Act and this Constitution, as soon as reasonably practical after the date on which a proper instrument of transfer is lodged with the Company, the Company must:

- (a) complete and have ready for delivery to the transferee a certificate or, as the case may be, all the appropriate transfer and title documents (if any); and
- (b) if the transfer is of all of the Shares or other securities of which the transferor is the registered holder, send or deliver the certificate or, as the case may be, all the appropriate transfer and title documents (if any) completed documents to:
  - (i) the transferee; or
  - (ii) if the transferee has instructed the Company to send them to a nominated person, that person; or
- (c) if the transfer is of some but not all of the Shares or other securities of which the transferor is the registered holder, if the transferor has provided the original



certificate or, as the case may be, other title document to the Company, send or deliver two certificates or, as the case may be other title document:

- (i) one certificate or the appropriate title document to the transferor in respect of those Shares or other securities that have not been transferred, to the transferor; and
- (ii) the other certificate or the appropriate title document in respect of the Shares or other securities that have been transferred:
  - (A) to the transferee; or
  - (B) if the transferee has instructed the Company to send them to a nominated person, to that person.

## **16.2 Return of certificate**

Any person who ceases to be a Member must return any certificate or, as the case may be, any other title document to the Company as soon as practicable.

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## **17 Transmission of Shares**

### **17.1 Transmission of Shares on death**

- (a) On the death of a Member who does not own Shares jointly, the Company will recognise only the personal representative of the deceased Member as being entitled to the deceased's interest in Shares of the deceased Member.
- (b) If the personal representative of the deceased Member provides the Board with information it reasonably requires to establish conclusively that the personal representative is the personal representative of the deceased Member, the Board will notify the personal representative to that effect and accordingly that the personal representative has the same rights as the deceased Member. At any time after the Board so notifies the personal representative, the personal representative may:
  - (i) by giving a signed notice to the Company, elect to be registered as the holder of any Share owned by the deceased; or
  - (ii) by giving a proper instrument of transfer to the Company, transfer any Share owned by the deceased to another person.
- (c) A trustee, executor or administrator of the estate of a deceased Member may be registered as the holder of any Share owned by the deceased as trustee, executor or administrator of that estate.

### **17.2 Transmission of Shares on bankruptcy**

- (a) If a person entitled to any Share on the bankruptcy of a Member provides the Board with information it reasonably requires to establish conclusively that the person is entitled to be registered as the holder of any Share owned by the bankrupt Member, the Board will notify the person to that effect and accordingly that the person has the same rights as the bankrupt Member. At any time after the Board so notifies the person the person may:
  - (i) by giving a signed notice to the Company, elect to be registered as the holder of any Share owned by the bankrupt Member; or

- (ii) by giving a proper instrument of transfer to the Company, transfer any Share owned by the bankrupt Member to another person.
- (b) A trustee or administrator of a person who is bankrupt may be registered as the holder of any Share owned by that person as trustee or administrator of that person's affairs.
- (c) This rule is subject to the *Bankruptcy Act 1966* (Cth).

### **17.3 Transmission of Shares on mental incapacity**

- (a) If a person entitled to any Share because a Member is subject to assessment or treatment under any mental health law provides the Board with information it reasonably requires to establish conclusively that the person is entitled to be registered as the holder of any Share owned by the Member, the Board will notify the person to that effect and accordingly that the person has the same rights as the Member. At any time after the Board so notifies the person, the person may:
  - (i) by giving a signed notice to the Company, elect to be registered as the holder of any Share owned by the Member; or
  - (ii) by giving a proper instrument of transfer to the Company, transfer any Shares owned by the Member to another person.
- (b) A trustee or administrator of a person who is mentally or physically incapable of managing his or her affairs, may be registered as the holder of any Share owned by that person as trustee or administrator of that person's affairs.

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## **18 General meetings**

### **18.1 Director convening a general meeting**

- (a) Any Director may convene a general meeting of the Members.
- (b) No Member may call or arrange to hold a general meeting except where permitted by the Corporations Act.

### **18.2 Notice of general meeting**

- (a) Where a Director has called a meeting of Members, notice of the meeting and any proxy form for the meeting may be given in the form and in the manner in which the Board resolves, subject to any requirements of the Corporations Act.
- (b) A person may waive notice of any meeting of Members by written notice to the Company.
- (c) A person who has not duly received notice of a meeting of Members may, before or after the meeting, notify the Company of the person's agreement to anything done or resolution passed at the meeting.
- (d) A person's attendance at a meeting of Members waives any objection which that person may have had to a failure to give notice, or the giving of a defective notice, of the meeting, unless the person at the beginning of the meeting objects to the holding of the meeting.

### **18.3 Shorter notice of general meeting**

Subject to the Corporations Act, shorter notice of a general meeting may be given, and accordingly, any general meeting will be treated as having been duly convened if the calling

of the notice of the general meeting on shorter notice is agreed to, before the general meeting, by Members with at least 95% of the votes that may be cast at the general meeting, and accordingly, any such general meeting will be treated as having been duly convened.

**18.4 Notice of resumption of an adjourned general meeting**

If a general meeting is adjourned for 30 days or more, at least 30 days' notice must be given to the Members of the date, time and place (or places) for the resumption of the adjourned general meeting.

