

Constitution

International Coal Ltd



Level 2 / 307 Queen Street, GPO Box 142, Brisbane Q 4001
Phone: 07 3002 8700, Fax: 07 3221 3068
Email: mail@hemhart.com.au, Web: www.hemhart.com.au

Certificate of Registration of a Company

This is to certify that

INTERNATIONAL COAL LTD

Australian Company Number 149 197 651

is a registered company under the Corporations Act 2001 and
is taken to be registered in Queensland.

The company **is limited by shares.**

The company is a **public** company.

The day of commencement of registration is
the eighth day of February 2011.



Issued by the
Australian Securities and Investments Commission
on this eighth day of February, 2011.

A handwritten signature in dark ink, appearing to read 'AM D'Aloisio'.

Anthony Michael D'Aloisio
Chairman

CERTIFICATE

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INTERNATIONAL COAL LTD
A COMPANY LIMITED BY SHARES

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

In this document:

Act means the *Corporations Act 2001* (Cth) and the regulations to that Act.

ASTC Regulated Transfer has the meaning given in the CS Operating Rules.

ASX means Australian Stock Exchange Limited and any successor to that body.

Company means International Coal Ltd.

CS Facility Licensee has the meaning given in the Act.

CS Operating Rules means the operating rules of a CS Facility Licensee providing services to the ASX.

Dividend includes, for the purposes of this Constitution, an interim dividend.

Director means a person appointed as a director of the Company and includes an alternate director.

List means to be admitted to the official list of the ASX.

Listing Rules means the listing rules of the ASX and any other rules of the ASX which are applicable while the Company is Listed, each as amended or replaced from time to time, except to the extent of any express written waiver from the ASX.

Member Present means, in connection with a meeting, the member present at the venue or venues for the meeting, in person or by proxy, by attorney or, where the member is a body corporate, by duly appointed representative.

Officer includes any director, secretary or public officer of the Company.

Prescribed Rate means the annual rate of interest charged by the Company's bankers to corporate customers similar in status to the Company from time to time in respect of overdraft loans in excess of \$100,000.00 calculated on a daily basis.

Proceedings means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act, matter or thing in his or her capacity as such an officer or in

the course of acting in connection with the affairs of the Company or a subsidiary of the Company.

Restricted Securities has the meaning given to that term in the Listing Rules but also includes shares in the Company defined as such in any Restriction Agreement.

Restriction Agreement has the meaning given in the Listing Rules but also includes any agreement that the Company and any member agrees is a Restriction Agreement.

Share means a share in the capital of the Company of whatever class or type, and whether fully paid or partly paid.

Uncertificated Securities Holding means securities of the Company which under the Act, the Listing Rules or any Uncertificated Transfer System may be held in uncertificated form.

Uncertificated Transfer System means any system operated under the Act, the Listing Rules or the CS Operating Rules which regulates the transfer or registration of, or the settlement of transactions affecting, securities of the Company in uncertificated form and includes CHESS (as that term is defined in the CS Operating Rules) as it applies to securities in certificated and uncertificated form.

Any other terms referred to in this Constitution commencing with capital letters shall have that meaning given to them in the Listing Rules, unless the context otherwise requires.

1.2 Interpretation

In this Constitution, unless a contrary intention appears;

- (a) the singular includes the plural and vice versa and reference to a gender includes other genders;
- (b) a reference to any legislation or statutory instrument:
 - (i) includes:
 - A. a reference to that legislation or statutory instrument as amended, modified, re-enacted and replaced from time to time; and
 - B. any rulings, regulations or guidelines made or issued under or in relation to that legislation or statutory instrument; and
 - (ii) is to be construed according to the relevant State or Federal Acts Interpretation Act applicable to that legislation or statutory instrument;
- (c) a reference to a person includes a corporation, firm or body of persons recognised by law and that persons successors, assigns and legal personal representatives;
- (d) other grammatical forms of defined words or phrases have corresponding meanings;

- (e) a reference to a clause is a reference to a clause of this Constitution;
- (f) except in so far as a contrary intention appears in this Constitution, an expression has, in a provision of this Constitution which relates to a particular provision of the Act, the same meaning as in that provision of the Act;
- (g) a reference to a member includes a reference to a successor in title to, a legal personal representative of or the estate of a member;
- (h) a reference to a month means a calendar month; and
- (i) a reference to writing includes all means of representing or reproducing words, figures or symbols in a permanent and visible form.

1.3 Actions authorised under the Act and compliance with the Act

Where the Act authorises or permits a company to do any matter or thing if so authorised by its constitution, the Company is and shall be taken by this clause to be authorised or permitted to do that matter or thing, irrespective of any other provision of this Constitution.

1.4 Replaceable Rules

The replaceable rules referred to in section 135 of the Act do not apply to the Company.

1.5 Listing Rules

- (a) a reference to the Listing Rules or the CS Operating Rules is to have effect if, and only if, at the relevant time, the Company is Listed and is otherwise to be disregarded; and
- (b) if the provisions of the Act and either or both the Listing Rules and the CS Operating Rules conflict on the same matter, the provisions of the Act prevail; and
- (c) if the Company is Listed, then:
 - (i) notwithstanding anything contained in this Constitution, if the Listing Rules prohibit an act being done, the act shall not be done;
 - (ii) nothing contained in this Constitution prevents an act being done that the Listing Rules require to be done;
 - (iii) 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);
 - (iv) if the Listing Rules require in this Constitution to contain a provision and if does not contain such a provision, this Constitution are deemed to contain that provision;

- (v) if the Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution are deemed not to contain that provision;
- (vi) 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.

2. CAPITAL

2.1 Power of Directors to issue securities

- (a) The Directors may issue Shares or options over Shares, and other securities of, the Company.
- (b) Any share, option or other security in the capital of the Company may be issued with such preferred, deferred or other special rights or such restrictions, whether with regard to Dividends, voting, return of capital, payment of calls, redemption, conversion or otherwise, as the Directors may decide.

2.2 Preference shares

- (a) Subject to the Act, the Directors may issue preference shares in the capital of the Company that may, or at the option of the Company may, be redeemed.
- (b) Preference shares in the capital of the Company, including redeemable preferences shares, shall be under the control of the Directors who may allot or otherwise dispose of them to the persons, on the terms and conditions and at the times, that the Directors think fit.

2.3 Brokerage and commission in respect of transfers of shares

- (a) The Company may exercise the powers to pay brokerage or commission conferred by the Act in the manner provided by the Act.
- (b) The brokerage or commission may be satisfied by:
 - (i) the payment of cash;
 - (ii) the allotment of fully or partly paid Shares; or
 - (iii) a mix of cash and Shares (fully or partly paid) as the Directors determine.

2.4 Registered holder deemed absolute owner

Except as required by the Act, the CS Operating Rules or the Listing Rules, the Company is entitled to treat the registered holder of any Share as the absolute owner of that Share. The Company is not required to recognise any equitable or other claim or interest in a Share on the part of any other person, irrespective of whether it has notice of that claim or interest.

2.5 Restricted securities: suspension of rights

If a Restriction Agreement entered into by the Company under the Listing Rules in relation to Restricted Securities issued by the Company is breached, the member holding the Restricted Securities shall cease to be entitled to any Dividends and to any voting rights in respect of those Restricted Securities for so long as the breach continues.

