

ADMEDUS LTD

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COMPANY CONSTITUTION

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CONSTITUTION OF VIRTUAL CONTROL SYSTEMS LIMITED

1. INTERPRETATION

1.1 Replaceable Rules

The Replaceable Rules contained in the Corporations Act do not apply to this Company.

1.2 Definitions

In this Constitution:

"**ASX**" means Australian Stock Exchange Limited;

"**Bonus Share Plan**" means a plan implemented under clause 26;

"**Broker**" has the same meaning as that term has in the SCH Business Rules;

"**Business Day**" means a day other than a Saturday, a Sunday, New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day and any other day which ASX shall declare and publish to be a day which is not a business day;

"**Chairman**" and "**Vice-Chairman**" means the persons elected by the Directors to the office of Chairman and Vice-Chairman from time to time in accordance with clause 17.8 or as otherwise elected in accordance with clause 14.4;

"**CHESS**" has the same meaning as that term has in the SCH Business Rules;

"**CHESS approved Securities**" means Securities for which CHESS approval has been given in accordance with the SCH Business Rules;

"**Company**" means this company as it is from time to time named in accordance with the Corporations Act;

"**Constitution**" means this constitution as altered or amended from time to time;

"**Corporations Act**" means Corporations Act 2001 (Commonwealth);

"**Directors**" means the directors of the Company from time to time or such number of them as have authority to act for the Company (including any alternate director duly acting as such), and "**Director**" has a corresponding meaning;

"**Dispose of a Share**" includes sell, transfer, create a trust or alienate the right to exercise the veto attached to a share;

"**Dividend Reinvestment Plan**" means a plan implemented under clause 27;

"Executive Director" means a Director appointed in accordance with clause 19.1 to an office of, or otherwise employed by, the Company;

"Holding Lock" has the same meaning as that term has in the SCH Business Rules;

"Listing Rules" means the Listing Rules of ASX and any other rules of ASX which are applicable while the Company is admitted to the Official List of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX;

"Listed Securities" means any Shares, Share Options, stock, debentures, debenture stock or other securities for the time being issued by the Company and officially quoted by ASX;

"Managing Director" means the Director appointed as the managing director of the Company in accordance with clause 19.1.

"Market Transfer" means:

- (a) a transfer of Shares where the transfer is pursuant to or connected with a transaction entered into on a stock market operated by ASX and for the avoidance of doubt includes a proper SCH transfer; or
- (b) an allotment of Shares as a result of the exercise of any rights, options or notes that are traded on a stock market operated by ASX;

"Notice of Sale" means a notice of sale of Shares given under clause 8.3;

"Offeree" means a Shareholder who exercises the option granted by a Notice of Sale;

"Officer" means any Director or Secretary of the Company;

"Official List" means the official list of ASX;

"Prescribed Rate" means the interest rate which is 2% above the Reserve Bank of Australia Indicator Rate as published or quoted from time to time, or such other rate as may from time to time be fixed by the Directors, calculated daily;

"Proportionate Share" in relation to a Shareholder means the proportion that the number of Shares from time to time held or beneficially owned by that Shareholder bears to the total number of Shares on issue from time to time;

"proper SCH transfer" has the same meaning as that term has in the Corporations Act;

"Record Date" has the same meaning as that term has in the SCH Business Rules;

"Registered Office" means the registered office of the Company;

"Register of Shareholders" means the register of Shareholders kept by the Company in accordance with Section 169 of the Corporations Act;

"Related Body Corporate" means a body corporate which by virtue of the provisions of Section 50 of the Corporations Act is deemed to be related to the Company and 'related' has a corresponding meaning;

"Representative" means a person authorised to act as a representative of a body corporate under clause 14;

"Replaceable Rules" has the same meaning as that term has in the Corporations Act;

"Restricted Securities" has the same meaning as that term has in the Listing Rules;

"Sale Shares" means the Shares a Seller wants to sell as specified in the Notice of Sale;

"SCH" has the same meaning as that term has in the SCH Business Rules;

"SCH Business Rules" has the same meaning as that term has in the Corporations Act;

"Seal" means the common seal of the Company and includes any official seal and, where the context so admits, the Share Seal of the Company;

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

"Security Interest" means a right, interest, power or arrangement in relation to an asset which provides security for the payment or satisfaction of a debt, obligation or liability including without limitation under a bill of sale, mortgage, charge, lien, pledge, trust, power, deposit, hypothecation or arrangement for retention of title, and includes an agreement to grant or create any of those things;

"Seller" means a Shareholder who serves a Notice of Sale;

"Share" means a share in the capital of the Company;

"Shareholder" means a person or body corporate registered in the Register of Shareholders as the holder of one or more Shares and includes any person or body corporate who is a member of the Company in accordance with or for the purposes of the Corporations Act;

"Share Option" means an option to require the Company to allot and issue a Share; and

"Share Seal" means the duplicate common seal referred to in clause 21.3.

1.3 **Interpretation**

In this Constitution:

- (a) word importing any gender include all other genders;
- (b) the word person includes a firm, a body corporate, an unincorporated association or an authority;
- (c) the singular includes the plural and vice versa; and
- (d) a reference to a statute or code or the Corporations Act (or to a provision of same) means the statute, code or the Corporations Act (or provisions of same) as modified or amended and in operation for the time being, or any statute, code or provision enacted (whether by the State or Commonwealth of Australia) in its place and includes any regulation or rule for the time being in force under the statute, code or the Corporations Act.

1.4 **Corporations Act Definitions**

Any word or expression defined in or for the purposes of the Corporations Act shall, unless otherwise defined in clause 1.2 or the context otherwise requires, have the same meaning when used in this Constitution, and the rules of interpretation specified in or otherwise applicable to the Corporations Act shall, unless the context otherwise requires, apply in the interpretation of this Constitution.

1.5 **Headings**

Headings are inserted in this Constitution for convenience only, and shall not affect the interpretation of this Constitution.

1.6 **Listing Rules**

In this Constitution a reference to the Listing Rules is to have effect if, and only if, at the relevant time, the Company has been admitted to and remains on the Official List and is otherwise to be disregarded.

2. SHARE CAPITAL AND VARIATION OF RIGHTS

2.1 Issue of Shares

Without prejudice to any special rights previously conferred on the holders of any existing Shares or class of Shares, Shares for the time being unissued shall be under the control of the Directors, and subject to the Corporations Act, the Listing Rules and this Constitution, the Directors may at any time and from time to time issue such number of Shares either as ordinary Shares or Shares of a named class or classes (being either an existing class or a new class) and with such preferred, deferred, or other special rights or such restrictions, whether with regard to dividend, return of capital, or otherwise, and whether as

preference Shares that are or at the option of the Company are liable to be redeemed, as the Directors shall, in their absolute discretion determine.

2.2 **Share Options**

Subject to the Listing Rules, the Directors may at any time and from time to time issue Share Options on such terms and conditions as the Directors shall, in their absolute discretion, determine.

2.3 **Classes of Shares**

Subject to the Listing Rules, if at any time the share capital of the Company is divided into different classes of Shares, the rights attached to any class (unless otherwise provided by the terms of issue of the Shares of that class) may be varied, whether or not the Company is being wound up, with the consent in writing of the holders of three quarters of the issued Shares of that class, or if authorised by a special resolution passed at a separate meeting of the holders of the Shares of that class. Any variation of rights under this clause 2.3 shall be subject to Sections 246B to 246E of the Corporations Act. The provisions of this Constitution relating to general meetings shall apply so far as they are capable of application and with necessary alterations to every such separate meeting except that a quorum is constituted by two persons who together hold or represent by proxy one-third of the issued Shares of the class.

2.4 **Preference Shares**

Subject to this clause 2.4 and the provisions of Section 254A of the Corporations Act and the Listing Rules, the Company may issue preference Shares that are liable to be redeemed whether at the option of the Company or otherwise, and the following provisions shall apply in respect of such preference Shares:

- (a) the Directors may, subject to the provisions of Section 254A of the Corporations Act, exercise the power in any manner they think fit;
- (b) any preference Shares so issued shall confer upon the holders of those Shares, inter alia, the same rights as the holders of ordinary Shares to receive notices, reports and audited profit and loss accounts and audited balance sheets, and to attend General Meetings and to vote in the circumstances outlined in the Listing Rules;
- (c) the total nominal value of issued preference Shares shall not exceed the total nominal value of the issued ordinary Shares at any time;
- (d) the Company acknowledges that any issue of securities ranking in priority, or any conversion of existing securities to securities ranking equally or in priority, to an existing class of preference shares is a variation or abrogation of the rights attached to that existing class of preference shares; and
- (e) other conditions, restrictions or rights attaching or relating to any preference Shares issued with respect to redemption, repayment of

capital, participation in surplus assets and profits, cumulative or non-cumulative dividend, voting and priority of payment of capital and dividend in relation to other Shares or classes of preference Shares shall be set forth in the Constitution by amendment of the Constitution prior to the issue of any such Shares.

2.5 Recognition of Trusts

Except as permitted or required by the Corporations Act, the Company shall not recognise a person as holding a Share or Share Option upon any trust.

2.6 Unregistered Interests

The Company is not bound by or compelled in any way to recognise any equitable, contingent, future or partial right or interest in any Share or Share Option (whether or not it has notice of the interest or right concerned) unless otherwise provided by this Constitution or by law, except an absolute right of ownership in the registered holder of the Share or Share Option.

2.7 Uncertificated Holdings and Electronic Transfer

Despite any other provision of this Constitution:

- (a) the Company need not issue a certificate, and may cancel any certificate without issuing in substitution, in respect of any marketable security of the Company in any circumstances where the non-issue of that certificate is permitted by the Corporations Act; and
- (b) where paragraph (a) applies, any reference to a certificate in this Constitution is to be disregarded in relation to that marketable security.

2.8 Share Holding Statements

Subject to the Listing Rules, a Shareholder shall have the right to receive such statements of the holdings of the Shareholder as are required to be distributed to a Shareholder under the Corporations Act, the SCH Business Rules or the Listing Rules.

2.9 Broker Cancellation of Certificate

Where, in accordance with the SCH Business Rules, a Broker cancels an existing Share certificate the Company shall recognise and accept that cancellation.