**18.5 General meetings at two or more places**

A general meeting may be held in one place or two or more places. If a general meeting is held in two or more places, the Company must use technology that gives Members a reasonable opportunity to participate at that general meeting.

**18.6 Postponement or cancellation of general meetings**

- (a) Subject to this Constitution and the Corporations Act, the Board may change the place (or places) of, postpone or cancel a general meeting.
- (b) If a general meeting is convened pursuant to a request by Members, the Board may not postpone or cancel the general meeting without the consent of the requesting Members.

**18.7 Notice of change, postponement or cancellation of meeting**

- (a) If the Directors have convened a general meeting, the Board may change the place (or places) of the general meeting, postpone or cancel the general meeting.
- (b) If the Board changes the place (or places) of a general meeting, notice must be given to each Member and each person entitled to receive notice of the general meeting of the new place (or places) of the general meeting.
- (c) If the Board postpones a general meeting, notice must be given to each Member and each other person entitled to receive notice of the new date, time and place (or places) of the general meeting.
- (d) If the Board cancels a general meeting, notice must be given to each Member and each other person entitled to receive notice of general meetings.

**18.8 Omission to give notice relating to general meeting**

No resolution passed at or proceedings at any general meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) that general meeting;
- (b) any change of place (or places) of that general meeting;
- (c) postponement of that general meeting including the date, time and place (or places) for the resumption of the adjourned general meeting; or
- (d) resumption of that adjourned general meeting.

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**19 Proceedings at general meetings**

**19.1 Quorum**

- (a) A quorum at a general meeting is two Members present in person or by proxy. The quorum must be present at all times during the general meeting.
- (b) If any Share is jointly held and two or more joint holders attend a general meeting, only one joint holder is counted for the purposes of determining whether there is a quorum.
- (c) If a Member has appointed more than one proxy and two or more proxies attend a general meeting, only one proxy will be counted for the purposes of determining whether there is a quorum.

## **19.2 Lack of quorum**

- (a) If a quorum is not present within 30 minutes after the time appointed for a general meeting (or any longer period of time as the chair may allow) or ceases to be present at any time during the general meeting, the general meeting:
  - (i) if convened by a Director or on the request of Members, is dissolved; or
  - (ii) in any other case:
    - (A) is adjourned to be resumed on a day, time and place (or places) as the chair determines or if the chair is not present as the Directors or Director at the meeting may determine; or
    - (B) if the Directors do not so determine, no Director is present, or no Director present so determines:
      - (1) the date for the resumption of the adjourned general meeting will be on the same day in the next week;
      - (2) the time for the resumption of the adjourned general meeting will be at the same time as the adjourned meeting; and
      - (3) the place (or places) for the resumption of the adjourned general meeting, will be at the same place (or places) as the adjourned meeting.
- (b) If a quorum is not present within 30 minutes after the time appointed for the resumption of the adjourned general meeting or ceases to be present during the meeting, the general meeting is dissolved.

## **19.3 Chairing general meetings**

- (a) The chair of the general meeting will be the Director elected for the time being as chair of Board meetings.
- (b) If the chair is not present within 15 minutes after the time appointed for any general meeting or if the chair is unwilling or unable to act as chair for the whole or any part of that general meeting, the Directors present may elect a Director present to chair that general meeting.
- (c) If no Director is elected or if all the Directors present decline to take the chair for the whole or any part of that general meeting, the Members present (whether in person or by proxy) may elect a Member present to chair for the whole or any part of that general meeting. If the Members do not so elect a chair, the meeting will be adjourned to be resumed on the same day, at the same time and at the same place (or places) in the following week.

#### **19.4 Conduct of general meetings**

The chair of each general meeting has charge of conduct of that meeting, including the procedures to be adopted and the application of those procedures at that meeting.

#### **19.5 Adjournment**

- (a) If a majority of Members present at a general meeting in person or by proxy determine that the meeting should be adjourned, the chair must adjourn the general meeting to a date, time and place (or places) determined by the chair.
- (b) No business may be transacted on the resumption of an adjourned or postponed general meeting other than the business left unfinished at the adjourned or postponed general meeting.

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## **20 Proxies**

### **20.1 Appointment of proxy**

- (a) A Member who is entitled to attend and to vote at a general meeting of the Company may appoint a person as proxy to attend, speak and vote for that Member. The instrument appointing a proxy may restrict the exercise of any power.
- (b) A proxy may be, but does not have to be, a Member.
- (c) An appointment of a proxy may be a standing one.
- (d) A proxy is not entitled to vote on a show of hands.
- (e) A proxy is not entitled to vote if the Member who has appointed the proxy is present in person at the meeting.
- (f) If a Member is entitled to cast two or more votes at a meeting, the Member may appoint two proxies. If the Member appoints two proxies and the appointment does not specify the proportion or the number of votes each proxy may exercise, each proxy may exercise half the votes.