2.6 Register of debenture holders: suspension

The Company may, subject to the Act, the Listing Rules and the CS Operating Rules, close its register of debenture holders during a period or periods not exceeding in aggregate 30 days in any calendar year.

2.7 Capital structure

Special resolution to reduce capital:

- (a) Subject to the Act and the Listing Rules, the Company may by special resolution reduce its share capital or any capital redemption reserve fund in any manner.
- (b) Without limiting the generality of clause 2.7(a), the Company when reducing its share capital may resolve that such reduction be effected wholly or in part by the distribution of specific assets (whether held in the name of the Company or in the name of any wholly owned subsidiary of the Company) and in particular paid up shares, debentures, debenture stock or other securities of any other company or in any one or more of such ways. The members shall accept such distribution.

2.8 Buy-back authorisation

The Company may buy shares in itself on terms and at times determined by the Directors in accordance with the Act and the Listing Rules and any other applicable legislation.

2.9 Variation of class rights

- (a) Consent or special resolution of members in class:
 - (i) If at any time the share capital of the Company is divided into different classes of Shares, the rights attached to any class may be varied or abrogated unless otherwise provided by this Constitution or by the terms of issue of the Shares of that class:
 - A. with the consent in writing of the holders of three-fourths of the issued Shares included in that class; or
 - B. with the sanction of a special resolution passed at a separate meeting of the holders of those Shares.
- (b) Rules applying to meetings of class members:
 - (i) The provisions from time to time contained in this Constitution concerning meetings will apply, so far as they are capable of application and with the necessary changes,

to every meeting held under clause 7.1 but so that the necessary quorum is 2 or more persons who, between them, hold or are present by proxy or attorney or representative in respect of at least one-fourth of the issued Shares of the class.

- (ii) Any holder of Shares of the class present in person or by proxy, attorney or representative may demand a poll.

3. CERTIFICATES FOR SHARES

3.1 Uncertificated holdings of shares

Notwithstanding any other provision of this Constitution, if any dealings in Shares take place under an Uncertificated Transfer System the:

- (a) Company need not issue any certificate in respect of shares held as an Uncertificated Securities Holding;
- (b) register of members shall distinguish between Shares held in certificated form and Shares held as an Uncertificated Securities Holding.

3.2 Share certificates

Except in the case where clause 2.9 applies:

- (a) a person whose name is entered as a member in the register of members is entitled without payment to receive a certificate in respect of the member's Shares in accordance with the Act;
- (b) the Company is not bound to issue more than one certificate in respect of a Share or Shares held jointly by several persons; and
- (c) delivery of a certificate for a Share to one of several joint holders is sufficient delivery to all of the joint holders.

3.3 Form of share certificates

- (a) Unless the Act, the Listing Rules, the CS Operating Rules or this Constitution otherwise require, the Company shall not be required to issue share certificates to holders of Shares.
- (b) If required, a share certificate shall be issued on such terms and in such form as the Act, the Listing Rules and the CS Operating Rules require, and in the absence of such requirement, on such terms and in such form as the Directors determine.

3.4 Lien on shares

- (a) Unless the Directors otherwise declare, the Company has a first and paramount lien on every Share held by a member for:
 - (i) any amount due and unpaid in respect of the Share which has been called or is payable at a fixed time;

- (ii) any amounts which remain outstanding on loans made by the Company to persons to enable those persons to acquire Shares under an employee incentive scheme; and
 - (iii) all amounts that the Company may be called on by law to pay in respect of the Share and has paid.
- (b) The Company's lien on a Share extends to all Dividends payable and entitlements deriving in respect of the Share. The Directors may retain those Dividends or entitlements and may apply them towards satisfaction of all amounts due to the Company in respect of which the lien exists.
- (c) No person shall be entitled to exercise any rights or privileges as a member until the member has paid all calls and instalments of calls and other moneys, including interest, for the time being payable in respect of every Share held by the member.
- (d) Clause 3.4(c) shall apply if the Company is liable:
 - (i) in respect of any Shares registered in the name of a member (whether solely or jointly with others); or
 - (ii) in respect of any Dividends, interest, bonuses or other moneys or distributions paid or payable or entitlements derived or deriving in respect of any such Shares,

to pay any amount for or on account or in respect of any member, whether in consequence of the death of that member, the non-payment of any income or other tax by that member, the non-payment of any estate, probate, succession, death, stamp or other duty by the member or by the executor or administrator of the estate of that member or otherwise.
- (e) The Company:
 - (i) will be indemnified and kept indemnified by the member referred to in clause 3.4(a) from and against the liability referred to in clause 3.4(d);
 - (ii) will have a lien on the Shares registered in the name of that member for all moneys paid by the Company in respect of those Shares under or in consequence of the liability; and
 - (iii) may recover, as a debt due from that member or the member's estate, those moneys by deducting from any Dividend or any other amount payable to the member in respect of the Shares or otherwise (together with interest on the sum from the day of payment by the Company to the time of actual repayment by the member or the member's estate at a rate not exceeding the Prescribed Rate, but the Directors may waive payment of interest wholly or in part).

3.5 Exercise of lien by Company

- (a) Subject to clause 3.5(b), the Company may sell any Shares on which the Company has a lien, on whatever terms it thinks fit.

- (b) A Share on which the Company has a lien shall not be sold unless:
 - (i) a sum in respect of which the lien exists is currently due and payable; and
 - (ii) at least 14 days before the date of the sale, the Company has given to the member a notice in writing demanding payment of the sum and warning the member that the Share will be sold by the Company if the sum is not paid.

3.6 Power to make calls

- (a) The Directors may at any time and at their discretion make calls on the members on whatever terms they think fit in respect of any money unpaid on the Shares of the members which is not by the terms of issue of those Shares made payable at fixed times.
- (b) Each member shall, on receiving at least 14 days' notice specifying the time or place of payment, pay to the Company at the time and place so specified the amount called on the members' Shares. A call is made at such time or times specified in the resolution of the Directors authorising the call. The Company shall send notices of a call to shareholders in accordance with the Listing Rules.
- (c) The non-receipt of a notice of a call by, or the accidental omission to give notice of a call to, any member shall not invalidate the call.

3.7 Liability of joint holders for calls to be joint and several

The joint holders of a Share are jointly and severally liable to pay all calls in respect of a Share that they hold.

3.8 Fixed sums called

- (a) Any sum that, under the terms of issue of a Share, becomes payable on allotment or at a fixed date shall, for the purposes of this Constitution, be taken to be a call duly made and payable on the date on which under the terms of issue the sum becomes payable.
- (b) If any other sum is not paid when due, all the provisions of this Constitution relating to payment of interest and expenses, forfeiture or otherwise apply as if that sum had become payable by virtue of a call duly made and notified.

3.9 Interest on unpaid amounts

If a sum called or otherwise payable to the Company in respect of a Share is not paid before or on the day appointed for payment of the sum, the person from whom the sum is due shall, unless the Directors otherwise determine, pay:

- (a) interest on the sum from the day appointed for payment of the sum to the time of actual payment at a rate determined by the Directors but not exceeding the sum of the Prescribed Rate plus 2%; and

- (b) any costs and expenses incurred by the Company by reason of non-payment or late payment of the sum.