2.10 Share Certificates

To the extent that certificates are required for marketable securities of the Company:

- (a) the Company must issue certificates of title to marketable securities of the Company in accordance with the Corporations Act and, if the Company is listed, the Listing Rules;

- (b) a Shareholder is entitled, without charge, to one certificate for the marketable securities of the Company of each class registered in this Shareholders' sole name or to several certificates each for a reasonable part of those marketable securities;
- (c) if any marketable securities of the Company are held by two or more persons, the Company is only required to issue the same number of certificates as if those marketable securities were held by one person and delivery of a issue to any of those persons is sufficient delivery to all of them; and
- (d) if a certificate is lost, destroyed, worn out or defaced, then upon production of the document (if available) to the Directors, they may order it to be cancelled and may issue a new certificate in substitution subject to the conditions prescribed by the Corporations Act and the Listing Rules.

2.11 Joint Holders of Shares

Where two or more persons are registered as the joint holders of Shares they are deemed to hold the Shares as joint tenants.

2.12 Commissions

Subject to the Listing Rules the Company may exercise the powers of paying commission or brokerage conferred by Section 258C of the Corporations Act.

2.13 Restricted Securities

The Company shall comply in all respects with the requirements of the Listing Rules with respect to Restricted Securities. Restricted Securities cannot be disposed of during the escrow period except as permitted by the Listing Rules or ASX. The Company will refuse to acknowledge a disposal (including registering a transfer) of Restricted Securities during the escrow period except as permitted by the Listing Rules or ASX.

2.14 Option Holdings

The foregoing provisions of clause 2 shall with necessary alterations apply to Share Options or any other class of security issued by the Company.

3. SMALL SHAREHOLDERS

3.1 Marketable Parcels

In this clause "Marketable Parcel" shall have the same meaning as is given to that expression in the Listing Rules or otherwise determined by ASX.

3.2 Sale of Shares of Small Shareholder

Subject to this clause, the Company at any time may give written notice ("Company Notice") to a Shareholder whose holding of Shares is less than a

Marketable Parcel ("**Small Shareholder**") of its intention to exercise its powers under this clause. Unless within the period specified in the Company Notice, being not less than 6 weeks after dispatch of the Company Notice, the Small Shareholder concerned gives notice ("**Small Shareholder Notice**") to the Company that the Small Shareholder wishes to retain such Shares or there is registered or lodged for registration a transfer of Shares which, together with Shares already registered in the Small Shareholder's name, will result in the holding by the Small Shareholder of at least a Marketable Parcel, the Company at its cost may arrange for the sale of the Small Shareholder's Shares through the stock exchange of the country in which such Shares are registered by the Company. For the purposes of this clause the Small Shareholder concerned is deemed to have appointed any Director or the Secretary as the holder's attorney to execute all documents relating to the sale and transfer of such Shares.

3.3 **Proceeds of Sale**

The proceeds of sale shall be held by the Company in trust for the Small Shareholder concerned and paid on surrender of the certificate (if any) for the Shares so sold or on an indemnity being given to the Company in the case of a certificate (if any) which has been lost or destroyed.

3.4 **Manner of Giving Notice**

Any notice under this clause shall be in writing and in the case of a Company Notice given in the manner specified in clause 28 and in the case of a Shareholder Notice given in the manner specified in the Company Notice.

3.5 **Exercise of Powers on Behalf of Company**

- (a) Any Director or the Secretary may act on the Company's behalf in exercising the powers of the Company under this clause.
- (b) The provisions of this clause have effect subject to the Listing Rules and notwithstanding any other provision of this Constitution.
- (c) In any 12 month period the Company may give only one Company Notice to a Small Shareholder.
- (d) The powers of the Company under this clause shall cease to have effect following the announcement of a takeover offer or takeover announcement but, notwithstanding the provision that in any 12 month period the Company may give only one Company Notice to a Small Shareholder, may be started again after the close of the offers made under the takeover offer or takeover announcement.

4. **LIEN**

4.1 **Generally**

The Company shall have a first and paramount lien:

- (a) on every Share (not being a fully paid Share) for all due and unpaid calls and instalments due and unpaid in respect of that Share;
- (b) on all the Shares of a Shareholder or deceased Shareholder for all amounts the Company may be called upon by law to pay (and has paid) in respect of the Shares of the Shareholder or deceased Shareholder; and
- (c) on all the Shares of a Shareholder who obtains Shares pursuant to an employee incentive scheme loan and to the extent such a loan remains.

4.2 **Lien on Share**

Whenever any law for the time being of any country, state or place imposes or purports to impose any immediate or future or possible liability on the Company to make any payment or empowers any government or taxing authority or government official to require the Company to make any payment in respect of any Share registered in the name of any Shareholder (whether solely or jointly with others) or in respect of any dividends or other moneys paid or due or payable or which may become due or payable to that Shareholder by the Company on or in respect of any of those shares the Company in that case:

- (a) is fully indemnified by that Shareholder or that Shareholder's executor or administrator from all that liability;
- (b) has a lien on the Shares registered in the name of that Shareholder for all money paid by the Company in respect of those Shares under or in consequence of any such law together with interest at the Prescribed Rate from the date of payment to the date of repayment;
- (c) has a lien on all dividends, payable in respect of the Shares registered in the name of that Shareholder for all moneys paid by the Company in respect of those Shares or in respect of such dividends under or in consequence of any such law together with interest at the Prescribed Rate from the date of payment to the date of repayment and may deduct or set off against any of those dividends or other moneys any of those moneys paid by the Company together with interest;
- (d) may recover as a debt due from such Shareholder or that Shareholder's executor or administrator wherever constituted or situated any moneys paid by the Company under any such law; and
- (e) may if any such money is paid by the company under any such law refuse to register a transfer of any Shares other than by a Market Transfer by any such Shareholder or that Shareholder's executor or administrator until such money and interest have been set off or deducted as aforesaid or have been otherwise paid to the Company.

Nothing in this Constitution prejudices or affects any right or remedy which any such law may confer on the Company and as between the Company and every such Shareholder, that Shareholder's executors, administrator and estate

wherever constituted or situated any right or remedy which such law confers on the Company is enforceable by the Company.

4.3 Protection of Rights

The Company may do all such things as may be necessary or appropriate for it to do under the SCH Business Rules to protect any lien, charge or other right to which it may be entitled under any law or this Constitution, including where appropriate requesting the SCH to apply a Holding Lock.

4.4 Extinguishment of Lien

The Company's lien on a Share is extinguished if a transfer of the Share is registered without the Company giving notice of the claim to the transferee.

4.5 Exemptions

The Directors may at any time exempt a Share wholly or in part from the provisions of this clause 4.

4.6 Dividends

Whenever the Company has a lien on a Share, the lien extends to all dividends, rights and other distributions from time to time payable in respect of the Share.

4.7 Sale of Shares

Subject to clause 4.8 and the Listing Rules, the Company may sell, in such manner as the Directors think fit, any Shares on which the Company has a lien.

4.8 Restrictions on Sale

A Share on which the Company has a lien shall not be sold unless:

- (a) the sum in respect of which the lien exists is presently payable; and
- (b) the Company has, not less than 14 days before the date of the sale, given to the registered holder for the time being of the Share or the person entitled to the Share by reason of the 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.

4.9 Person Authorised to Sign Transfers

For the purpose of giving effect to a sale of a Share under clause 4.7, the Directors may receive the consideration (if any) given for the Share so sold and may (if required) execute a transfer of the Share sold to the purchaser of the Shares or where the transfer of the Share is to be effected as a Market Transfer, the Company may do all such things as may be necessary or appropriate for it to do or effect the transfer. The Company shall register the purchaser as the holder of the Shares comprised in any such transfer and he is not bound to see

to the application of the purchase money. The title of the purchaser to the Shares is not affected by any irregularity or invalidity in connection with the sale.

4.10 Proceeds of Sale

The proceeds of a sale under clause 4.7 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.

5. CALLS ON SHARES

5.1 Calls

The Directors may, subject to the requirements of the Corporations Act and the Listing Rules, make calls upon a Shareholder in respect of any money unpaid on the Shares of that Shareholder and not by the terms of issue of those Shares made payable at fixed times.

5.2 Revocation Or Postponement of Call

The Directors may revoke or postpone a call.

5.3 Making A Call

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.

5.4 Payments in Advance of Calls

The Directors may accept from a Shareholder the whole or any part of the amount unpaid on a Share although no part of that amount has been called up, and in that event the Directors shall nominate whether the amount so paid is to be treated as capital or a loan to the Company by the Shareholder. If the amount so paid is nominated to be capital, it shall be deemed as from the date of such nomination to have been applied in paying up (so far as it will extend) the unpaid balance of the total issue price of the Share, but the dividend entitlement attaching to such Share shall remain as it was prior to the payment so made until there is a call in respect of the Share under this clause 5 of an amount equal to or greater than the amount so paid. If the amount so paid is nominated to be a loan to the Company, it shall carry interest at such rate, not exceeding the Prescribed Rate, as is agreed between the Directors and the Shareholder, shall not be repayable unless the Directors so determine, shall not confer on the Shareholder any rights attributable to subscribed capital, and shall, unless so repaid, be applied in payment of calls on the Share as and when the same become due.

5.5 Transfer of Shares Call Unpaid

Subject to the Listing Rules, the Company shall accept transfers of Shares call unpaid.

5.6 Notice of Call and Shareholders

Each Shareholder must, on receiving at least 15 Business Days notice (or such longer period as the Listing Rules shall require) specifying:

- (a) the name of the Shareholder;
- (b) the number of shares held by the Shareholder;
- (c) the amount of the call;
- (d) the due date for payment of the call;
- (e) the consequences of non-payment of the call;
- (f) the taxation deductions applicable (if any) and how they may be applied for;
- (g) market details regarding the shares and any other shares in the Company as required by the Listing Rules; and
- (h) such other information as required by the Listing Rules,

pay to the Company at the time or times and place so specified the amount called on the Shares.

5.7 Joint Holders

The joint holders of a Share are jointly and severally liable to pay all calls in respect of the share.

5.8 Non Receipt of Notice of Call

The non-receipt of a notice of any call by, or the accidental omission to give notice of a call to, a Shareholder does not invalidate the call.

5.9 Interest on default

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 must pay interest on the sum from and including the day for payment to the time of actual payment at the Prescribed Rate, but the Directors may waive payment of that interest wholly or in part.