### **20.2 Proxy instruments**

- (a) An appointment of a proxy must be in writing and be signed by the Member appointing the proxy or by the duly authorised attorney of the Member and state:
  - (i) the Member's name and address;
  - (ii) the Company's name;
  - (iii) the proxy's name or the name of the office held by the proxy; and
  - (iv) the general meeting at which the proxy may be used, or if the appointment is a standing one, a clear statement to that effect.
- (b) Where a proxy is signed pursuant to a power of attorney, a copy of the power of attorney (certified as a true copy of the original) must be attached to the proxy instrument sent to the Company.
- (c) An instrument appointing a proxy may direct the way in which a proxy is to vote on a particular resolution. If an instrument contains a direction, the proxy must vote as directed in the instrument, and is not entitled to vote on the proposed resolution except as directed in the instrument. If an instrument does not contain a direction,

the proxy is entitled to vote on the proposed resolution as the proxy considers appropriate.

- (d) If a proxy is appointed to vote on a particular resolution by more than one Member, that proxy:
  - (i) may vote on a show of hands in the same way if each instrument appointing the proxy directs the proxy to vote in the same way or does not direct the proxy how to vote;
  - (ii) may not vote on a show of hands unless each instrument appointing the proxy and directing the proxy to vote in a particular way directs the proxy to vote in the same way.

### **20.3 Proxy to be received by Company**

The instrument appointing a proxy is not effective unless it is received, together with any additional documentation, including a copy of the power of attorney (certified as a true copy of the original), by the Company at least 48 hours before the general meeting or, as the case may be, the resumption of an adjourned general meeting, at any of the following:

- (a) the registered office;
- (b) a facsimile number at the registered office; or
- (c) a place, facsimile number or electronic address specified for that purpose in the notice of the general meeting.

### **20.4 Power to demand poll**

A proxy may demand, or join in demanding, a poll.

### **20.5 Revocation of proxy**

The appointment of a proxy may be revoked by the Member who appointed the proxy by notice to the Company from the Member or, as the case may be, the duly authorised attorney of the Member, stating that the appointment of a proxy is revoked, or by appointing a new proxy.

### **20.6 Validity of votes of proxy**

A vote cast by a proxy will be valid unless before the start of a general meeting (or, in the case of an adjourned or postponed general meeting, not less than 48 hours before the resumption of the adjourned or postponed general meeting) at which a proxy votes:

- (a) the Member who appointed the proxy ceases to be a Member, or
- (b) the Company receives notice of:
  - (i) the revocation of the instrument appointing the proxy;
  - (ii) the appointment of a new proxy; or
  - (iii) the revocation of any power of attorney under which the proxy was appointed.

### **20.7 No liability**

The Company is not responsible for ensuring that any directions provided in the instrument appointing the proxy or the way in which a proxy is to vote on a particular resolution are complied with, and accordingly is not liable if those directions are not complied with.

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## **21 Body corporate representative**

### **21.1 Appointment of corporate representative**

- (a) If a Member is a body corporate, it may appoint a natural person as its representative to exercise on its behalf any or all of the powers it may exercise:
  - (i) at meetings of the Members;
  - (ii) at meetings of creditors or debenture holders; or
  - (iii) relating to resolutions to be passed without meetings.
- (b) The appointment of a corporate representative may be a standing one.

### **21.2 Authority to act as corporate representative**

- (a) An appointment of a corporate representative must be in writing and be signed by the body corporate appointing the representative and state:
  - (i) the Member's name and address;
  - (ii) the Company's name;
  - (iii) the representative's name or the name of the office held by the representative; and
  - (iv) the general meeting at which the representative may act, or if the appointment is a standing one, a clear statement to that effect.
- (b) The instrument appointing the corporate representative may restrict the exercise of any power.

### **21.3 Instrument to be received by Company**

- (a) The instrument appointing a corporate representative is not valid unless it is received by the Company at least 48 hours before the general meeting or, in the case of an adjourned meeting, at least 48 hours before the resumption of an adjourned general meeting.
- (b) An instrument appointing a corporate representative must be received by the Company at any of the following:
  - (i) the registered office;
  - (ii) a facsimile number at the registered office; or
  - (iii) a place, facsimile number or electronic address specified for that purpose in the notice of the general meeting.

### **21.4 Revocation and appointment of corporate representative**

The appointment of a corporate representative may be revoked by the Member who appointed the corporate representative by notice to the Company from the Member stating that the appointment of the corporate representative is revoked or by appointing a new corporate representative.

### **21.5 Validity of votes of corporate representative**

A vote cast by a corporate representative will be valid unless before the start of the general meeting (or, in the case of an adjourned or postponed general meeting, not less than 48 hours before the resumption of the adjourned or postponed general meeting) at which a corporate representative votes:

- (a) the Member who appointed the corporate representative ceases to be a Member, or
- (b) the Company has received notice of:
  - (i) the revocation of the instrument appointing the corporate representative; or
  - (ii) the appointment of a new corporate representative.

### **21.6 No liability**

The Company is not responsible for ensuring that the terms of appointment of a corporate representative are complied with, and accordingly is not liable if those terms are not complied with.

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## **22 Voting**

### **22.1 Entitlement to vote**

Each Member entitled to vote at a general meeting may vote in person or by proxy. On a show of hands, each Member has one vote, and on a poll one vote for each Share held.

### **22.2 Unpaid calls on Shares**

A Member is not entitled to vote in respect of any Share on which a call or instalment of a call is due and payable but is unpaid.