3.10 Exercise of discretion between holders

The Directors shall have the right, at their discretion, to differentiate between the holders as to the amount of calls to be paid and the times of payment.

3.11 Payment of calls in advance

- (a) The Directors may accept from a member the whole or a part of the amount unpaid on a Share even if that amount has not been called.
- (b) The Directors may authorise payment by the Company of interest at a rate not exceeding the Prescribed Rate on the whole or any part of an amount accepted under clause 3.11(a) until the amount becomes payable.
- (c) The Directors may repay the amount advanced upon giving at least 14 days prior notice in writing to this effect to the relevant member.

4. TRANSFER OF SHARES

4.1 Uncertificated system

- (a) Shares may be transferred in any manner permitted by an Uncertificated Transfer System and the Directors may require before registration of any such transfer that there be provided to the Company any documents or other information which the Uncertificated Transfer System requires (or permits the Company to require).
- (b) Subject to clauses 1.3 and 4.5, this clause prevails over any other provision of this Constitution that may be inconsistent with it but does not permit the Directors to refuse to register a proper ASTC Regulated Transfer.

4.2 Transfers of shares in Writing

Subject to this Constitution and the Act, a member's Shares may be transferred by instrument in writing, in any form authorised by the Act or the Listing Rules or in any other form that the Directors approve.

4.3 Fees

No fee is to be charged by the Company with respect to a transfer of Shares.

4.4 Registration of transfers of shares

- (a) A transferor of Shares remains the holder of the Shares transferred until the transfer is registered.

- (b) Where Shares are transferred other than by an ASTC Regulated Transfer, the following documents must be lodged for registration at the registered office of the Company or the location of the relevant share register:
 - (i) the instrument of transfer;
 - (ii) the certificate (if any) for the Shares; and
 - (iii) any other information that the Directors may require to establish the transferor's right to transfer the Shares.
- (c) Upon satisfaction of the requirements of clause 4.4(b), the Company shall, subject to the powers of the Company to refuse registration, register the transferee as a member.
- (d) The Directors may waive compliance with clause 4.4(b)(ii) on receipt of satisfactory evidence of loss or destruction of the relevant certificate.

4.5 Where registration of transfers may be refused

- (a) Where permitted or required to do so by the Act, the Listing Rules or the CS Operating Rules, the Company may or shall (as applicable) refuse to register any transfer of securities.
- (b) If the Company is not permitted to refuse to register a transfer under the relevant Uncertificated Transfer System, but would otherwise be entitled to refuse registration of the transfer in accordance with the Act, this Constitution or the Listing Rules, the Company may do any things permitted by the applicable Uncertificated Transfer System, the Act, the Listing Rules and the CS Operating Rules.

4.6 Restricted securities

- (a) Restricted Securities cannot be disposed of during the Escrow Period, except as permitted by the Listing Rules or the ASX.
- (b) The Company shall refuse to acknowledge a disposal of any Restricted Securities (including registering a transfer of such securities), other than securities defined as such only in a Restriction Agreement during the Escrow Period, except as permitted by the Listing Rules or the ASX.

4.7 Non-registration

If the Directors decline to register any transfer of securities, within 5 Business Days after the transfer is lodged with the Company, the Company must give to the person who lodged the transfer written notice of, and the reasons for, the decision to decline registration.

4.8 Suspension

The registration of transfers of securities may be suspended at any time and for any period as the Directors may from time to time decide.

5. TRANSMISSION OF SHARES

5.1 Death

- (a) If a member dies the:
 - (i) survivor, where the member was a joint holder; or
 - (ii) legal personal representative of the deceased, where the member was a sole holder,will be the only persons recognised by the Company as having any title to the member's interest in the Shares.
- (b) 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 holder with other persons.

5.2 Registration of persons entitled to shares

- (a) Subject to the *Bankruptcy Act 1966*, the Act and the CS Operating Rules and to the production of any information reasonably required by the Directors, a person becoming entitled to a Share as a consequence of the death or bankruptcy or mental or physical infirmity of a member may elect to:
 - (i) be registered personally as holder of the Share; or
 - (ii) have another person registered as the transferee of the Share.
- (b) All the limitations, restrictions and provisions of this Constitution relating to:
 - (i) the right to transfer;
 - (ii) the registration of the transfer of; and
 - (iii) the issue of certificates with respect to,Shares are applicable to any transfer as if the death, bankruptcy or mental physical infirmity of the member had not occurred and the notice or transfer were a transfer signed by that member or effected under an Uncertificated Transfer System.

5.3 Dividends and other rights

- (a) Where a member dies or becomes bankrupt and a representative takes control of his estate, or he has his estate transferred to a trustee, representative, guardian or other similar person (and each such person shall be called a "Representative") as a result of mental or physical infirmity, the Representative is, upon the production of all information as is properly required by the Directors, entitled to the same Dividends, entitlements and other advantages and to the same rights (whether in relation to meetings of the Company or to voting or otherwise) as the member would have been entitled to if the member had not died or become bankrupt or become mentally or physically infirm. However, in the circumstances, until the person is registered as a holder of the Share, that person is not, subject to any applicable

law to the contrary, entitled to exercise any right conferred by membership in respect of general meetings.

- (b) Where 2 or more persons are jointly entitled to any Share as a result of the death of a member, they shall be taken to be joint holders of the Share.

6. FORFEITURE OF SECURITIES

6.1 Liability

- (a) Without prejudice to any of the other provisions of this Constitution, if a member fails to pay a call or instalment of a call on or before the day appointed for payment of the call or instalment, the Directors may, at any time afterwards while any part of the call or instalment remains unpaid, serve a notice on the member requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all expenses of the Company incurred as a result of the non-payment.
- (b) This notice must:
 - (i) specify another day (not earlier than 14 days after the date of service of the notice) on or before which and a place at which the payment required by the notice is to be made; and
 - (ii) state that, if payment is not made at or before the time specified, the Shares in respect of which the call was made are liable to be forfeited.

6.2 Surrender

Subject to the Act, the Directors may accept the surrender on any terms of any fully paid security by way of compromise of any question as to the proper registration of the holder or in satisfaction of any payment due to the Company. Any security so surrendered may be disposed of in the same manner as a forfeited Share.

6.3 Power to forfeit

If the requirements of a notice served under clause 6.6 are not complied with by the relevant member and any requirements of the CS Operating Rules are satisfied, any Share in respect of which the notice has been given may at any time afterwards, but before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect. Such a forfeiture shall include all Dividends declared in respect of the forfeited Shares and not actually paid before the forfeiture.

6.4 Powers of directors in respect of forfeited shares

A forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit. Any residue from the proceeds of sale of a forfeited Share, after satisfaction of any calls or instalments due and unpaid and accrued interest and expenses in respect of that Share, shall be paid to the person entitled to those Shares at the time of

the forfeiture, to the executors, administrators or assigns of the person or as the person directs.