5.10 Instalments deemed calls

Subject to the Listing Rules any sum that, by the terms of issue of a Share, becomes payable on allotment or at a fixed date is deemed for the purposes of

this Constitution to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable, and, in case of non-payment, all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise apply as if the sum had become payable by virtue of a call duly made and notified.

5.11 Differentiation between Shareholders as to calls

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.

6. FORFEITURE OF SHARES

6.1 Notice requiring payment of call

- (a) If a Shareholder fails to pay a call or instalment of a call on the day appointed for payment of the call or instalment, the Directors may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on the Shareholder requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all costs and expenses that have been incurred by the Company by reason of such non-payment.
- (b) The notice must name a further day being the date 10 Business Days after the day for payment of the call or instalment on or before which the payment required by the notice is to be made and must 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.

6.2 Forfeiture for failure to comply with notice

If the requirements of a notice served under clause 6.1 are not complied with, any Share of which a call is unpaid at the expiration of 10 Business Days after the day for its payment is thereupon forfeited without any resolution of the Directors to that effect. Such a forfeiture includes all dividends declared in respect of the forfeited Shares and not actually paid before the forfeiture.

Any Share forfeited under this clause may be sold, re-allotted or otherwise disposed of to whom and on such terms and conditions, subject to the Corporations Act and Listing Rules, as the Directors think fit.

6.3 Notice of Forfeiture

If any Share is forfeited under this 6, notice of the forfeiture must be given to the Shareholder holding the Share immediately prior to the forfeiture and an entry of forfeiture with the date thereof must be made in the Register.

6.4 Surrender of Share

The Directors may accept the surrender of any Share which they are entitled to forfeit on such terms as they think fit and any Share so surrendered is deemed to be a forfeited Share.

6.5 Cancellation of forfeiture

At any time before a sale or disposition of a Share, the forfeiture of that Share may be cancelled on such terms as the Directors think fit.

6.6 Effect of forfeiture on former holder's liability

A person whose Shares have been forfeited ceases to be a Shareholder in respect of the forfeited Shares, but remains liable to pay the Company all money that, at the date of forfeiture, was payable by that person to the Company in respect of the shares (including interest at the Prescribed Rate, from the date of forfeiture on the money for the time being unpaid if the Directors think fit to enforce payment of the interest and also expenses owing), but that person's liability ceases if and when the Company receives payment in full of all money (including interest and expenses) so payable in respect of the Shares.

6.7 Evidence of forfeiture

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 in accordance with this Constitution 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.

6.8 Transfer of forfeited share

The Company may receive the consideration (if any) given for a forfeited Share on any sale or disposition of the Share and may effect a transfer of the Share in favour of the person to whom the Share is sold or disposed of. Upon the execution of the transfer, the transferee must be registered as the holder of the Share and is not bound to see to the application of any money paid as consideration. 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.

6.9 Forfeiture applies to non-payment of instalment

The provisions of this Constitution 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, whether on account of the nominal value of the Share or by way of premium, as if that sum had been payable by virtue of a call duly made and notified. Where the transfer of forfeited Shares is to be effected by a SCH regulated transfer, the Company may do all such things as may be necessary or appropriate for it to do under the SCH Business Rules.

6.10 Listing Rules

The Company shall comply with the Listing Rules with respect to forfeited Shares.

7. TRANSFER OF SHARES

7.1 Forms of Instrument of Transfer

Subject to this Constitution, a Shareholder may transfer all or any of the Shareholder's Shares by:

- (a) Market Transfer in accordance with any computerised or electronic system established or recognised by the Listing Rules or the Corporations Act for the purpose of facilitating dealings in shares, including a transfer that may be effected pursuant to the SCH Business Rules or other electronic transfer process; and
- (b) an instrument which is:
 - (i) in writing in any usual or common form or in any other form that the Directors approve;
 - (ii) a sufficient instrument or transfer of marketable securities under Section 1091 of the Corporations Act;
 - (iii) in a form approved by ASX; or
 - (iv) in any other usual or common form.

7.2 Registration Procedure

Where an instrument of transfer referred to in clause 7.1(b) is to be used by a Shareholder to transfer Shares the following provisions apply:

- (a) it must be executed by or on behalf of both the transferor and the transferee unless it is a sufficient transfer of marketable securities within the meaning of the Corporations Act;
- (b) the instrument of transfer must be left for registration at the share registry of the Company, accompanied by the certificate for the Shares to which it relates (if any) and such information as the Directors properly require to show the right of the transferor to make the transfer, and in that event, the Company must, subject to the powers vested in the Directors by this Constitution, register the transferee as a Shareholder;
- (c) the Company must register all registrable transfer forms, split certificates, renunciations and transfers, issue certificates and transmission receipts and market or note transfer forms without charge except in the case where the Company issues certificates for Shares to replace a lost or destroyed certificate; and

- (d) on registration of a transfer of Shares, the Company must cancel the old certificate (if any).

7.3 Transferor Holds Shares Until Registration of Transfer

- (a) Except in the case of a proper SCH Transfer, a transferor of Shares remains the holder of the Shares transferred until the transfer (if any) is registered and the name of the transferee is entered in the Register of Shareholders in respect of the Shares. The right to any dividends declared on any Shares subject to a transfer will be determined by reference to the Record Date for the purpose of that dividend and the date of registration of the transfer.
- (b) In the case of a Market Transfer or any other transfer the Company must comply with such obligations as may be imposed on it by the Listing Rules and SCH Business Rules in connection with any transfer of Shares.

7.4 Directors' Powers to Decline to Register

- (a) The Directors may decline to register any transfer of Shares (other than a Market Transfer) where:
 - (i) the Listing Rules or SCH Business Rules permit the Company to do so;
 - (ii) the Listing Rules or SCH Business Rules require the Company to do so; or
 - (iii) the transfer is in breach of the Listing Rules or any escrow agreement relating to Restricted Securities entered into by the Company under the Listing Rules.
- (b) If in the exercise of their rights under clause 7.4(a) the Directors refuse to register a transfer of a Share, they must give written notice in accordance with the Listing Rules of the refusal to the transferee and the Broker lodging the transfer (if any). Failure to give such notice will not invalidate the decision of the Directors.
- (c) Notwithstanding any other provisions contained in this Constitution, the Company must not:
 - (i) prevent, delay or interfere with the generation of a proper SCH transfer or the registration of a paper based transfer in registrable form; or
 - (ii) divest or disenfranchise the rights of a Shareholder,

in a manner which is contrary to the provisions of any of the Listing Rules or the SCH Business Rules.

7.5 **Company to Retain Instrument of Transfer**

- (a) The Company must retain every instrument of transfer which is registered for such period as the Directors determine.
- (b) Where the Directors refuse registration of a transfer under this Constitution, the transfer must be returned to the person who deposited it if demand is made within 12 months of the giving of notice of refusal to register unless there has been an allegation of fraud concerning the transfer or the transaction to which it relates.

7.6 **Other Securities**

The provisions of this clause shall apply, with necessary alterations, to any other Listed Securities for the time being issued by the Company.

8. **DISPOSAL OF SHARES**

8.1 **No Disposal of Shares**

- (a) Subject to clause 8.1(b), a Shareholder may only Dispose of a Share in the manner allowed by clauses 8 and 9.
- (b) A Shareholder may Dispose of a Share without complying with this clause 8 only where the Shareholder is Disposing of all or part of its Shares to a Related Body Corporate of that Shareholder.
- (c) The Company must note on each share certificate that the Shares may only be transferred in accordance with this Constitution.

8.2 **Third party offer**

A Shareholder may only Dispose of a Share if that Shareholder has first received a written offer from a non-related person to acquire that Share.

8.3 **Notice of Sale**

- (a) A Shareholder who wants to Dispose of Shares must serve an identical notice on each Shareholder ("**Notice of Sale**") specifying:
 - (i) **number**: the number of Sale Shares held by the Seller;
 - (ii) **price**: the sale price per Share in Australian dollars;
 - (iii) **name**: the name of the proposed buyer of the Sale Shares;
 - (iv) **terms**: any other terms of the proposed Disposal; and
 - (v) **option**: a statement that each Shareholder has an option to buy the number of Sale Shares allocated under clause 8.5 on the terms set out in the Notice of Sale if the Shareholder complies with this clause.

- (b) A Shareholder must attach a copy of the third party offer to a Notice of Sale served under clause 8.3(a).

8.4 **Exercise of Existing Shareholder's option to buy Sale Shares**

- (a) Each Shareholder may exercise its option to buy the Sale Shares by giving notice to the Company and the Seller of the number of Sale Shares it wants to buy within 21 days of the date of service of the Notice of Sale (the date of exercise being the "**Exercise Date**").
- (b) If a Shareholder exercises the option under clause 7.4(a):
 - (i) the Seller must sell to that Shareholder the number of Sale Shares allocated to that Shareholder under clause 8.5; and
 - (ii) the Shareholder must buy them on the terms set out in the Notice of Sale.

8.5 **Allocation of Sale Shares**

- (a) **enough Sale Shares:** The Seller must sell to each Offeree the number of Sale Shares that Offeree has offered to buy if the Seller receives offers for equal to or less than the number of Sale Shares.
- (b) **not enough Sale Shares:** The Sale Shares must be allocated to the Offerees in the proportion that their Proportionate Shares bear to each other if there are not enough Sale Shares to satisfy the offers of all Offerees.
- (c) **no more than offered:** An Offeree is not bound to buy or entitled to buy more than the number of Sale Shares which that Offeree has offered to buy, even if paragraph (b) would result in a higher number of Sale Shares being allocated to that Offeree.
- (d) **unallocated Sale Shares:** Any Sale Shares which remain unallocated because of paragraph (c) must be re-allocated amongst those remaining Offerees who offered to buy more than the number of Sale Shares already allocated to them under paragraph (b). This process may be repeated if necessary until all of the Sale Shares have been allocated.
- (e) **rounding-up:** The Company may round a fraction up or down as it thinks fit, if this clause would otherwise result in a fraction of a Share.
- (f) **notice:** The Company must notify the Seller and each Offeree of the number of Sale Shares to which each Offeree is entitled.
- (g) **transfer:** The Seller must give each Offeree a transfer of the relevant number of Sale Shares signed by the Seller within 20 days of the Exercise Date.