### **22.3 Proxy vote to be identified**

Before a vote is taken the chair must inform the Members present whether any proxy votes have been received and, if so, how the proxy votes are to be cast.

### **22.4 Voting on resolution**

At any general meeting, a resolution put to a vote must be determined by a show of hands unless a poll is demanded in accordance with this Constitution.

### **22.5 Jointly held Shares**

If a Share is jointly held and more than one joint holder votes in respect of that Share, of the joint holders present, only the vote of the Member whose name first appears in the Register of Members will be counted.

### **22.6 Vote of Member who is a minor**

A parent or guardian of a natural person that is a minor may vote at any general meeting in respect of Shares registered in the name of the minor if the parent or the guardian produces evidence required by the Board to demonstrate parenthood or appointment as guardian. Any vote cast by a parent or guardian in respect of any Share registered in the name of the minor that has produced such evidence will be counted, any vote cast by the minor will not be counted.



## **22.7** *Vote of Member who is of unsound mind*

- (a) A person who, in accordance with law, has management of the affairs and estate of a Member who is subject to any law relating to mental health may vote at any general meeting in respect of Shares registered in the name of the Member subject to any law relating to mental health if that person produces evidence required by the Board to demonstrate that the Member is subject to a law relating to mental health and that the person has management of the affairs and estate of the member.
- (b) Any vote cast by the person in respect of any Share registered in the name of the Member subject to any law relating to mental health will be counted, but any vote cast by the Member will not be counted.

## **22.8** *Objection to right to vote*

- (a) A challenge to a right to vote at a general meeting:
  - (i) may only be made at that general meeting; and
  - (ii) must be determined by the chair.
- (b) A determination made by the chair in relation to a challenge to a right to vote is binding on all Members and is final.

## **22.9** *Written resolutions*

Members may pass a resolution without a general meeting being held if all the Members entitled to vote on the resolution, and, in the case of joint holders of any Share, all joint holders, sign a document containing a statement that they are in favour of the resolution set out in the document. For this purpose, signatures of the Members and, in the case of joint holders of any Shares, may be contained in more than one document.

## **22.10** *Minutes*

- (a) Unless a poll is demanded in accordance with this Constitution, a declaration by the chair that a resolution has, on a show of hands, been:
  - (i) carried;
  - (ii) carried unanimously;
  - (iii) carried by a particular majority; or
  - (iv) lost or not carried by a particular majority,is conclusive evidence of the fact declared. An entry to that effect made in the minutes book of the Company signed by the chair is evidence of that fact unless the contrary is proved.
- (b) After each general meeting, the Directors must record or cause to be recorded in the minutes book of the Company:
  - (i) the proceedings and resolutions of each general meeting;
  - (ii) any declarations at each general meeting; and
  - (iii) all resolutions passed by Members without a general meeting.
- (c) The chair, or the chair of the next meeting, must sign the minutes within one month after the general meeting.

### **22.11 Disputes to be resolved by chair**

- (a) The chair will determine any dispute in relation to any vote, and the determination of the chair is binding on all Members and is final.
  - (b) If on any resolution an equal number of votes is cast for and against a resolution, the chair does not have a casting vote.
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## **23 Poll**

### **23.1 Chair may determine to take a poll**

The chair of a general meeting may determine that a poll be taken on any resolution.

### **23.2 Right to demand poll**

A poll may be demanded on any resolution at a general meeting other than a resolution for the election of a chair or the question of an adjournment by:

- (a) at least five Members entitled to vote on the resolution; or
- (b) Members with at least five percent of the votes that may be cast on the resolution on a poll.

### **23.3 Procedure for demanding poll**

- (a) A poll may be demanded:
    - (i) before a vote on a show of hands is taken;
    - (ii) before the result of a vote on a show of hands is declared; or
    - (iii) immediately after the result of a vote on a show of hands is declared.
  - (b) If a poll is demanded on the election of a chair or on the question of an adjournment, it must be taken immediately. If a poll is demanded on any other matter, it may be taken in the manner and at the time and place (or places) as the chair directs.
  - (c) Other than where a poll is demanded on the election of a chair or the question of an adjournment, a demand for a poll may be withdrawn at any time by the person or persons who demanded it. A demand for a poll which is withdrawn does not invalidate the result of a show of hands declared before the demand for the poll was made.
  - (d) Other than where a poll is demanded on the election of a chair or the question of an adjournment, a demand for a poll does not prevent the general meeting continuing for the transaction of any business.
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## **24 Appointment and removal of Directors**

### **24.1 Number of Directors**

The Company must have at least one Director. At least one Director must reside ordinarily in Australia.

### **24.2 Single director company**

If at any time the Company has only one Director, then, unless the contrary intention appears:

- (a) a reference in a rule to 'the Directors' is a reference to that Director; and
- (b) without limiting rule 24.2(a), a rule which confers a power or imposes an obligation on the Directors to do a particular thing confers that power or imposes that obligation on that Director.

### **24.3 Appointment of Directors**

- (a) The Board may by resolution at a Board meeting appoint a natural person as a Director, as an additional Director or to fill the office of a Director vacated when a Director ceases to be a Director.
- (b) An appointment of a person as a Director is not effective unless a signed consent to the appointment is provided by that person to the Company. The appointment of a person as a Director will take effect on the later of the date of appointment and the date on which the Company receives the signed consent.