6.5 Consequences of forfeiture

A person whose Shares have been forfeited:

- (a) ceases to be a member in respect of the forfeited Shares;
- (b) has no claims against the Company in respect of those Shares;
- (c) has no other rights in connection with those Shares; and
- (d) is liable to pay to the Company all money that, at the date of forfeiture, was payable by the person to the Company in respect of the Shares, including, if the Directors think fit, interest from the date of forfeiture at a rate not exceeding the Prescribed Rate on the money for the time being unpaid.

The Directors may enforce the payment of the money or any part of the money for which the member is liable as they think fit.

6.6 Notice

Notice of the resolution of forfeiture shall be given to the member in whose name the Share was registered immediately before the forfeiture and an entry of the forfeiture and its date shall be made immediately in the register. However, the failure to give such notice shall not affect the validity of the forfeiture.

6.7 Transfers after forfeiture

- (a) The Company may:
 - (i) receive the consideration given for a forfeited Share on any sale or disposition of the Share; and
 - (ii) effect a transfer of the Share in favour of the person to whom the Share is sold or disposed of.
- (b) On completion of the said transfer, the transferee is to be registered as the holder of the Share.
- (c) The title of the transferee to the Share is not affected as a result of any irregularity or invalidity in connection with the forfeiture, sale or disposal of the Share.

7. GENERAL MEETINGS

7.1 Power of directors to convene general meetings of the Company

- (a) A Director may convene a general meeting whenever the Director thinks fit.
- (b) A Director may cancel by notice in writing to all members any meeting convened by that Director under clause 7.1(a).

- (c) Subject to the Act and the Listing Rules, the Directors may by written notice to all members postpone a general meeting or change the place at which it is to be held not later than 48 hours prior to the time of the meeting to all persons to whom the notice of meeting was given. The notice informing members of the postponement shall specify the place, date and time of the meeting, which meeting shall be taken to be duly convened pursuant to the original notice of meeting.

7.2 Notice of general meetings

The non-receipt of a notice convening a general meeting by, or the accidental omission to give notice to, any person entitled to receive notice does not invalidate the proceedings at or any resolution passed at the meeting.

7.3 Business of general meetings

- (a) The ordinary business of an annual general meeting is to:
 - (i) consider the Company's annual financial report, the Directors' report and the auditor's report; and
 - (ii) elect directors of the Company.
- (b) The business of an annual general meeting may include, in addition to ordinary business, any other business that may be transacted at a general meeting, such business which shall be described as "special business".

7.4 Quorum

- (a) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- (b) Except as otherwise provided in this Constitution, 3 Members Present constitutes a quorum.

7.5 If quorum not present

- (a) If a quorum is not present within 30 minutes after the time appointed for the meeting, subject to any right to adjourn the meeting, where the meeting was convened upon the requisition of members, the proposed meeting shall be dissolved.
- (b) In any other case:
 - (i) the meeting stands adjourned to a date and at a time and place as the Directors decide or, if no decision is made by the Directors, to the same day in the next week at the same time and place; and
 - (ii) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

7.6 Chairing meetings

- (a) Subject to clause 7.6(b), the chairman of the board of Directors or, in his absence, the deputy chair shall preside as chair at every general meeting.
- (b) Where a general meeting is held and:
 - (i) there is no chair or deputy chair; or
 - (ii) the chair or deputy chair is not present within 30 minutes after the time appointed for the meeting or does not wish to act as chair of the meeting, the Directors present shall choose one of their number or, in the absence of all Directors or if none of the Directors present wish to act, the Members Present shall elect one of their number to be chair of the meeting.

7.7 Adjournment of meetings

- (a) The chair may, and shall if so directed by the meeting, adjourn the meeting.
- (b) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) Subject to the requirements of the Act, the Listing Rules and any other applicable law, the Company does not have to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

7.8 Voting at general meetings

- (a) Except in the case of any resolution which as a matter of law requires a special majority, questions arising at a general meeting are to be decided by a majority of votes cast by the Members Present and any such decision is for all purposes a decision of the members.
- (b) Any resolution to be considered at a meeting shall be decided on a show of hands unless a poll is demanded in accordance with the Act.
- (c) On a show of hands, a declaration by the chair that a resolution has on a show of hands been carried or lost and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact.
- (d) A poll may be demanded by a member and by any other person or group of persons permitted by the Act.
- (e) A poll cannot be demanded on any resolution concerning the election of the chair or the adjournment of a meeting.

7.9 Procedure for polls

- (a) If demanded, a poll shall be taken in the manner and at the time the chair directs.

- (b) The chair shall determine any dispute as to the admission or rejection of a vote and such determination shall be final and conclusive.
- (c) The result of the poll shall be a resolution of the meeting at which the poll was demanded.
- (d) The demand for a poll shall not prevent a meeting from continuing for the transaction of any business other than that on which a poll has been demanded.

7.10 Chair's casting vote

In the case of an equality of votes on a show of hands or on a poll the chair of the meeting will not have a casting vote in addition to any vote to which the chair may be entitled as a member.

7.11 Representation and voting

Subject to this Constitution and any rights or restrictions for the time being attached to any class or classes of Shares:

- (a) at meetings of members or classes of members each member entitled to attend and vote may attend and vote in person or by proxy, by attorney or, where the member is a body corporate, by representative;
- (b) on a show of hands, every Member present having the right to vote on the resolution has one vote; and
- (c) on a poll, every Member Present having the right to vote on the resolution has:
 - (i) one vote for each fully paid Share; and
 - (ii) in the case of a partly paid Share, provided that all calls in respect of that Share have been met, that fraction of a vote equivalent to the proportion which the amount paid up (but excluding amounts credited as paid up) on that member's Share bears to the total amounts paid and payable on that Share at the time the poll is called.

7.12 Joint holders of shares and voting

Where more than one joint holder votes, the vote of the holder whose name appears first in the register of members shall be accepted to the exclusion of the others whether the vote is given personally, by attorney, by proxy or, where the holder is a body corporate, by representative.

7.13 Members of unsound mind and minors

- (a) If a member is:
 - (i) of unsound mind;
 - (ii) a person whose person or estate is liable to be dealt with in any way under a law relating to mental health; or
 - (iii) a minor;

then any person who properly has the management or guardianship of the member's estate or affairs may, subject to clause 7.13(b), exercise any rights of the member in relation to a general meeting as if the person were the member.

- (b) Any person with powers of management or guardianship shall not exercise any rights under clause 7.13(a) until the person has provided the Directors with satisfactory evidence of the person's appointment and status.

7.14 Unpaid amounts and voting

A member is not entitled to vote at a general meeting or to be counted for the purpose of constituting a quorum unless all calls and other sums presently payable by the member in respect of Shares have been paid.

7.15 Objections to qualification to vote

An objection to the qualification of a person to vote may be raised before or at the meeting or adjourned meeting at which the vote objected to is tendered. An objection shall be referred to the chair of the meeting, whose decision shall be final and binding. A vote allowed after an objection shall be valid for all purposes.

7.16 Number of proxies

- (a) A member entitled to cast 2 or more votes on a resolution may appoint 2 proxies. A proxy need not be a member.
- (b) If a member appoints 2 proxies, neither proxy is entitled to vote on a show of hands.
- (c) If an instrument appointing 2 proxies does not specify the proportion or number of the member's votes each proxy is entitled to exercise, each proxy may exercise half the votes.