- (h) **share certificates:** The Seller must give the Company the share certificates for the Sale Shares at the same time as it gives the Offeree a transfer under clause 8.5(g).

8.6 Sale Shares not purchased by Shareholders

- (a) **sale to third party:** The Seller may sell any Sale Shares not bought by the other Shareholders to the third party buyer named in the Notice of Sale within 30 days of the Exercise Date.
- (b) **terms:** The Seller must not sell the Sale Shares for a lower price than that specified in the Notice of Sale or otherwise on more beneficial terms.
- (c) **copy of agreement:** The Seller must give a copy of any agreement with the buyer named in the Notice of Sale relating to the Sale Shares to each Shareholder within 3 days of signing the agreement.
- (d) **comply again:** If the Seller does not sell the Sale Shares to the third party buyer named in the Notice of Sale within the time set out in clause 8.6(a), it may not sell those Sale Shares without complying again with this clause 8.

8.7 "Tag Along" Rights

- (a) After the procedure set out in clauses 8.2 to 8.6 has been complied with, any Shareholders who:
 - (i) at that time hold 5% or more of all the issued Shares (calculated on a fully diluted basis) ("**Material Sellers**"); and
 - (ii) are entitled and wish to Dispose of any of their Shares ("**Material Shares**") to a third party buyer ("**Third Party**");
 must comply with the terms of this clause 8.7;
- (b) On the Exercise Date the remaining Shareholders ("**Minority Shareholders**") are granted the right ("**Tag Along Right**") to require the Material Sellers to cause the Third Party, or its nominee, to purchase that number of a Minority Shareholders' Shares calculated on the following basis:

Number of Minority Shareholders' Shares to be purchased =

$$\frac{A}{B} \times C$$

Where:

A = the number of Material Shares proposed to be sold;

B = the total number of Material Shares; and

C = the total number of Minority Shareholders' Shares.

at the price per Share which is to be paid by the Third Party to the Material Sellers in respect of the Material Shares ("**Put Price**").

- (c) The Material Sellers must, within 14 days of the Exercise Date, give the Minority Shareholders a notice ("**Tag Along Notice**") specifying the price, terms and numbers of the Shares in respect of which the Tag Along Right is to be exercised.
- (d) The Minority Shareholders may, within 30 days after receipt of the Tag Along Notice, exercise the Tag Along Right by giving written notice to the Material Sellers. The Tag Along Notice must specify the number of Shares which the Material Sellers are required to cause to be purchased by the Third Party or its nominee ("**Put Shares**").
- (e) If the Third Party or its nominee for any reason fails to buy all of the Put Shares at the Put Price (or at a greater price) and otherwise on the same terms and conditions applied to the Material Shares in accordance with this clause 8.7 on the same date as the date of completion of the sale of the Material Shares, then the Material Sellers must not sell or otherwise transfer any part of the Material Shares to the Third Party.
- (f) If, 40 days after the receipt of the Tag Along Notice the Minority Shareholders have not elected to sell their Shares pursuant to this clause 8.7 then the Material Sellers may sell the Material Shares on the same terms and conditions specified in the Tag Along Notice.

8.8 **New Shareholders**

- (a) The Company may only register a person as a Shareholder if that person:
 - (i) is already a Shareholder; or
 - (ii) agrees in writing to be bound by this Deed as if named as a party and a Shareholder.
- (b) Clause 8.8(a) applies to a Disposal of Shares or an issue of Shares.

8.9 **Security Interest over Shares**

A Shareholder may only create a Security Interest over a Share if the person to whom the Security Interest is granted enters into an agreement with all Shareholders not to Dispose of the Shares unless that person complies with this clause or clause 9 and all Shareholders give prior written consent.

9. SALE OF ALL ISSUED SHARES

9.1 Offer to purchase all Shares

If the Company or any Shareholder receives an offer from a third party purchaser ("**Third Party**") to purchase all of the Shares in the Company ("**Third Party Offer**"), the Shareholders must comply with this clause 9.

9.2 Procedure for sale

- (a) The party who received the Third Party Offer ("**Receiver**") must, within 7 days of its receipt, provide a copy of the Third Party Offer to all the other Shareholders and to the Company.
- (b) Each Shareholder, including the Receiver, (each a "**Bidding Shareholder**") has the right, but not the obligation, to offer to buy all the Shares in the Company ("**Remaining Shares**") from the remaining Shareholders ("**Remaining Shareholders**") on the following terms and conditions:
 - (i) the Bidding Shareholder must send a notice in writing ("**Bidding Shareholder's Offer**") to each Remaining Shareholder offering to buy all the Remaining Shares at a price equal to or above the price per Share in the Third Party Offer;
 - (ii) the Bidding Shareholder's Offer must be made within 7 days of the date the Third Party Offer was sent by the Receiver to each Remaining Shareholder ("**Cut Off Date**"); and
 - (iii) the Bidding Shareholder's Offer must be for all the Remaining Shares.

9.3 Multiple bids

Where there is more than one Bidding Shareholder's Offer the Remaining Shareholders must only accept the highest price per Share made in a Bidding Shareholder's Offer. Remaining Shareholders must not accept a lower price per Share for the Remaining Shares if a higher price per Share has been made in another Bidding Shareholder's Offer. The Company must not register a transfer of Shares made in contravention of this clause.

9.4 Acceptance or Rejection

- (a) Remaining Shareholders have 14 days from the Cut Off Date to accept or reject a Bidding Shareholder's Offer. A Bidding Shareholder's Offer can only be accepted in whole except where the Bidding Shareholder's Offer otherwise provides.
- (b) Where all the Remaining Shareholders accept the Bidding Shareholder's Offer the Bidding Shareholder must buy all the Remaining Shares at the price per Share offered under clause 9.2(b)(i).

- (c) Where:
 - (i) no Remaining Shareholders; or
 - (ii) the holders of less than 75% of the issued Shares, excluding the Shares of the Bidding Shareholder,

accept the Bidding Shareholder's Offer, then:
 - (iii) those Shareholders may accept the Third Party Offer provided that those Shareholders sell their Shares to the Third Party on the same terms and conditions contained in the Third Party Offer; and
 - (iv) the terms of clause 9.5 shall apply.

9.5 "Drag Along" rights

- (a) Where the holders of at least 75% of the issued Shares accept the Third Party Offer ("**Accepting Shareholders**") the Accepting Shareholders are entitled to issue to the remaining Shareholders ("**Other Shareholders**") a notice ("**Drag Along Notice**") requiring each Other Shareholder to sell to the Third Party specified in the Drag Along Notice all of the Other Shareholders' Shares upon the terms and conditions specified in the Drag Along Notice.
- (b) The terms on which the Accepting Shareholders require the Other Shareholders to sell their Shares must be no less favourable than the terms on which the Accepting Shareholders are selling their Shares.
- (c) The Drag Along Notice must specify:
 - (i) the details of the Third Party;
 - (ii) the price payable for each Share; and
 - (iii) any other material terms upon which the Other Shareholders Shares shall be purchased pursuant to the Drag Along Notice.
- (d) Subject to clause 8.5(c) each Other Shareholder must, within 10 days of the Drag Along Notice, sell all of their Shares to the Third Party in accordance with the terms and conditions of the Drag Along Notice.
- (a) The Other Shareholders are not obliged to sell their Shares in accordance with clause 9.4(b) if the Accepting Shareholders do not complete the sale of all their Shares to the Third Party on the same terms and conditions set out in the Drag Along Notice.

9.6 Directors to Register Transfers

The Shareholders shall cause the Directors to approve and register any transfers of Shares in accordance with this clause 9.

10. TRANSMISSION OF SHARES

10.1 Transmission of Shares on Death of Holder

In the case of the death of a Shareholder, the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where the deceased was a sole holder, are the only persons recognised by the Company as having any title to the deceased's interest in the Shares, but this clause does not release the estate of a deceased joint holder from any liability in respect of a Share that had been jointly held by the deceased with other persons.

10.2 Death or Bankruptcy of Shareholder

Subject to clause 8.1, where the registered holder of a Share dies or becomes bankrupt, his personal representative or the trustee of his estate, as the case may be, shall be entitled upon the production of such information as is properly required by the Directors, to the same dividends and other advantages, and to the same rights (whether in relation to meetings of the Company, or to voting or otherwise), as the registered holder would have been entitled to if he had not died or become bankrupt.

10.3 Registration by Transmission or to Beneficiary

A person becoming entitled to a Share in consequence of the death or, subject to the Bankruptcy Act 1966, the bankruptcy of a Shareholder may, upon such information being produced as is properly required by the Directors, elect by written notice to the Company either to be registered as holder of the Share or to nominate some other person to be registered as the transferee of the Share. If he elects to have another person registered, he shall execute a transfer of the Share to that other person.

10.4 Limitations to Apply

All the limitations, restrictions and provision of this Constitution relating to the right to transfer Shares and the registration of a transfer of Shares are applicable to any such notice or transfer as if the death or bankruptcy of the Shareholder had not occurred and the notice of transfer were a transfer signed by that Shareholder.

11. REDUCTIONS OF CAPITAL

11.1 Reduce Share Capital

The Company may reduce its share capital by any of the means authorised by the Corporations Act, subject to the provisions of that law and, where applicable, the Listing Rules. The Company may reduce its share capital in any way that is not otherwise authorised by law, including by way of an in specie distribution of the assets of the Company (including any shares in another company), if the reduction:

- (a) is fair and reasonable to the Company's Shareholders as a whole;
- (b) does not materially prejudice the Company's ability to pay its creditors; and
- (c) is approved by Shareholders in accordance with Section 256C of the Corporations Act.

12. SHARE BUY-BACKS

12.1 Power to Buy Back Shares

The Company may buy ordinary Shares in itself by any of the means authorised by the Corporations Act, subject to the provisions of that law and, where applicable, the Listing Rules.

13. GENERAL MEETINGS

13.1 Convening of General Meetings of Shareholders

The Directors may, whenever they think fit, convene a general meeting of Shareholders provided that, in the event that there are no Directors holding office, the Secretary shall convene a general meeting for the purpose of electing Directors. A general meeting shall also be convened on requisition as is provided for by the Corporations Act or, in default, may be convened by such requisitions as empowered to do so by the Corporations Act.