### **24.4 Removal of Director**

On the removal of a Director, the Company may by resolution appoint another person as a Director instead.

### **24.5 Cessation of Directorship**

A person ceases to be a Director and the office of Director is vacated if the person:

- (a) is removed from office as a Director by a resolution of the Company at a general meeting;
- (b) resigns as a Director in accordance with this Constitution;
- (c) is subject to assessment or treatment under any mental health law and the Board resolves that the person should cease to be a Director;
- (d) dies;
- (e) is disqualified from acting as a Director under the Corporations Act; or
- (f) is absent from all Board meetings for a continuous period of three months without leave of absence from the Board and the Board resolves that the Director's office should be vacated,

provided that nothing in the above restricts or limits the rights of a Member under the Shareholders' Deed to appoint or replace a Director.

### **24.6 Resignation of Directors**

A Director may resign from the office of Director by giving written notice of resignation to the Company at its registered office.

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## **25 Powers and duties of Board**

- (a) Subject to this Constitution, the Shareholders' Deed and the Corporations Act, the activities of the Company are to be managed by, or under the direction of, the Board.
- (b) Subject to this Constitution, the Shareholders' Deed and the Corporations Act, the Board may exercise all powers of the Company that are not, by law or this Constitution, required to be exercised by the Company in general meeting.

- (c) Without limiting the generality of rule 25(b), the powers of the Board include the power of the Company to:
    - (i) borrow or otherwise raise money;
    - (ii) mortgage, charge (including in the form of a general security agreement) any of the Company's assets (both present and future); and
    - (iii) issue debentures or other securities and instruments (including any bond) for a debt, liability or obligation of the Company or another person.
  - (d) All negotiable instruments and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed in such manner as the Board may determine.
  - (e) The Board may delegate any of its powers to:
    - (i) a Director;
    - (ii) a committee of Directors;
    - (iii) an employee of the Company; or
    - (iv) any other person.
  - (f) A Director who has been appointed to the Board by a Member is not taken to be in breach of his or her fiduciary duty to act in the best interests of the Company by reason only that in the performance of his or her duties and the exercise of his or her powers, he or she has regard to the interests and acts upon the wishes of that Member.
  - (g) Subject to the Corporations Act, at any time the Company is a direct or indirect wholly-owned subsidiary of another body corporate, a Director may act in the best interests of the other body corporate or ultimate holding company.
- 

## **26 Alternate Directors**

### **26.1 Appointment and terms of appointment**

- (a) If a Director wishes to appoint a person as an alternate, that Director must give notice to the Company detailing:
  - (i) the name, experience and qualifications of the person;
  - (ii) the terms upon which the Director intends to appoint the person as an alternate, including whether the person is to exercise some or all of the powers of the Director and the proposed terms of the appointment; and
  - (iii) whether or not the alternate is to get notice of each meeting the Director is entitled to attend.
- (b) The Board may ask for further information from the alternate in relation to the alternate's qualifications and experience.
- (c) If the alternate is a Director, the appointment will take effect immediately.
- (d) If the alternate is not a Director, at the first meeting of the Board after the notice of the proposed appointment has been received by the Board, the Board must consider the proposed appointment and either accept or reject the appointment. If the Board

accepts the appointment of the alternate, the Director may appoint the person on the terms of appointment.

- (e) Where the alternate is not a Director, an appointment of a person as an alternate is not effective until a signed consent to the appointment is provided by that person to the Company. Accordingly, such an appointment will take effect on the later of the date of appointment and the date on which the Company received the signed consent.
- (f) An alternate is not an agent of the Director appointing the alternate.

## **26.2 No liability**

The Company is not responsible for ensuring that the terms of appointment of an alternate are complied with and accordingly, is not liable if those terms are not complied with.

## **26.3 Remuneration of alternate**

An alternate is not entitled to receive any fee (or other remuneration) from the Company for services performed as an alternate.

## **26.4 Notice and attendance at Board meetings**

If the notice appointing the alternate provides that the alternate is to receive notice of Board meetings, the Company must provide each alternate with notice. By notice to the Company, the Director who appointed an alternate may at any time require that the notice of Board meetings cease to be given to the alternate. An alternate may not attend any board meeting at which the Director who appointed the alternate is present, except where the alternate is appointed by more than one Director and the alternate is attending that Board meeting in respect of a Director who is not present.

## **26.5 Voting of alternate**

An alternate is entitled to a vote for each Director that the alternate represents in addition to any vote the alternate may have as a Director in the alternate's own right.

## **26.6 Termination of appointment of alternate**

- (a) A Director who appointed an alternate may terminate the appointment of the alternate at any time by notice to the alternate, the Directors and the Company.
- (b) An alternate may terminate the alternate's appointment at any time by notice to the Directors and the Company.
- (c) A termination of appointment does not take effect until the Company has received notice of termination.

## **26.7 Cessation of appointment of alternate**

An alternate ceases to be an alternate if the person who appointed that alternate ceases to be a Director.

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# **27 Remuneration and reimbursement for expenses**

## **27.1 Remuneration of Director**

The Company may pay a Director any fee (or other remuneration) it determines by resolution for services performed as a Director.