7.17 Form of proxy

- (a) An instrument appointing a proxy must be in writing and:
 - (i) if the appointer is a natural person, be signed by the appointor or the appointor's attorney duly authorised; or
 - (ii) if the appointor is a corporation, be executed with the seal or without the seal in accordance with the Act or under the hand of a duly authorised officer or attorney,

but otherwise may, subject to the Act, be in any form that the Directors may determine.

- (b) Subject to clause 7.16(c), a proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated in the instrument of appointment.
- (c) Where an instrument of proxy is signed by all of the joint holders of any Shares, the votes of the proxy so appointed must be accepted in respect of those Shares to the exclusion of any votes tendered by a proxy for any one of those joint holders.

7.18 Lodgement of proxies

- (a) The documents to be received under the Act for an appointment of a proxy to be effective must be received by the Company not less than 48 hours before the meeting commences or (in the case of an adjournment) resumes, unless the notice of meeting specifies a shorter period.
- (b) For an instrument appointing an attorney to act on behalf of a member at all meetings of the Company to be effective, the following documents must be received by the Company at least 48 hours, unless the Directors otherwise permit, before the commencement of the meeting or adjourned meeting at which the attorney proposes to vote:
 - (i) the power of attorney or a certified copy of that power of attorney: and
 - (ii) any evidence that the Directors may require of the validity and non-revocation of that power of attorney.
- (c) For the purposes of clauses 7.18(a) and 7.18(b), the Company receives the documents referred to in those clauses when they are received at any of the following:
 - (i) the Company's registered office;
 - (ii) a fax number at the Company's registered office; or
 - (iii) a place, fax number or electronic address specified for the purpose in the notice of meeting.

7.19 Validity of proxies

- (a) A vote exercised in accordance with the terms of an instrument of proxy, a power of attorney or other relevant instrument of appointment is valid despite the:
 - (i) previous death or unsoundness of mind of the principal;
 - (ii) revocation of the instrument, or of the authority under which the instrument was executed, or the power; or
 - (iii) transfer of the Share in respect of which the instrument or power is given,

if no notice in writing of the death, unsoundness of mind, revocation or transfer (as the case may be) has been received by the Company at its registered office not less than 48 hours, or any shorter period as the Directors may permit, before the commencement of the meeting, or adjourned meeting at which the instrument is used or the power is exercised.
- (b) A proxy is not revoked by the principal attending and taking part in the meeting unless the principal actually votes at the meeting on the resolution for which the proxy is proposed to be used.

7.20 Where the proxy is incomplete

- (a) No instrument appointing a proxy is invalid simply because it is not dated or it does not contain:
 - (i) the address of the appointor or of a proxy;
 - (ii) the proxy's name or the name of the office held by the proxy; or
 - (iii) in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.
- (b) Subject to the Act and the Listing Rules, where the instrument does not specify the name of a proxy, the instrument is taken to be given in favour of the chair of the meeting.

7.21 Right of persons to attend general meetings

- (a) A Director who is not a member shall be entitled to be present and to speak at any general meeting.
- (b) A secretary who is not a member shall be entitled to be present and to speak at any general meeting.
- (c) Any other person requested by the Directors to attend any general meeting shall be entitled to be present and, at the request of the chair, to speak at that general meeting.
- (d) Any member shall be entitled to ask questions about or make comments on the management of the Company at an annual general meeting.

8. APPOINTMENT, REMOVAL AND REMUNERATION OF DIRECTORS

8.1 Appointment and removal

Subject to the Act and the Listing Rules, the Company may at any time by resolution passed in general meeting:

- (a) appoint any person to be a Director, or
- (b) remove any Director from office.

Subject to the Act and the Listing Rules, the Directors may at any time appoint any person as a Director. Any person appointed as a Director under clause 8.1(a) shall hold office only until the end of the next following annual general meeting but shall be eligible for re-election at that meeting.

8.2 No share qualification

Directors are not required to hold any Shares or other securities in the capital of the Company.

8.3 Retirement at each annual general meeting

- (a) No Director shall hold office for a continuous period in excess of 3 years or until the third annual general meeting following a Director's appointment, whichever is the longer, without submitting for re-election.
- (b) At every annual general meeting one-third of the Directors or, if their number is not a multiple of 3, then the number nearest to but not exceeding one-third shall retire from office.
- (c) The Directors to retire under clause 8.3(b) shall be the Directors longest in office since last being elected or re-elected. With respect to Directors who were elected on the same day the Director or Directors to retire shall be decided by lot unless they agree otherwise.
- (d) A retiring Director shall be eligible for re-election without needing to give any prior notice of an intention to submit for re-election and shall hold office as a Director until the end of the meeting at which the Director retires.
- (e) Any Director vacating office under clause 8.1(b) and any Managing Director (as that term is defined in clause 10.1) is not taken into account in deciding the number or identity of the Directors to retire by rotation under this clause.
- (f) No person other than a retiring Director or a Director vacating office under clause 10.1(b) is eligible to be elected a Director at any general meeting unless a notice of the Director's candidature is given to the Company at least 30 Business Days before the meeting.

8.4 Remuneration of directors

- (a) The Directors shall be paid for their services as Directors.
- (b) The fees payable from time to time to non-executive Directors shall be a fixed sum as the general meeting determines, but until so determined by the general meeting shall be as the Director's determine.
- (c) The fees fixed under clause 8.4(b) shall be divided among the Directors in the proportions as they may agree or, if they cannot agree, equally among them. These fees are exclusive of any benefits which the Company provides to Directors in satisfaction of legislative schemes, including without limitation, benefits provided under superannuation schemes.
- (d) Fees payable to non-executive Directors shall be by a fixed sum and not by a commission on or as a percentage of the operating revenue of the Company.
- (e) The Directors shall also be entitled to be paid or reimbursed for all reasonable travelling and other expenses properly incurred by them in attending and returning from any meeting of the Directors, committee of the Directors, general meeting of the Company or otherwise in connection with the business or affairs of the Company.

- (f) Subject to the Listing Rules and the Act, an executive Director may be appointed on such terms as to remuneration, tenure of office and otherwise as may be agreed by the Directors. However, unless the Listing Rules otherwise permit, fees payable to executive Directors shall not include a commission on, or percentage of, the operating revenue of the Company.
- (g) A Director may be engaged by the Company in any other capacity, other than as auditor, and may be appointed on such terms as to remuneration, tenure of office and otherwise as may be agreed by the Directors.

8.5 Vacation of office of directors

Without prejudice to the other provisions of this Constitution, the Act or the Listing Rules, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind, mentally or physically incapable of carrying out his duties as a Director or a person whose person or estate is liable to be dealt with in any way under the Act relating to mental health;
- (b) resigns by notice in writing to the Company; or
- (c) is absent without the consent of the Directors from meetings of the Directors held during a continuous period of 6 months.

8.6 Retiring allowance for directors

The Company may:

- (a) make contracts or arrangements with a Director or prospective director of the Company under which the Director or any person nominated by the Director is paid or provided with a lump sum payment, pension, retiring allowance or other benefit on or after the Director or person about to become a Director ceases to hold office for any reason; and
- (b) make any payment under any contract or arrangement referred to in clause 8.6(a).