13.2 Notice

Subject to the Listing Rules and to the provisions of the Corporations Act, a notice of a general meeting shall be given in accordance with the requirements of Part 2G.2 Division 3 of the Corporations Act and 28, and shall specify the place, the day and the time of the meeting and shall state the general nature of the business to be transacted at the meeting. For the purposes of receipt of proxy appointments, the notice must specify a place and fax number and may specify an electronic address. The non-receipt of a notice of a general meeting by a Shareholder or the accidental omission to give such a notice to a Shareholder shall not invalidate any resolution passed at any such meeting.

13.3 Notice to ASX

The Company shall notify ASX of the date of any general meeting at which Directors are to be elected at least 5 Business Days before the closing date for the receipt of nominations for election to the office of Director. The Company must immediately give to ASX a copy of a document it sends to the holders of securities in a class. All notices convening general meetings shall specify the place, date and hour of the meeting.

13.4 Annual General Meeting

An annual general meeting shall be held in accordance with the requirements of Section 250N of the Corporations Act.

14. PROCEEDINGS AT GENERAL MEETINGS

14.1 Quorum

No business shall be transacted at any general meeting unless a quorum is present comprising 2 Shareholders present in person, by proxy, attorney or Representative. For the purpose of determining whether a quorum is present, a person attending as a proxy, attorney or Representative, shall be deemed to be a Shareholder present in person. If a quorum is not present within 30 minutes after the time appointed for a general meeting, the general meeting, if convened upon a requisition, shall be dissolved, but in any other case it shall stand adjourned sine die.

14.2 Business At General Meetings

Only matters that appear in a notice of meeting shall be dealt with at a general meeting or an annual general meeting, as the case may be.

14.3 Persons Entitled to Attend A General Meeting

The persons entitled to attend a general meeting shall be:

- (a) Shareholders, in person, by proxy, attorney or Representative;
- (b) Directors;
- (c) the Company's auditor; and
- (d) such other person or persons as the Chairman may approve.

14.4 Chairman

If the Directors have elected one of their number as Chairman of Directors' meetings he shall, if willing, preside as Chairman at every general meeting. Where a general meeting is held and a Chairman has not been so elected, or the Chairman is not present within 15 minutes after the time appointed for the holding of the general meeting or is unwilling to act, the Directors present shall elect one of their number to be Chairman of the general meeting, but failing an election by the Directors, the Shareholders present shall elect one of their number to be Chairman of the General Meeting.

14.5 Adjournment

The Chairman may, with the consent of the general meeting at which a quorum is present, and shall, if so directed by the general meeting, adjourn the general meeting from time to time and from place to place, but no business shall be transacted on the resumption of any adjourned general meeting other than the

business left unfinished at the general meeting from which the adjournment took place.

14.6 **Notice of Resumption of Adjourned General Meeting**

When a general meeting is adjourned for 30 days or more, notice of the resumption of the meeting shall be given in the same manner as for the original general meeting, but otherwise, it is not necessary to give any notice of any adjournment or of the business to be transacted on the resumption of the adjourned general meeting.

14.7 **Voting Rights**

- (a) Subject to paragraph (b) of this clause 14.7, the Listing Rules and any rights or restrictions for the time being attached to any class or classes of Shares at general meetings of Shareholders or classes of Shareholders:
- (i) each Shareholder entitled to vote may vote in person or by proxy, attorney or Representative;
 - (ii) on a show of hands, every person present who is a Shareholder or a proxy, attorney or Representative of a Shareholder has one vote; and
 - (iii) on a poll, every person present who is a Shareholder or a proxy, attorney or Representative of a Shareholder shall, in respect of each fully paid Share held by him, or in respect of which he is appointed a proxy, attorney or Representative, have one vote for the Share, but in respect of partly paid Shares, shall have a fraction of a vote for each partly paid Share. The fraction shall be equivalent to the proportion which the amount paid (not credited) is of the total amounts paid and payable, excluding amounts credited, provided that amounts paid in advance of a call are ignored when calculating a true proportion.
- (b) In the event of a breach of the Listing Rules relating to Restricted Securities or of any escrow agreement entered into by the Company under the Listing Rules in relation to any Shares which are classified under the Listing Rules or by ASX as Restricted Securities, the member holding the Shares in question shall cease to be entitled to any voting rights in respect of those Shares for so long as the breach subsists.

14.8 **Voting - Show of Hands**

At any general meeting a resolution put to the vote of the general meeting shall be decided on a show of hands unless a poll is demanded in accordance with clause 14.10.

14.9 **Results of Voting**

Unless a poll is so demanded, a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of general meetings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution, provided that the declaration reflects the show of hands and the votes of the proxies received.

14.10 **Poll**

A poll may be demanded before or immediately upon the declaration of the result of the show of hands by:

- (a) the chairman of the general meeting; or
- (b) at least 5 Shareholders entitled to vote on the resolution present in person or by proxy, attorney or Representative; or
- (c) any one or more Shareholders holding not less than 5% of the total voting rights of all Shareholders having the right to vote on the resolution.

14.11 **Manner of Taking Poll**

If a poll is duly demanded, it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chairman directs, and the result of the poll shall be the resolution of the general meeting at which the poll was demanded. A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith. The demand for a poll may be withdrawn.

14.12 **Meeting May Continue**

A demand for a poll shall not prevent the continuation of the general meeting for the transaction of other business.

14.13 **Voting by Joint Holders**

In the case of joint holders of Shares, the vote of the senior who tenders a vote, whether in person or by proxy, attorney or Representative, shall be accepted to the exclusion of the votes of the other joint holders and, for this purpose, seniority shall be determined by the order in which the names stand in the Register of Shareholders.

14.14 **Shareholder Under Disability**

If a Shareholder is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, his committee or trustee or such other person as properly has the management of

his estate may exercise any rights of the Shareholder in relation to a general meeting as if the committee, trustee or other person were the Shareholder.

14.15 **Payment of Calls**

At a general meeting a Shareholder can on a show of hands and on a poll, vote in respect of Shares held by him on which all calls presently payable by him in respect of those Shares have been paid, but not in respect of those Shares held by him on which calls presently payable by him in respect of those Shares have not been paid.

14.16 **Objection to Voting**

An objection may be raised to the qualification of a voter only at the general meeting or adjourned general meeting at which the vote objected to is given or tendered. Any such objection shall be referred to the Chairman of the general meeting, whose decision shall be final. A vote not disallowed pursuant to such an objection is valid for all purposes.

14.17 **Appointment of Proxy**

A Shareholder who is entitled to attend and cast a vote at a general meeting may appoint a person as the Shareholder's proxy to attend and vote for the Shareholder at the general meeting. The appointment may specify the proportion or number of votes that the proxy may exercise. Each Shareholder may appoint a proxy. A Shareholder who is entitled to cast 2 or more votes at the meeting may appoint 2 proxies. If the Shareholder appoints 2 proxies and the appointment does not specify the proportion or number of votes that the proxy may exercise, each proxy may exercise half the votes. Any fraction of votes resulting from the application of this clause 14.17 shall be disregarded. An instrument appointing a proxy:

- (a) shall be in writing under the hand of the appointor or of his attorney, or, if the appointer is a body corporate, either under seal or under the hand of a duly authorised officer, or officers (as the case may be) or attorney;
- (b) may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument;
- (c) shall be deemed to confer authority to demand or join in demanding a poll;
- (d) shall be in such form as the Directors determine and which complies with Section 250A of the Corporations Act;
- (e) shall not be valid unless the original instrument and the power of attorney or other authority (if any) under which the instrument is signed (duly stamped where necessary) or a certified copy of that proxy, power or authority, is or are deposited at or sent by facsimile transmission to the Registered Office, or deposited at or sent by facsimile transmission

to such other place as is specified for that purpose in the notice convening the general meeting, no later than 48 hours prior to the time of the commencement of the general meeting in the place that the general meeting is being convened (or the resumption thereof if the general meeting is adjourned and notice is given in accordance with clause 14.6 as shall be specified in the notice convening the general meeting (or the notice under clause 14.6, as the case may be); and

(f) shall comply with the Listing Rules.

The Company shall send out proxy forms which will enable Shareholders to vote for or against each resolution with notices covering general meetings of the Company.

14.18 **Proxy Votes**

A vote given in accordance with the terms of an instrument of proxy is valid notwithstanding the previous death or unsoundness of mind of the principal, the revocation of the instrument (or the authority under which the instrument was executed) or the transfer of the Share in respect of which the instrument or power is given, if no intimation in writing of the death, unsoundness of mind, revocation or transfer has been received by the Company at the Registered Office before the commencement of the general meeting or adjourned general meeting at which the instrument is used or the power is exercised.

14.19 **Representatives of Corporate Shareholders**

A body corporate ("**appointor**") that is a Shareholder may authorise, in accordance with Section 250D of the Corporations Act, by resolution of its Directors or other governing body, such person or persons as it may determine to act as its Representative at any general meeting of the Company or of any class of Shareholders. A person so authorised shall be entitled to exercise all the rights and privileges of the appointor as a Shareholder. When a Representative is present at a general meeting of the Company, the appointor shall be deemed to be personally present at the general meeting unless the Representative is otherwise entitled to be present at the general meeting.

15. **THE DIRECTORS**

15.1 **Number of Directors**

The Company shall at all times have at least 3 Directors at least 2 of whom must ordinarily reside in Australia. The number of Directors shall not exceed 9 provided that the Company may, by ordinary resolution, increase or reduce the number of Directors and may also determine in what rotation the increased or reduced number is to go out of office provided that no Director other than the Managing Director shall be entitled to hold office for more than 3 years without rotation.

15.2 **Rotation of Directors**

Subject to clause 19.4 at every annual general meeting of the Company one-third of the Directors (other than alternate Directors and the Managing Director) for the time being or, if their number is not a multiple of 3, then such number as is appropriate to ensure that no Director other than alternate Directors and the Managing Director holds office for more than 3 years, shall retire from office. The Directors to retire at an annual general meeting are those who have been longest in office since their last election, but, as between persons who became Directors on the same day, those to retire shall (unless they otherwise agree among themselves) be determined by drawing lots. A retiring Director is eligible for re-election.

15.3 **Election of Directors**

The Company may, at the general meeting at which a Director so retires, fill the vacated office by electing the retiring Director (if offering himself for re-election and not being disqualified under the Corporations Act from holding office as a Director) or another person to that office by resolution. The Company shall observe the requirements of Section 225 of the Corporations Act with respect to the election of Directors.