## **27.2 Reimbursement of expenses**

Directors and alternates are entitled to be reimbursed by the Company for reasonable costs and expenses incurred or to be incurred in connection with:

- (a) attendance at meetings of the Board or committees of the Board; and
- (b) the Company's business.

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## **28 Board and committee meetings**

### **28.1 Convening meetings**

A Director may at any time convene a Board meeting by notice to the other Directors.

### **28.2 Notice of meetings**

- (a) Reasonable notice of each Board meeting must be given to the Directors and each alternate entitled to receive notice (if any).
- (b) Each notice must state:
  - (i) the date, time and place (or places) of the Board meeting;
  - (ii) the general nature of the business to be conducted at the Board meeting; and
  - (iii) any proposed resolutions.

### **28.3 Omission to give notice**

No resolution passed at or proceedings at any Board meeting will be invalid because of any unintentional omission or error in giving or not giving notice of:

- (a) that Board meeting;
- (b) any change of place (or places) of that Board meeting;
- (c) postponement of that Board meeting; or
- (d) resumption of that adjourned Board meeting.

### **28.4 Use of technology**

- (a) A Board meeting may be convened or held using any technology consented to by all Directors. The consent may be a standing one. A Director may withdraw consent to the use of a particular technology within a reasonable time period before a Board meeting.
- (b) If a number of Directors equal to the quorum is able to hear or to see and to hear each other contemporaneously using any technology consented to by all Directors, there is a meeting and that meeting is quorate. The rules relating to meetings of Directors apply to each such meeting as determined by the chair of the meeting.
- (c) A Director participating at a meeting using technology consented to by all Directors is treated as being present in person at the meeting.
- (d) A meeting using technology consented to by all Directors is to be taken to be held at the place determined by the chair of the meeting.

- (e) A Director is presumed conclusively to have been present and to have formed part of a quorum at all times during a meeting using technology consented to by all Directors, unless the chair consents to that Director leaving in which case that Director will be treated as having been present until that Director leaves.

#### **28.5 Quorum at meetings**

- (a) Until otherwise determined by the Board, two Directors form a quorum.
- (b) A quorum must be present at all times during the Board meeting.
- (c) If there is only one Director, that sole Director must pass resolutions in writing by recording each resolution and signing the record of that resolution.

#### **28.6 Chair of meetings**

- (a) At the first Board meeting a chair will be elected from the Directors present in person (not by alternate). The person that has been elected as chair may chair each subsequent Board meeting. At any subsequent Board meeting, a new chair may be elected. On the election of the new chair, the new chair will chair subsequent Board meetings. The Directors may elect a Director to chair a Board meeting by a majority vote.
- (b) If the chair is not present within 30 minutes after the time appointed for a Board meeting or if the chair is unwilling or unable to act as chair for the whole or any part of that Board meeting, the Directors present may elect a Director present to chair that Board meeting.

#### **28.7 Passing resolutions at meetings**

- (a) A resolution of the Board must be passed by a majority of the votes cast by the Directors entitled to vote on the resolution.
- (b) Each Director present in person or by alternate is entitled to vote and has one vote.

#### **28.8 Casting vote**

If on any resolution an equal number of votes is cast for and against a resolution, the chair does not have a casting vote.

#### **28.9 Conduct of meetings**

The chair of each Board meeting has charge of conduct of that meeting, of the procedures to be adopted and the application of those procedures at that meeting.

#### **28.10 Written resolutions**

The Board may pass a resolution without a Board 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. For this purpose, signatures can be contained in more than one document, with each document to be identical to each other document.

#### **28.11 Minutes of meetings**

- (a) Within one month after each Board meeting, the Directors must record or cause to be recorded in the minute books the proceedings and resolutions of each Board meeting all resolutions passed without a Board meeting.
- (b) The chair, or the chair of the next Board meeting, must sign the minutes within one month after the meeting.

- (c) The minute books must be kept at the registered office.
- (d) The Directors may inspect the minute books between the hours of 9:00 am and 5:00 pm on any Business Day. No amount may be charged for inspection.

#### **28.12 Committee meetings**

The rules of this Constitution relating to meetings (including resolutions and minutes) and proceedings of the Board, with any necessary modifications as may be resolved by the Board, apply to the meeting of any committee of the Board.

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### **29 Director's interests**

#### **29.1 Declaration of interest**

- (a) Any Director who has a material personal interest in a contract or proposed contract of the Company, holds any office or owns any property such that the Director might have duties or interests which conflict or may conflict either directly or indirectly with the Director's duties or interests as a Director, must give the Board notice of the interest at a Board meeting.
- (b) A notice of a material personal interest must set out:
  - (i) the nature and extent of the interest; and
  - (ii) the relation of the interest to the affairs of the Company.
- (c) The notice must be provided to the Board at a Board meeting as soon as practicable.

#### **29.2 Voting by interested Directors**

If a Director who has a material personal interest in a matter that is being considered at a Board meeting has provided notice to the Board in accordance with this Constitution:

- (a) the Director may vote on the matter at a meeting;
- (b) any transactions that relate to the material personal interest may proceed;
- (c) the Director may retain benefits under the transaction even though the Director has a material personal interest; and
- (d) the Company cannot avoid the transaction merely because of the existence of the interest.