9. POWERS AND DUTIES OF DIRECTORS

9.1 Powers of directors

- (a) Subject to the Act, the Listing Rules and the other provisions of this Constitution, the business of the Company is managed by the Directors, who may exercise all powers of the Company which are not, by the Act, this Constitution or the Listing Rules, required to be exercised by the Company in general meeting.
- (b) Without limiting the generality of clause 9.1(a), the Directors may exercise all the powers of the Company:
 - (i) to borrow money, to charge any property, business undertaking or of the Company or all or any of its uncalled capital; and

- (ii) to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

9.2 Appointment of attorneys

- (a) The Directors may, by power of attorney, appoint any person to be the attorney of the Company for the purposes, with the powers, authorities and discretions vested in or exercisable by the Directors for any period and subject to any conditions as they think fit.
- (b) Any appointment under clause 9.2(a) may be made on terms for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

9.3 Cheques and other negotiable instruments

All cheques and other negotiable instruments of the Company shall be executed by the persons and in the manner the Directors decide from time to time.

9.4 Proceedings

- (a) The Directors may meet together for a dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) A Director may at any time, and on the request of a Director a secretary shall, convene a meeting of the Directors.
- (c) Reasonable notice of at least 3 Business Days, unless the Directors otherwise all agree, must be given to every Director of the place, date and time of every meeting of the Directors. Notice need not be in writing and may be made by fax, electronically or any other means the Directors agree from time to time. Where any Director is for the time being away from his/her usual place of contact, notice need only be given to that Director if contact details have been given by that Director to the Company, but notice shall always be given to any alternate Director whose appointment by that Director is for the time being in force.
- (d) The non-receipt of notice convening a Directors' meeting by, or the accidental omission to give notice to any person entitled to receive notice does not invalidate the proceedings, or any resolution passed at a Directors' meeting.

9.5 Meetings by electronic means: use of technology

- (a) Each Director consents to the use of the following technology for calling or holding a Directors meeting:
 - (i) video;
 - (ii) telephone;
 - (iii) electronic mail;

- (iv) any other technology which permits each Director to communicate with every other Director; or
 - (v) any combination of the technologies described in the above paragraphs.
- (b) If permitted by the Act or the Listing Rules, a Director may withdraw the consent given under this clause.
- (c) Where the Directors are not all in attendance at one place and are holding a meeting using technology:
 - (i) the participating Directors shall be taken to be assembled together at a meeting and to be present at that meeting;
 - (ii) all proceedings of those Directors conducted in that manner shall be as valid and effective as if conducted at a meeting at which all of them were physically present; and
 - (iii) the meeting shall be deemed to have been held at the registered office of the Company.

9.6 Quorum at meetings

At a meeting of Directors, the number of Directors whose presence is necessary to constitute a quorum is 3 Directors entitled to vote.

9.7 Chair of directors

- (a) The Directors may elect one of their number as their chair and may decide the period for which the chair is to hold office as chair.
- (b) Where a meeting of Directors is held and:
 - (i) a chair has not been elected as provided by clause 9.7; or
 - (ii) the chair is not present at the time appointed for the holding of the meeting or does not wish to chair the meeting,

the Directors present shall elect one of their number to be a chair of the meeting.

9.8 Proceedings at meetings

- (a) Subject to this Constitution, questions arising at a meeting of Directors shall be decided by a majority of votes of Directors present and voting and for all purposes any such decision is taken to be a decision of the Directors.
- (b) Subject to the Act and the Listing Rules, in the case of an equality of votes, the chair of the meeting has a second or casting vote in addition to the chair's initial vote.

9.9 Disclosure of conflicts of interest

- (a) A Director is not disqualified by reason of his or her office from contracting with the Company or any related body corporate in any capacity.

- (b) A contract or arrangement made by the Company or any related body corporate with a Director or in which a Director is in any way directly or indirectly interested may not be avoided merely because the Director is a party to or interested in it.
- (c) Subject to the Act and the Listing Rules, a Director may vote in respect of a matter in which the Director has a material interest.
- (d) A Director is not liable to account to the Company for any profit derived in respect of a matter in which the Director has a material interest, merely because of the Director's office or the fiduciary relationship it entails, if the Director:
 - (i) declared the Director's interest in the matter as soon as practicable after the relevant facts came to the Director's knowledge; and
 - (ii) has not contravened this Constitution or the Act in relation to the matter.
- (e) A Director may hold any office of employment or profit in the Company, other than as auditor in addition to holding office as a Director of the Company.

9.10 Alternate directors

- (a) A Director may:
 - (i) with the approval of a majority of the other Directors, appoint any person; or
 - (ii) without the need for the approval of the other Directors, appoint another Director,

to be an alternate Director in the Director's place during any period that the Director thinks fit.
- (b) An alternate Director is entitled to notice of meetings of the Directors and, if the appointor is not present at such a meeting, is entitled to attend and vote in the appointor's stead.
- (c) In the absence of the appointor, an alternate Director may exercise any powers which the appointor may exercise. The exercise of any power by the alternate Director, including affixing the seal or signing a document, shall be taken to be the exercise of the power by the appointor. The legitimate exercise of any power by the alternate Director shall be as agent of the Company and not as agent of the appointor. Where the alternate is another Director, that Director shall be entitled to cast a deliberative vote on the Director's own account and on account of each person by whom the Director has been appointed as an alternate Director.
- (d) The appointment of an alternate Director:
 - (i) may be terminated at any time by the appointor even if the period of the appointment of the alternate Director has not expired; and

- (ii) terminates automatically if the appointor vacates office as a Director.
- (e) An appointment or the termination of an appointment of an alternate Director shall be effected by service on the Company of a notice in writing signed by the Director making the appointment.
- (f) Other than:
 - (i) for reimbursement of expenses in accordance with this Constitution; or
 - (ii) as authorised by the Directors,
 an alternate Director is not entitled to any additional remuneration from the Company.
- (g) Any remuneration that is paid to an alternate Director under clause 9.10(f), other than reimbursement of expenses under this Constitution, must be deducted from the remuneration of the appointor.

9.11 Vacancies

If the number of Directors is reduced below the minimum set by the Act the remaining Director or Directors may and are empowered to act only for the purpose of increasing the number of Directors to the minimum number required under the Act, and under this Constitution to constitute a quorum or for calling a general meeting, but for no other purpose.

9.12 Committees

The Directors may delegate any of their powers to a committee or committees consisting of such number of them and/or other persons on terms (if any) as they think fit. A committee may consist of one or more persons.

9.13 Written resolutions

- (a) Subject to the Act and the Listing Rules:
 - (i) if a document is sent to all those entitled to receive notice of a Directors meeting at which a resolution could be put;
 - (ii) if that document contains a statement that the signatories to it are in favour of that resolution;
 - (iii) if the terms of the resolution are set out or identified in that document; and
 - (iv) if that document has been signed by a majority of the Directors entitled to vote on that resolution,
 then a resolution in those terms is passed on the day on which and at the time at which the document was signed by a Director.
- (b) For the purposes of clause 9.13(a):

- (i) such document may be executed in 2 or more counterparts which shall, together, be deemed to constitute one and the same instrument;
- (ii) an executed fax of the document which is received by the Company and is sent for or on behalf of a Director or an alternate Director shall be taken to be signed by that Director or alternate Director not later than the time of receipt of the fax by the Company or its agent in legible form.