15.4 **Nomination of Directors for Election**

No person, other than a Director seeking re-election, shall be eligible for election to the office of Director at any general meeting unless he or some Shareholder intending to propose his nomination has, at least 30 Business Days before the meeting, left at the Registered Office a notice in writing, duly signed by the nominee, giving his consent to the nomination and signifying his candidature for the office or the intention of such Shareholder to propose him. Notice of each and every candidature for election as a Director shall be given to each Shareholder with or as part of the notice of the meeting at which the election is to take place.

Where the number of nominations for election as a Director exceeds the number of Directors who have or are to resign at the general meeting, the order in which the nominations are to be voted on shall be determined by drawing lots and once the relevant vacancies have been filled, no further nominations shall be voted on.

15.5 **Casual Vacancies and Additional Directors**

The Directors may at any time appoint a person to be a Director (but not as an alternate Director), either to fill a casual vacancy or as an addition to the existing Directors, but so that the total number of Directors does not at any time exceed the maximum number specified by this Constitution. Any Director so appointed holds office only until the next following annual general meeting and is then eligible for re-election but shall not be taken into account in determining the Directors who are to retire by rotation (if any) at that meeting.

15.6 **Removal of Director**

The Company may by resolution remove any Director before the expiration of his period of office, and may by resolution appoint another person in his place. The person so appointed is subject to retirement at the same time as if he had become a Director on the day on which the Director in whose place he is appointed was last elected a Director.

15.7 **Vacation of Office**

The office of Director shall automatically become vacant if the Director:

- (a) ceases to be a Director by virtue of Section 224 or any other provision of the Corporations Act;
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (c) becomes prohibited from being a Director by reason of any order made under the Corporations Act;
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (e) resigns his office by notice in writing to the Company;
- (f) is removed from office under clause 15.6; or
- (g) he is absent for more than 6 months, without permission of the Directors, from meetings of the Directors held during that period.

15.8 **Remuneration**

The Directors shall be paid out of the funds of the Company by way of remuneration for their services as Directors such sum as may from time to time be determined by the Company in general meeting, to be divided among the Directors in such proportions as they shall from time to time agree or in default of agreement equally. The remuneration of the Directors shall not be increased except pursuant to a resolution passed at a general meeting of the Company where notice of the suggested increase shall have been given to Shareholders in the notice convening the meeting. Fees payable to non-Executive Directors shall be by a fixed sum and not by a commission on or percentage of profits or operating revenue. Remuneration payable to Executive Directors shall not include a commission on or percentage of operating revenue. The remuneration of a Director shall be deemed to accrue from day to day.

15.9 **Expenses**

The Directors shall be entitled to be paid reasonable travelling, hotel and other expenses incurred by them respectively in or about the performance of their duties as Directors. If any of the Directors being willing shall be called upon to perform extra services or make any special exertions on behalf of the Company

or the business of the Company, the Directors may remunerate such Director in accordance with such services or exertions, and such remuneration may be either in addition to or in substitution for his Share in the remuneration provided for by clause 15.8.

15.10 Qualification of Directors

A Director is not required to hold any Shares. A person of or over the age of 72 years may not be appointed or re-appointed as a Director except pursuant to a resolution of the Company in accordance with the Corporations Act.

16. POWERS AND DUTIES OF DIRECTORS

16.1 Management of the Company

Subject to the Corporations Act, the Listing Rules and to any other provision of this Constitution, the business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and forming the Company, and may exercise all such powers of the Company as are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting.

16.2 Borrowings

Without limiting the generality of clause 16.1, the Directors may at any time:

- (a) exercise all powers of the Company to borrow money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person;
- (b) sell or otherwise dispose of the whole or any part of the assets, undertakings and other properties of the Company or any that may be hereafter acquired on such terms and conditions as they may deem advisable, but:
 - (i) the Company shall comply with the Listing Rules;
 - (ii) any sale or disposal of the Company's main undertaking shall only be made subject to the prior approval or ratification of the sale or disposal by the Company in general meeting; and
 - (iii) on the sale or disposition of the Company's main undertaking or on the liquidation of the Company, no commission or fee shall be paid to any Director or Directors or to any liquidator of the Company unless it shall have been ratified by the Company in general meeting, with prior notification of the amount of such proposed payments having been given to all Shareholders at least 10 Business Days (in the case of an ordinary resolution) or 15 Business Days (in the case of a special resolution) prior to the meeting at which any such payment is to be considered; and

- (c) take any action necessary or desirable to enable the Company to comply with the Listing Rules.

16.3 **Attorneys**

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. Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors may determine and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him.

16.4 **Cheques Etc.**

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two Directors or in such other manner as the Directors determine.

16.5 **Retirement Benefits for Directors**

Subject to Part 2D.2 (Division 2) of the Corporations Act and the Listing Rules, the Directors may at any time adopt any scheme or plan which they consider to be in the interests of the Company and which is designed to provide retiring or superannuation benefits for both present and future non-Executive Directors, and they may from time to time vary any such scheme or plan. Any scheme or plan may be effected by agreements entered into by the Company with individual Directors, or by the establishment of a separate trust or fund, or in such other manner as the Directors consider proper. The Directors may, subject to Part 2D.2 (Division 2) of the Corporations Act and the Listing Rules, attach such terms and conditions to any entitlement under any such scheme or plan as they think fit, including without limitation, a minimum period of service by a Director before the accrual of any entitlement and the acceptance by the Directors of a prescribed retiring age.

16.6 **Securities to Directors**

If any Director of the Company acting solely in his capacity as Director shall become personally liable for the payment of any sum primarily due by the Company, the Directors may create any mortgage, charge or security over or affecting the whole or any part of the assets of the Company by way of indemnity to secure the person so becoming liable from any loss in respect of such liability.

17. PROCEEDING OF DIRECTORS

17.1 Convening A Meeting

A Director may at any time, and a Secretary shall, whenever requested to do so by one or more Directors, convene a Directors' meeting but not less than 24 hours' notice of every such Directors' meeting shall be given to each Director either by personal or telephone contact or in writing (including, without limitation, by facsimile or electronic transmission to a machine at a Director's home or usual place of business) by the convenor of the meeting. The Directors may by unanimous resolution agree to shorter notice.

17.2 Procedure At Meetings

The Directors may meet together for the dispatch of business and adjourn and, subject to this clause 17, otherwise regulate the Directors' meetings as they think fit.

17.3 Quorum

No business shall be transacted at any Directors' meeting unless a quorum is present, comprising 2 Directors present in person or by instantaneous communication device in accordance with clause 18 who are entitled to vote at the meeting, or such greater number as is determined by the Directors.

17.4 Majority Decisions

Questions arising at any Directors' meeting shall be decided by a majority of votes. A resolution passed by a majority of Directors shall for all purposes be deemed a determination of the Directors.

17.5 Casting Votes

In the case of an equality of votes, the Chairman of the meeting shall have a second or casting vote, but the Chairman shall have no casting vote where only 2 Directors are competent to vote on the question.

17.6 Alternate Directors

A Director may appoint any person to be an alternate Director in his place during such period as he thinks fit, and the following provisions shall apply with respect to any alternate Director:

- (a) he is entitled to notice of Directors' meetings and, if his appointor Director is not present at such a Directors' meeting, he is entitled to attend and vote in the place of the absent Director;
- (b) he may exercise any powers that his appointor Director may exercise, and the exercise of any such power by the alternate Director shall be deemed to be the exercise of the power by his appointor Director;
- (c) he is not required to hold any Shares;

- (d) his appointment may be terminated at any time by his appointor Director notwithstanding that the period of the appointment of the alternate Director has not expired, and the appointment shall terminate in any event if his appointor Director ceases to be a Director except where the appointor retires at an annual general meeting under clause 15.2 and is reappointed as a Director at that annual general meeting; and
- (e) the appointment, or the termination of an appointment, of an alternate Director shall be effected by a written notice signed by the Director who made the appointment given to the Company.

17.7 Continuing Directors May Act

In the event of a vacancy or vacancies in the office of a Director, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum, or in order to convene a general meeting of the Company.

17.8 Chairman

The Directors shall elect from among their number a Chairman and may elect from their numbers a Vice-Chairman of their meetings and may determine the period for which each is to hold office. Where a Directors' meeting is held and a chairman has not been elected or the Chairman or in his absence, the Vice-Chairman (if one has been elected) is not present within 10 minutes after the time appointed for holding of the Directors' meeting or is unwilling to act, the Directors present shall elect one of their number to be a chairman of the Directors' meeting.

17.9 Committees

The Directors may delegate any of their powers, other than powers required by law to be dealt with by the Directors as a board, to a committee or committees consisting of such of their number as they think fit. A committee to which any powers have been so delegated shall exercise the powers delegated in accordance with any directions of the Directors, and a power so exercised shall be deemed to have been exercised by the Directors. The members of such a committee may elect one of their number as chairman of their meetings. Questions arising at a meeting of a committee shall be determined by a majority of votes of the members present and voting. In the case of an equality of votes, the chairman shall have a casting vote.

17.10 Written Resolutions

A resolution in writing signed by all Directors for the time being or their respective alternate Directors (except those Directors (or their alternates) who expressly indicate their abstention in writing to the Company and those who would not be permitted by virtue of Section 195 of the Corporations Act to

vote were the resolution to be put to a meeting of the Directors) shall be as valid and effectual as if it had been passed at a Directors' meeting duly convened and held. Any such resolution may consist of several documents in like form but each document must contain a statement that the Directors are in favour of the resolution and the statement of the Directors must be identical, each document signed by one or more Directors. A facsimile transmission or other document produced by electronic or mechanical means and bearing the signature of the Director, printed electronically or mechanically and with his authority, shall be deemed to be a document in writing signed by the Director.

17.11 Defective Appointment

All acts done by any Directors' meeting or of a committee of Directors or by any person acting as a Director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be, or to act as, a Director, or that a person so appointed was disqualified, as valid as if the person had been duly appointed and was qualified to be a Director or to be a member of the committee.

17.12 Directors May Hold Other Offices

A Director may hold any other office or place of profit in or in relation to the Company (except that of auditor) in conjunction with his office of Director and on such terms as to remuneration or otherwise as the Directors shall approve.