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### **30 Appointment of Secretary**

- (a) The Board may appoint a natural person to act as Secretary on the terms and for such a period as the Board may determine.
- (b) Any Secretary appointed may be removed at any time by the Board.
- (c) An appointment of a person as a Secretary is not effective unless a signed consent to the appointment is provided by that person to the Company. The appointment of a person as a Secretary will take effect on the later of the date of appointment and the date on which the Company receives the signed consent.



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## **31 Financial records**

### **31.1 *Members' access to financial records***

The Board or the Company may by resolution authorise a Member to inspect books of the Company.

### **31.2 *Directors' access to financial records***

Any Director may at any time access and inspect any financial record and any other record of the Company.

### **31.3 *Access to financial records after ceasing to be a Director***

The Board may determine that any person who is to cease or has ceased to be a Director may continue to have access to and inspect any financial record and any other record of the Company relating to the time during which the person was a Director.

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## **32 Distributions**

### **32.1 *Dividends***

Subject to the Corporations Act, the Shareholders' Deed, this Constitution and the rights or restrictions attached to a class of Shares, the Directors may from time to time determine that a dividend is payable. The Board may fix the amount of the dividend, the time for determining entitlements to the dividend, the time for payment of the dividend and the method of payment of the dividend.

### **32.2 *Entitlement to Dividends***

Subject to the terms on which Shares are on issue:

- (a) if any Share is fully paid during the whole period in which the dividend relates, the full amount of the dividend is payable with respect of that Share;
- (b) if any Share is partly paid during the whole period to which the dividend relates, no amount of dividend is payable in respect of that Share;
- (c) if any Share is fully paid for part of the period to which the dividend relates, the amount of the dividend payable in respect of that Share (in respect of that part of the period) is in proportion to the number of days that the Share was fully paid during that part of the period and the number of days in the period.

### **32.3 *Capitalisation of profits***

- (a) Subject to the Corporations Act, this Constitution and the terms of issue of Shares, the Board may determine to capitalise any amount available for distribution to Members by:
  - (i) paying up any amount unpaid on any Share;
  - (ii) paying up in full unissued Shares to be issued to Members as fully paid; or
  - (iii) partly paying up any amount unpaid on any Share and paying up in full unissued Shares to be issued as fully paid.
- (b) Each Member is entitled to benefit from any such capitalisation on the same basis that that Member is entitled to dividends.

- (c) To give effect to any direction, the Board may do all things that it considers appropriate including:
  - (i) disregarding any fractional Share entitlement to any Share;
  - (ii) make a cash payment in respect of any fractional entitlement;
  - (iii) fixing the value for distribution of any specific asset or any part of any such asset; or
  - (iv) making a cash payment to any Member to adjust the value of distributions made to Members.

#### **32.4 Distributions to Members**

The Directors may, when determining a distribution to Members, direct payment of the distribution wholly or partly by the distribution of specific assets including paid up shares, other securities or financial products in another body corporate or trust.

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### **33 Notices**

#### **33.1 General**

Any notice, statement or other communication under this Constitution must be in writing, except that any notice convening a Board meeting does not need to be in writing.

#### **33.2 How to give a communication**

In addition to any other way allowed by the Corporations Act, a notice or other communication may be given by being:

- (a) personally delivered;
- (b) left at the person's current address as recorded in the Register of Members;
- (c) sent to the person's address as recorded in the Register of Members by pre-paid ordinary mail or, if the address is outside Australia, by pre-paid airmail;
- (d) sent by fax to the person's current fax number for notices; or
- (e) sent by email to the person's current email address for notices.

#### **33.3 Communications by post**

A communication is given if posted:

- (a) within Australia to an Australian address, three Business Days after posting; or
- (b) outside Australia to an address outside Australia, ten Business Days after posting.

#### **33.4 Communications by fax**

A communication is given if sent by fax, when the sender's fax machine produces a report that the fax was sent in full to the addressee. That report is conclusive evidence that the addressee received the fax in full at the time indicated on that report.

#### **33.5 Communications by email**

A communication is given if sent by email, when the information system from which the email was sent produces a confirmation of delivery report which indicates that the email has entered

the information system of the recipient, unless the sender receives a delivery failure notification, indicating that the email has not been delivered to the information system of the recipient.

### **33.6 *After hours communications***

If a communication is given:

- (a) after 5:00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9:00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

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## **34 Indemnity and insurance**

### **34.1 *Indemnity***

- (a) To the extent permitted by the Corporations Act and subject to the Corporations Act, the Company may indemnify each officer, Director and Secretary or any person who has been an officer, Director or Secretary of the Company out of the assets of the Company against any liability, loss, damage, cost or expense incurred or to be incurred by the officer, Director or Secretary in or arising out of the conduct of any activity of the Company or in or arising out of the proper performance of the officer's, Director's or Secretary's duties including any liability, loss, damage, cost, charge and expense incurred by that officer, Director or Secretary in defending any proceedings, whether civil or criminal, which relate to anything done or omitted to be done or alleged to have been done or omitted to be done by the officer, Director or Secretary, in which judgment is given in the officer's, Director's or Secretary's favour or in which the officer, Director or Secretary is acquitted or in connection with any application in relation to any such proceedings in which relief is granted by the court to the officer, Director or Secretary.
- (b) This indemnity is not intended to indemnify any officer, Director or Secretary in respect of any liability in respect of which the Company must not give an indemnity, and should be construed and, if necessary, read down accordingly.