9.14 Defects in appointment

All acts done by any meeting of the Directors, committee of Directors, or persons acting as a Director are, irrespective of any invalidity of appointment of such persons, deemed to be valid as if each person was duly appointed and qualified to be a Director or a member of the committee.

10. MANAGING DIRECTOR

10.1 Managing director and appointment

- (a) The Directors may appoint one Director to the office of managing Director (Managing Director) for the period and on the terms as they think fit. Subject to the terms of any agreement entered into in a particular case, the Directors may at any time revoke any such appointment, with or without cause.
- (b) A Managing Director's appointment automatically terminates if the Managing Director ceases for any reason to be a Director.
- (c) Clause 8.2 does not apply to a Managing Director.

10.2 Remuneration

A Managing Director shall, subject to the Act, the Listing Rules and the terms of any agreement between the Managing Director and the Company, receive remuneration as the Directors determine.

11. SECRETARIES

11.1 Secretaries

A secretary of the Company holds office on the terms and conditions, as to remuneration and otherwise, as the Directors decide. The Directors may at any time terminate the appointment of a secretary.

12. SEALS AND EXECUTING DOCUMENTS

12.1 Seals and their use

- (a) The Company may have a common seal. If the Company has a common seal it may also have a duplicate common seal.

- (b) A seal may be used as authorised by the Directors. Every document to which the seal is affixed shall be signed by:
 - (i) 2 Directors; or
 - (ii) a Director and a secretary; or
 - (iii) a Director and another person appointed in writing by the Directors to countersign that document or a class of documents in which that document is included.
- (c) This clause does not limit the ways in which the Company may execute a document.

13. INSPECTION OF RECORDS

A member, other than a Director, does not have the right to inspect any document of the Company except as provided by the Act or the Listing Rules or as authorised by the Directors.

14. DIVIDENDS, INTEREST AND RESERVES

14.1 Powers to declare dividends and pay interest

Subject to the Act and to any special rights or restrictions attached to any Shares, the Directors may from time to time at their discretion declare and pay Dividends from the profits of the Company. The Company shall not be liable for any interest in respect of Dividends payable to members.

14.2 Declaration and payment of Dividends

- (a) Subject to any special rights or restrictions attached to any Shares, every Dividend on a Share will be declared and paid as follows, unless otherwise resolved by the Directors:
 - (i) if the Share to which a particular Dividend relates is fully paid and was fully paid during the whole period in respect of which the Dividend is to be paid, that Dividend shall be equal to the Dividend paid on each other Share which was fully paid during the whole period in respect of which the Dividend is to be fully paid; and
 - (ii) if the Share to which a particular Dividend relates is partly paid, or is fully paid but was not fully paid during the whole of the period in respect of which the Dividend is to be paid, that Dividend shall be apportioned, and paid proportionately to the amounts paid on the Share in respect of which the Dividend is to be paid with respect to the issue price of the Share during any part or parts of the period in respect of which the Dividend is to be paid.
- (b) An amount paid or credited as paid on a Share in advance of a call is not taken for the purposes of 14.2(a)(ii) to be paid or credited as paid on the share.

14.3 Reserves

- (a) Subject to the Act and the Listing Rules, prior to declaring or recommending any Dividend, the Directors may at their discretion set aside out of the profits of the Company any sums as they think proper as reserves which shall, at the discretion of the Directors, be applicable for any purpose to which the profits of the Company may be properly applied.
- (b) Pending any application under 14.3(a), the reserves may, at the discretion of the Directors, either be employed in the business of the Company or be invested in any investments as the Directors may from time to time think fit.
- (c) The Directors may, without placing them to any reserve, carry forward any profits which they may think prudent not to declare as Dividends or capitalise.

14.4 Deduction of unpaid amounts

The Directors may deduct from any Dividend payable to a member all sums of money presently payable by the member to the Company on account of calls or otherwise in relation to Shares.

14.5 Distributions in kind

- (a) The Directors may, when declaring a Dividend, by resolution at their discretion direct payment of the Dividend wholly or partly by the distribution of specific assets of the Company.
- (b) Where a dispute arises in regard to a distribution under clause 14.5(a), the Directors may:
 - (i) settle the matter as they think fit and fix the value for distribution of the specific assets or any part of those assets;
 - (ii) decide that cash payments will be made, and make such payments to any members on the basis of the value so fixed in order to adjust the rights of all parties; or
 - (iii) vest any specific assets in trustees.

14.6 Payment of dividends

- (a) Payment of any Dividend or other money in respect of a Share may be made in any manner and by any means as determined by the Directors in their sole and unfettered discretion.
- (b) Money earned by the Company on the amount of a Dividend pending clearance of such a cheque or other collection by a member will be for the benefit of the Company.
- (c) The Directors may retain the whole or part of any Dividend on which the Company has a lien, and may apply that sum in or towards satisfaction of the debts, liabilities or engagements in respect of which the lien exists.

15. CAPITALISATION OF PROFITS

15.1 Capitalisation of profits

- (a) The Company in general meeting or the Directors may resolve:
 - (i) to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account, profit and loss account or otherwise available for distribution to members; and
 - (ii) that the sum referred to in clause 15.1(a)(i) be applied, in any of the ways mentioned in clause 15.1(b), for the benefit of members in full satisfaction of their interest in the capitalised sum, in the proportions to which those members would have been entitled in a distribution of that sum by way of Dividend or if there is no such proportional entitlement, as the Directors determine.
- (b) The ways in which a sum may be applied for the benefit of members under clause 15.1(a) are:
 - (i) in paying up any amounts unpaid on Shares held by members;
 - (ii) in paying up in full unissued Shares or debentures to be issued to members as fully paid;
 - (iii) any other application permitted by the Act or the Listing Rules; or
 - (iv) any combination of the above.
- (c) Where the conditions of issue of a partly paid Share so provide, the holder shall be entitled to participate in any application of a sum under clause 15.1(a) to a greater extent than would have been the case had those funds been distributed by Dividend but not to any greater extent than permitted by the terms of issue.
- (d) The Directors shall do all things necessary to give effect to the resolution and, in particular, to the extent necessary to adjust the rights of the members amongst themselves, may:
 - (i) fix the value for distribution of the specific assets or any part of those assets;
 - (ii) vest any cash or specific assets in trustees on trust for the persons entitled as they think fit; and
 - (iii) authorise any person to make, on behalf of all the members entitled to any further Shares or debentures in the Company on the capitalisation, an agreement with the Company providing for the issue to them, credited as fully paid up, of any such further Shares or debentures or for the payment by the Company on their behalf 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 that authority is effective and binding on all the members concerned.