17.13 Directors May Hold Shares, Etc.

A Director may be or become a shareholder in or director of or hold any other office or place of profit in or in relation to any other company promoted by the Company or in which the Company may be interested, whether as a vendor, shareholder or otherwise.

17.14 Directors Not Accountable for Benefits

No Director shall be accountable for any benefits received as the holder of any other office or place of profit in or in relation to the Company or any other company referred to in clause 17.13 or as a shareholder in or director of any such other company.

17.15 Disclosure of Interests and Voting

Where a Director has a material personal interest in a matter that relates to the affairs of the Company the Director must:

- (a) where required by the Corporations Act, give the other Directors notice of the nature and extent of the interest and the relation of the interest to the affairs of the Company at a Directors' meeting as soon as practicable after the Director becomes aware of the interest; and
- (b) unless otherwise permitted under the Corporations Act, not be present while the matter is being considered at a Directors' meeting or vote on the matter.

17.16 Contracts not Avoided

Subject to the Listing Rules and Chapter 2E of the Corporations Act, no Director shall be disqualified by his office from contracting with the Company whether as vendor purchaser or otherwise, nor shall any such contract or any contract or arrangement entered into by or on behalf of the Company in which any Director shall be in any way interested be avoided or prejudiced on that account, nor shall any Director be liable to account to the Company for any profit arising from any such contract or agreement by reason only of such Director holding that office or of the fiduciary relationship thereby established provided that the Director has complied with the requirements of clause 17.5.

18. MEETING BY INSTANTANEOUS COMMUNICATION DEVICE

18.1 Meetings to Be Effectual

For the purposes of this Constitution, the contemporaneous linking together by instantaneous communication device of a number of consenting Directors not less than the quorum, whether or not any one or more of the Directors is out of Australia, shall be deemed to constitute a Directors' meeting and all the provisions of this Constitution as to the Directors' meetings shall apply to such meetings held by instantaneous communication device so long as the following conditions are met:

- (a) all the Directors for the time being entitled to receive notice of the Directors' meeting (including any alternate for any Director) shall be entitled to notice of a meeting by instantaneous communication device for the purposes of such meeting. Notice of any such Directors' meeting shall be given on the instantaneous communication device or in any other manner permitted by this Constitution;
- (b) each of the Directors taking part in the Directors' meeting by instantaneous communication device must be able to hear each of the other Directors taking part at the commencement of the Directors' meeting; and
- (c) at the commencement of the Directors' meeting each Director must acknowledge his or her presence for the purpose of a Directors' meeting of the Company to all the other Directors taking part.

18.2 Procedure At Meetings

A Director may not leave a Directors' meeting held under clause 18.1 by disconnecting his instantaneous communication device unless the Director has previously obtained the express consent of the Chairman of the Directors' meeting and shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the Directors' meeting by instantaneous communication device unless the Director has previously obtained the consent to leave as aforesaid. However, if the Director would not be permitted by virtue of Section 195 of the Corporations Act to be present or to vote during the consideration of a matter then such Director may disconnect

his instantaneous communication device during the consideration of such matter without obtaining the express consent of the Chairman and the Director shall not be counted for the purpose of determining a quorum during the consideration of the matter.

18.3 **Minutes**

A minute of the proceedings at a Directors' meeting held under clause 18.1 shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chairman or the person taking the chair at the Directors' meeting under clause 18.1.

18.4 **Definition**

For the purpose of this Constitution "instantaneous communication device" shall include telephone, television or any other audio or audio-visual device which permits instantaneous communication.

19. **MANAGING DIRECTOR**

19.1 **Appointment**

The Directors may, from time to time appoint, one of their number to the office of Managing Director of the Company either for a fixed term or at will, but not for life and one or more of their number to the office of Executive Director or Executive Directors for a term not exceeding 3 years and, subject to the terms of any agreement entered into in a particular case, may revoke any such appointment. The appointment of the Managing Director or of an Executive Director so appointed automatically terminates if he ceases for any reason to be a Director.

19.2 **Remuneration**

The Managing Director or an Executive Director shall, subject to the terms of any agreement entered into in a particular case, receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the Directors may determine provided that no Executive Director shall be paid as the whole or part of his remuneration a commission on or percentage of operating revenue.

19.3 **Powers**

The Directors may, upon such terms and conditions and with such restrictions as they think fit, confer upon the Managing Director or an Executive Director any of the powers exercisable by them. Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Directors. The Directors may at any time withdraw or vary any of the powers so conferred on the Managing Director or on the Executive Director.

19.4 **Rotation**

The Managing Director shall not retire by rotation in accordance with clause 15.2 or be taken into account in determining the rotation of retirement of Directors but Executive Directors shall.

20. **SECRETARY**

20.1 **Secretary**

A Secretary of the Company shall hold office on such terms and conditions, as to remuneration and otherwise, as the Directors determine.

21. **SEALS**

21.1 **Common Seal**

The Directors shall provide for the safe custody of the Seal. The Seal shall only be used by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal. Every document to which the Seal is affixed shall be signed by a Director and countersigned by another Director, (who may be an alternate Director) a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

21.2 **Execution of Documents without the Seal**

The Company may execute a document without using the Seal if the document is signed by:

- (a) two Directors; or
- (b) a Director and a Secretary.

21.3 **Share Seal**

Subject to Section 123 of the Corporations Act, the Company is authorised to have a duplicate Common Seal, known as the Share Seal, which shall be a copy of the Common Seal with the addition on its face of the words "Share Seal", and the following provisions shall apply to its use:

- (a) any certificate for Shares may be issued under the Share Seal and if so issued shall be deemed to be sealed with the Common Seal;
- (b) subject to the following provisions of this clause 21.3, the signatures required by clause 21.1 on a document to which the Common Seal is affixed may be imposed by some mechanical means;
- (c) subject to the following provisions of this clause 21.3, the Directors may determine the manner in which the Share Seal shall be affixed to any document and by whom a document to which the Share Seal is affixed

shall be signed, and whether any signature so required on such a document must be actually written on the document or whether it may be imposed by some mechanical means;

- (d) the only documents on which the Share Seal may be used shall be Share or stock unit certificates, debentures or certificates of debenture stock, secured or unsecured notes, option certificates and any certificates or other documents evidencing any Share Options or rights to take up any Shares in or debenture stock or debentures or notes of the Company; and
- (e) signatures shall not be imposed by electronic or mechanical means, nor (except when the requirements of clause 21.1 as to signatures are complied with) shall the Share Seal be used on any certificate or other document mentioned in paragraph (d) of this clause unless such certificate or other document has first been approved for sealing or signature (as the case may be) by the Directors or other authorised person or persons.

22. ACCOUNTS, AUDIT, RECORDS AND RECORD DATE

22.1 Accounting Records to Be Kept

The Directors shall cause proper accounting and other records to be kept by the Company and shall distribute copies of the Company's accounts and reports as required by the Corporations Act and the Listing Rules.

22.2 Audit

The Company shall comply with the requirements of the Corporations Act and the Listing Rules as to the audit of accounts, registers and records.

22.3 Inspection

Except as otherwise required by the Corporations Act, the Directors shall determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of Shareholders other than Directors. A Shareholder, other than a Director, shall not be entitled to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting.

22.4 Record Date

The Company may, in accordance with the Listing Rules and the SCH Business Rules, fix a record date for the purpose of determining entitlements.

23. MINUTES

23.1 Minutes to Be Kept

The Directors shall cause to be kept, in accordance with Sections 251A and 1306 of the Corporations Act, minutes of:

- (a) all proceedings of general meetings and Directors' meetings; and
- (b) all appointments of Officers and persons ceasing to be Officers.

23.2 Signature of Minutes

All minutes shall be signed by the chairman of the meeting at which the proceedings took place or by the chairman of the next succeeding meeting.

23.3 Requirements of the Corporations Act

The Company and the Officers shall comply with the requirements of Sections 251A and if applicable 251AA of the Corporations Act.

24. DIVIDENDS AND RESERVES

24.1 Dividends

The Directors may from time to time declare a dividend to be paid to the Shareholders entitled to the dividend. The dividend as declared shall (subject to clause 24.9, the rights of any preference Shareholders and to the right of the holders of any shares created or raised under any special arrangement as to dividend) be payable on all Shares in accordance with Section 254W of the Corporations Act.

24.2 Interim Dividend

Subject to clause 24.9 the Directors may from time to time pay to the Shareholders such interim dividends as they may determine.

24.3 Dividends Only Payable From Profits

No dividend shall be payable except out of profits. A determination by the Directors as to the profits of the Company shall be conclusive.

24.4 No Interest

No dividend shall carry interest as against the Company.

24.5 Reserves

The Directors may set aside out of the profits of the Company such amounts as they may determine as reserves, to be applied at the discretion of the Directors, for any purpose for which the profits of the Company may be properly applied.

24.6 Alternative Method of Payment of Dividend

When declaring any dividend, the Directors may:

- (a) direct payment of the dividend to be made wholly or in part by the distribution of specific assets or documents of title (including, without limitation, paid-up Shares, debentures or debenture stock of this or any other company, gold, gold or mint certificates or receipts and like documents) or in any one or more of such ways, and where any difficulty arises with regard to the distribution the Directors may settle it as they think expedient and in particular may issue fractional certificates and may fix the value for distribution of such specific assets or any part of such assets and may determine that cash payments shall be made to any Shareholders upon the basis of the value so fixed in order to adjust the rights of all parties and may vest any such specific assets in trustees upon such trusts for the persons entitled to the dividend as may seem expedient to the Directors; or
- (b) subject to the Listing Rules, direct that such dividend be payable to particular Shareholders wholly or partly out of any particular fund or reserve or out of profits derived from any particular source and to the remaining Shareholders wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source and may so direct notwithstanding that by so doing the dividend will form part of the assessable income for taxation purposes of some Shareholders and will not form part of the assessable income of others.

24.7 Payment of Dividends

All dividends shall be dispatched simultaneously to the Shareholders entitled to the dividend. Any one or two or more joint holders may give effectual receipts for any dividends, interest or other money payable in respect of the Shares held by them as joint holders.

24.8 Unclaimed Dividends

All dividends declared but unclaimed may be invested or otherwise made use of by the Directors as they think fit for the benefit of the Company until claimed or until required to be dealt with in accordance with any law relating to unclaimed moneys.