### **34.2 *Documenting indemnity***

The Company may enter into an agreement containing an indemnity in favour of any officer, Director or Secretary. The Board will determine the terms of the indemnity contained in the agreement.

### **34.3 *Insurance***

- (a) To the extent permitted by the Corporations Act and subject to the Corporations Act, the Company may pay any premium in respect of a contract of insurance for an officer, Director or Secretary or any person who has been an officer, Director or Secretary of the Company in respect of the liability suffered or incurred in or arising out of the conduct of any activity of the Company and the proper performance by the officer, Director or Secretary of any duty.
- (b) If the Board determines, the Company may execute a document containing rules under which the Company agrees to pay any premium in relation to such a contract of insurance.

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**35 Winding up**

If the Company is wound up any property that remains after satisfaction of all debts and liabilities of the Company, the payment of the costs, charges and expenses of winding up and any adjustment of the rights of the contributories among Members must be distributed among the Members in accordance with their respective rights.

## Schedule 1 – Terms of the SXVP Shares

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### 1 Interpretation and definitions

#### 1.1 Constitution definitions

Unless the context otherwise indicated, capitalised terms used in these Terms and not otherwise defined have the meaning given to those terms in the Constitution.

#### 1.2 Other Definitions

In this Schedule 1, unless a contrary intention appears:

**SXVP Share** means a fully paid share in the capital of the Company issued on and subject to these Terms.

**SXVP Shareholder** means a holder of a SXVP Share.

**Terms** means these terms of issue.

#### 1.3 Corporations Act

Despite any other rule of these Terms, the Company is not required to comply with these Terms to the extent that to do so would contravene the Corporations Act.

#### 1.4 Interpretation

- (a) Unless otherwise specified in these Terms, a reference to a rule or paragraph is a reference to a rule or paragraph of these Terms.
- (b) Headings and boldings are for convenience only and do not affect the interpretation of these Terms.
- (c) The singular includes the plural and vice versa.
- (d) A reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
- (e) Unless otherwise specified in these Terms, if an event under these Terms must occur on a stipulated day which is not a Business Day, then the stipulated day will be taken to be the next Business Day.
- (f) Calculations, elections and determinations made by the Company or the Company's directors under these Terms are binding on Members in the absence of manifest error.
- (g) The words "includes" or "including", "for example" or "such as" do not exclude a reference to other items, whether of the same class or genus or not.

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### 2 SXVP Share

#### 2.1 General

- (a) These Terms set out the terms and restrictions of the SXVP Shares which may be issued by the Company.
- (b) The SXVP Share is a separate class of share in the Company.

- (c) The Company may issue SXVP Shares at any time and from time to time in accordance with the Constitution, and no such further issue will be taken to vary or affect the rights of existing SXVP Shareholders.
- (d) The Constitution as amended from time to time, applies to each SXVP Shareholders, except to the extent that the terms of the Shareholders' Deed and these Terms conflict with the terms of the Constitution.
- (e) If these Terms conflict with the terms of the Constitution or the Shareholders' Deed, then these Terms will prevail.

## **2.2 Voting**

Except as required by law, SXVP Shares do not confer on a SXVP Shareholders any voting rights in respect of the Company.

## **2.3 Dividends and Distributions**

The SXVP Shares do not entitle any SXVP Shareholders to participate in any profits or capital of the Company, whether by way of dividend, repayment of capital, distribution of surplus assets or profits or otherwise, both before and after the winding up of the Company.

## **2.4 Set-off**

- (a) A SXVP Shareholder has no right to set off any amounts owing by it to the Company against any claims owing to it by the Company in respect of the SXVP Shares.
- (b) The Company has the right to set off any amounts owing to it by a SXVP Shareholders against any claims owing by SXVP Shareholder to in in respect of the SXVP Shares or otherwise.

## **2.5 No pre-emptive rights**

A SXVP Share does not confer or carry any right on a SXVP Shareholder to participate in any rights issue or offer of securities by the Company.

## **2.6 Information Rights**

A SXVP Share does not confer or carry any right on a SXVP Shareholder to receive information about the Company (other than information specifically provided for in these terms)

## **2.7 Transferability**

A SXVP Share is not transferable except in accordance with the Shareholders' Deed or with the prior approval of the Board.

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## **3 Amendment**

- (a) The Company may, without the authority, assent or approval of holders of Shares, amend or add to these Terms where the amendment or addition, in the reasonable opinion of the Board:
  - (i) is of a formal, minor or technical nature;
  - (ii) is made to cure any ambiguity or correct any manifest error;
  - (iii) is necessary to comply with the provisions of any statute or the requirements of any statutory authority; or

- (iv) in any other case, will not materially adversely affect the rights of the SXVP Shareholders.
- (a) If an amendment will materially adversely affect the rights of a class of SXVP Shares, the amendment may only be made if it has been approved by a special resolution of that class at a meeting held in accordance with the requirements of the Constitution and the Corporations Act.