16. BONUS SHARE PLAN

16.1 Bonus share plan

- (a) A general meeting of the Company may authorise the Directors to establish and maintain one or more bonus share plans whereby any member or any number or class of members eligible in accordance with the plans may elect to forego any dividends that may be payable on all or some of the ordinary Shares held by that member and to receive instead some other entitlement in accordance with the plans including the allotment to the member of fully paid ordinary Shares.
- (b) Subject to the Listing Rules, the Directors may implement, suspend, terminate or vary the terms and conditions of any such bonus share plans as and when they consider appropriate.

16.2 Dividend reinvestment plans

- (a) A general meeting of the Company may authorise the Directors to establish and maintain one or more dividend reinvestment plans whereby any member or any number or class of members eligible in accordance with the plans may elect that dividends payable by the Company will be applied on behalf of that member in subscribing for fully paid ordinary Shares in accordance with the plans.
- (b) Subject to the Listing Rules, the Directors may implement, suspend, terminate or vary the terms and conditions of any such plans as and when they consider appropriate.

17. NOTICES UNDER THIS CONSTITUTION

17.1 Notices generally

- (a) Any member who has not left at or sent to the registered office, a place of address, facsimile number or an electronic mail address (for registration in the register) at or to which all notices and documents of the Company may be served or send is not entitled to receive any notice.
- (b) A notice may be given by the Company to any member by:
 - (i) serving it on the member personally;
 - (ii) sending it by post to the member or leaving it at the member's address as shown in the register or the address supplied by the member to the Company for the giving of notices;
 - (iii) transmitting it to the fax number supplied by the member to the Company for the giving of notices;
 - (iv) subject to the Act and the Listing Rules, as the Directors in their discretion determine; or

- (v) serving it in any manner contemplated in clauses 17.1(b)(i) to 17.1(b)(iv) (both inclusive) on a member's attorney as specified by the member in a notice given to the Company.
- (c) A member may, by written notice to the secretary left at or sent to the registered office, require that all notices to be given by the Company or to the Directors be served on the member's attorney at an address specified in the notice.
- (d) Notice to a member whose address for notices is outside Australia shall be sent by airmail, fax or electronic mail.
- (e) Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected:
 - (i) in the case of a notice of a meeting, on the day after the date of its posting; and
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (f) Where a notice is sent by fax or electronic transmission, service of the notice is taken to be effected by properly addressing and sending or transmitting the notice and to have been effected on the day it is sent.
- (g) A notice may be given by the Company to a person entitled to a Share in consequence of the death or bankruptcy of a member:
 - (i) by sending it by post addressed to the person by name or by the title of representative of the deceased or assignee of the bankrupt or by any like description at the address within Australia supplied for the purpose by the person;
 - (ii) 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;

otherwise, as permitted by the Act or the Listing Rules.

17.2 Notices of general meeting

- (a) Notice of every general meeting shall be given:
 - (i) to every member and to each Director;
 - (ii) to every person entitled to a Share in consequence of the death or bankruptcy of a member who, but for death or bankruptcy, would be entitled to receive notice of the meeting; and
 - (iii) to the auditor to the Company.
- (b) Notice of every general meeting must also be given in accordance with the Act and the Listing Rules to any other person to whom the Company is required to give notice.

- (c) No other person is entitled by this Constitution to receive notice of general meetings.
- (d) Notice of every general meeting shall specify a place and a fax number for the purpose of a receipt of proxy appointments.

18. SMALL SHAREHOLDINGS

- (a) The Directors may resolve to deliver a notice to a member who holds less than a Marketable Parcel of Shares (**small holding**). The notice must:
 - (i) advise the member that Company intends to sell the small holding;
 - (ii) state that unless the member advises the Company before the date referred to in the notice (being no less than 6 weeks after the date the notice is issued) that the member wishes to retain the small holding, the Shares referred to in the notice will be sold.
- (b) If a member does not advise the Company by the date referred to in the notice that the member wishes to retain the member's shareholding, then the Directors may sell those Shares together with all rights attaching to those Shares, including any Dividends declared but unpaid.
- (c) Any Shares sold under this clause will be sold in the manner the Directors decide. For the purpose of the sale the member appoints a Director, as the member's attorney for the purpose of executing any instrument to transfer those Shares.
- (d) Once the transferee's name has been entered into the register in respect of the Shares, the title of the transferee will be indefeasible and the remedy of any person aggrieved by the sale will be in damages against the Company.
- (e) The Company will bear all costs as a result of the sale of the small holding.
- (f) The proceeds of any sale will be:
 - (i) paid into a trust account opened with a bank and maintained by the Company for that purpose only; and
 - (ii) held by the Company in trust for the member whose Shares have been sold and the Company will notify the member of this in writing.
- (g) The proceeds of the sale will not be remitted until the Company receives the share certificates, if there are any on issue, relating to the Shares the subject of the sale, or until the Company is satisfied that the certificates have been lost or destroyed.
- (h) A certificate in writing under the hand of any Director that any:

- (i) notice required to be served on the Company was served; and
 - (ii) resolution of the Directors required to be made was made,
- will be sufficient evidence of the facts stated in the certificate against all persons claiming to be entitled to those Shares and to the right and title of the Company to dispose of them.
- (i) The Company will cancel the share certificates of all members whose Shares are sold under this clause.
 - (j) This clause may be invoked only once in any period of 12 months.
 - (k) The power to sell Shares under this clause 18 will lapse from the date of an announcement of a takeover offer in respect of the Shares, or any class of Shares, of the Company, until the close of the offers made under the takeover.

19. WINDING UP

19.1 Distribution to be in proportion to nominal share capital paid up

If, on a winding up of the Company, there remains a surplus, that surplus will, subject to the terms of issue of each share, the Act, the Listing Rules and any agreement between a member and the Company to the contrary, be divided amongst the members in proportion to the amounts paid up on their Shares.

19.2 Division of property in species

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

20. OFFICERS: INDEMNITY AND INSURANCE

20.1 Indemnity

To the extent permitted by law:

- (a) the Company indemnifies every person who is or has been an Officer of the Company or of a wholly-owned subsidiary of the Company against any liability for costs and expenses incurred by that person in defending any Proceedings in which judgment is given in that persons favour, or in which the person is acquitted, or in connection with an application in relation to any Proceedings in which a court grants relief to the person under the Act; and
- (b) the Company indemnifies every person who is or has been an Officer of the Company or of a wholly-owned subsidiary of the Company against any liability incurred by the person, as an Officer of the Company or of a wholly-owned subsidiary of the Company, to another person other than the Company or a related body corporate (as that term is defined in the Act) of the Company, unless the liability arises out of conduct involving a lack of good faith or a wilful breach of duty to the Company.

20.2 Insurance

To the extent permitted by law, the Company may pay, or agree to pay, a premium in respect of a contract insuring a person who is or has been an Officer of the Company or of a subsidiary of the Company against a liability:

- (a) incurred by the person in his or her capacity as an Officer of the Company or a subsidiary of the Company or in the course of acting in connection with the affairs of the Company or a subsidiary of the Company or otherwise arising out of the Officers holding such office, provided that the liability does not arise out of conduct involving a wilful breach of duty in relation to the Company or a subsidiary of the Company or a contravention of sections 182, 183 and 184 of the Act; or
- (b) for costs and expenses incurred by that person in defending Proceedings, whatever their outcome.