24.9 Breach of Restriction Agreement

In the event of a breach of the Listing Rules relating to Restricted Securities or of any escrow agreement entered into by the Company under the Listing Rules in relation to any Shares which are classified under the Listing Rules or by ASX as Restricted Securities, the Shareholder holding the Shares in question shall cease to be entitled to any dividends or distribution in respect of those Shares for so long as the breach subsists.

25. CAPITALISATION

25.1 Capitalisation

Subject to the Listing Rules, the Directors may from time to time capitalise profits. The capitalisation need not be accompanied by the issue of Shares.

25.2 Procedures

Subject to the Listing Rules, if the capitalisation involves the issue of Shares, the Directors shall do all things necessary to give effect to the resolution and, in particular, to the extent necessary to adjust the rights of the Shareholders among themselves, may:

- (a) make cash payments in cases where Shares or debentures could only be issued in fractions; and
- (b) authorise any person to make, on behalf of all the Shareholders entitled to any further Shares or debentures upon the capitalisation, an agreement with the Company providing for the issue to them, credited as fully paid up, of any such further Shares or debentures or for the payment up by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing Shares by the application of their respective proportions of the sum resolved to be capitalised, and any agreement made under an authority referred to in paragraph (b) is effective and binding on all the Shareholders concerned.

26. BONUS SHARE PLAN

26.1 Authorisation of Bonus Share Plan

The Company may, by ordinary resolution in general meeting, authorise the Directors to implement a Bonus Share Plan on such terms and conditions as are referred to in such resolution and which plan provides for any dividend which the Directors may declare from time to time under clause 24, less any amount which the Company shall either pursuant to this Constitution or any law be entitled or obliged to retain, not to be payable on Shares which are participating Shares in the Bonus Share Plan but for those Shares to carry instead an entitlement to receive an allotment of additional fully paid ordinary Shares to be issued as bonus Shares.

26.2 Amendment and Revocation

Any resolution passed by the Company in general meeting pursuant to clause 26.1 may, at any time, be amended or revoked by the Company by ordinary resolution in general meeting.

27. DIVIDEND REINVESTMENT PLAN

27.1 Authorisation of Dividend Reinvestment Plan

- (a) Notwithstanding any other provision of this Constitution, but subject to the requirements of the Corporations Act and the Listing Rules, the Directors may in their absolute discretion establish on such terms and conditions as they think fit:
 - (i) plans (to be called a "dividend reinvestment plan" or an "interest reinvestment plan" as the case may be) for cash dividends paid by the Company in respect of Shares issued by the Company and interest paid by the Company on unsecured notes or debenture stock issued by the Company to be reinvested by way of subscription for Shares in the Company; and
 - (ii) a plan (to be called a "dividend election plan") permitting holders of Shares to the extent that his Shares are fully paid up, to have the option to elect to forego his right to share in any dividends (whether interim or otherwise) payable in respect of such Shares and to receive instead an issue of Shares credited as fully paid up to the extent as determined by the Directors.
- (b) The Directors may in their absolute discretion, modify, suspend or terminate all or any plans established pursuant to this clause 27.1 from time to time on not less than one month's written notice to all Shareholders.
- (c) The powers given to the Directors by this clause 27.1 are additional to the other powers reposed in the Directors by this Constitution and shall not in any way be limited, restricted or otherwise affected by clause 25 and this clause 27.

28. NOTICES

28.1 Service

A notice may be given by the Company to any Shareholder or other person receiving notice under this Constitution either by serving it on the person personally or by sending it by post to the shareholder at the address as shown in the Register of Shareholders or the address supplied by the shareholder to the Company for the giving of notices. Notices to Shareholders whose registered address is outside Australia shall be sent by airmail or by facsimile, or in any other way that ensures it will be received quickly, or where applicable by the means provided for by clause 28.7.

28.2 Service by Post

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and to have been effected, in the case of a notice of a meeting, on the

date after the date of its posting and, in any other case, at the time at which the letter would be delivered in the ordinary course of post.

28.3 Service by Facsimile

Where a notice is sent by facsimile transmission or other electronic means, service of the notice is deemed to be effected by properly addressing and transmitting the facsimile transmission and to have been served on the Business Day following its despatch.

28.4 Notice to Joint Holders

A notice may be given by the Company to the joint holders of a Share by giving the notice to the joint holder first named in the Register of Shareholders in respect of the Share.

28.5 Notices to Personal Representatives and Others

A notice may be given by the Company to a person entitled to a Share in consequence of the death or bankruptcy of a Shareholder by serving it on him or by sending it to him by post addressed to him by name or by the title of representative of the deceased or assignee of the bankrupt, or by any like description, at the address (if any) supplied for the purpose by the person or, if such an address has not been supplied, at the address to which the notice might have been sent if the death or bankruptcy had not occurred.

28.6 Persons Entitled to Notice

Notice of every general meeting shall be given to:

- (a) every Shareholder;
- (b) every Director or alternate Director;
- (c) every person entitled to a Share in consequence of the death or bankruptcy of a Shareholder who, but for his death or bankruptcy, would be entitled to receive notice of the meeting;
- (d) the auditor for the time being of the Company; and
- (e) ASX, if the Company is admitted to the Official List of ASX.

No other person is entitled to receive notices of general meetings.

28.7 Incorrect Address

Where the Company has bona fide reason to believe that a Shareholder is not known at his registered address, and the Company has subsequently made an enquiry in writing at that address as to the whereabouts of the Shareholder which enquiry either elicits no response or a response indicating that the Shareholder or his present whereabouts are unknown, all future notices will be deemed to be given to such Shareholder if the notice is exhibited in the

Registered Office (or, in the case of a member registered on a branch Register, in a conspicuous place in the place where the branch Register of Shareholders is kept) for a period of 48 hours (and shall be deemed to be duly served at the commencement of that period) unless and until the Shareholder informs the Company that he has resumed residence at his registered address or notifies the Company of the new address to which the Company may send him notices (which new address shall be deemed his registered address).

29. WINDING-UP

29.1 Distribution in Kind

If the Company is wound up, the liquidator may, with the authority of a special resolution, divide among the Shareholders in kind the whole or any part of the property of the Company, and may for that purpose set such value as he considers fair upon any property to be so divided, and may determine how the division is to be carried out as between the Shareholders or different classes of Shareholders.

29.2 Trust For Shareholders

The liquidator may, with the authority of a special resolution, vest the whole or any part of any such property in trustees upon such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no Shareholder is compelled to accept any shares or other securities in respect of which there is any liability.

29.3 Distribution in Proportion to Shares Held

Subject to the rights of Shareholders (if any) entitled to Shares with special rights in a winding-up, all moneys and property that are to be distributed among Shareholders on a winding-up, shall be so distributed in proportion to the Shares held by them respectively, irrespective of the amount paid-up or credited as paid up on the Shares.

30. OFFICERS' AND AUDITOR'S INDEMNITY

30.1 Generally

- (a) Subject to the Corporations Act, every person who from time to time who is or has been an officer or auditor of the Company shall be indemnified for the relevant amount out of the property of the Company against any liability (other than for costs and expenses as referred to in clause 30.1(b) to another person (other than the Company or a Related Body Corporate) incurred by the person in the person's capacity as, or as a result of the person having been an, officer or auditor of the Company or of a Related Body Corporate in respect of any act or omission whatsoever and howsoever occurring unless the liability is prohibited under Section 199A(2) or 199A(3).

- (b) Subject to the Corporations Act, every person who from time to time is or has been an officer or auditor of the Company shall be indemnified for costs and expenses incurred by the person:
 - (i) in defending proceedings, whether civil or criminal, in relation to any act or omission of the person as an officer or auditor of the Company or of a Related Body Corporate in which judgement is given in favour of the person or in which the person is acquitted; or
 - (ii) in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Corporations Act.
- (c) For the purposes of this clause 30.1 "officer" has the same meaning as given to that term in paragraphs (a) and (b) of the definition of "officer" in Section 9 of the Corporations Act.

30.2 Employees' Indemnity

Subject to the Corporations Act, every person who from time to time is or has been an employee of the Company shall be indemnified for the relevant amount out of the property of the Company against any liability incurred by the person in the person's capacity as, or as a result of the person having, been an employee of the Company or of a Related Body Corporate in respect of any act or omission whatsoever and howsoever occurring or in defending any proceedings, whether civil or criminal unless:

- (a) the liability was incurred by the person through the person's own dishonesty, negligence, default, breach of duty or breach of trust; and
- (b) the Directors consider that the liability was incurred in circumstances which do not justify indemnification.

30.3 Liability

For the purposes of clauses 30.1 and 30.2 "liability" shall include all costs, charges, losses, damages, expenses and liabilities of any kind, including in particular (without limitation) legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal or government authority.

30.4 Relevant Amount

For the purposes of clauses 30.1 and 30.2 "relevant amount" means the amount of the liability after deducting:

- (a) the amount in respect of which the relevant person is otherwise entitled to be indemnified and is otherwise actually indemnified by another person (including in particular, an insurer under any insurance policy); and

- (b) where the liability is incurred in the conduct of the business of a Related Body Corporate or in the discharge of the duties of the person, in relation to a Related Body Corporate the amount in respect of which the person is entitled to be indemnified and is actually indemnified out of the assets of that Related Body Corporate.

30.5 **Insurance**

The Company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance for any person to whom clauses 30.1 and 30.2 apply against any liability incurred by the person as an officer or auditor of the Company or of a Related Body Corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

31. **OVERSEAS SHAREHOLDERS**

31.1 **Overseas Shareholders**

Each Shareholder with a registered address outside Australia acknowledges that, with the approval of ASX, the Company may, in accordance with the Listing Rules, arrange for a nominee to dispose of any of its entitlement to participate in any issue of Shares or Share Options by the Company to Shareholders.

32. **LISTING RULES**

32.1 **Listing Rules**

If the Company is admitted to the Official List of ASX, the following clauses apply:

- (a) Notwithstanding anything contained in this Constitution, if the Listing Rules prohibit an act being done, the act shall not be done.
- (b) Nothing contained in this Constitution prevents an act being done that the Listing Rules require to be done.
- (c) If the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be).
- (d) If the Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision.

- (e) If the Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision.
- (f) If any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

33. SCH BUSINESS RULES

33.1 SCH Business Rules

Where the securities of the Company are CHES approved Securities, the Company shall comply with the SCH Business Rules.