



AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION
A COMPANY LIMITED BY SHARES
UNDER THE CORPORATIONS ACT 2001

The Constitution of
iCandy Interactive Limited

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TABLE OF CONTENTS

1.	DEFINITIONS.....	1
2.	INTERPRETATION	2
3.	PREVIOUS CONSTITUTION	3
4.	LISTING RULES.....	3
5.	SHARE CAPITAL AND VARIATION OF RIGHTS	4
6.	BROKERAGE OR COMMISSION.....	5
7.	SHARES HELD IN TRUST.....	5
8.	SHARE CERTIFICATES.....	5
9.	JOINT HOLDERS	6
10.	RESTRICTED SECURITIES	7
11.	LIEN	7
12.	CALLS ON SHARES	9
13.	FORFEITURE OF SHARES.....	10
14.	TRANSFER OF SHARES	11
15.	TRANSMISSION OF SHARES.....	13
16.	CONVENING GENERAL MEETINGS	14
17.	PROCEEDINGS AT GENERAL MEETINGS	15
18.	APPOINTMENT, REMOVAL AND REMUNERATION OF THE DIRECTORS.....	19
19.	POWERS AND DUTIES OF DIRECTORS	22
20.	CONFLICT OF INTEREST	23
21.	MEETINGS OF DIRECTORS.....	24
22.	MANAGING DIRECTOR AND EXECUTIVE DIRECTOR	27
23.	ALTERNATE DIRECTORS	27
24.	SECRETARY	28
25.	MINUTES	28
26.	POWER OF ATTORNEY	29
27.	COMMON SEAL AND EXECUTION OF DOCUMENTS.....	29
28.	INSPECTION OF RECORDS	29
29.	DIVIDENDS AND RESERVES	29
30.	CAPITALISATION OF PROFITS	31
31.	NOTICES	31
32.	AUDIT AND ACCOUNTS	32
33.	WINDING UP	33
34.	INDEMNITY OF OFFICERS, AUDITORS OR AGENTS.....	33
35.	CHESS	34

THE CONSTITUTION

A PUBLIC COMPANY LIMITED BY SHARES UNDER THE CORPORATIONS ACT

1. DEFINITIONS

- 1.1 The following words have these meanings in these clauses unless the contrary intention appears.

"Alternate Director" means a person appointed as alternate director under clause 23.

"Auditor" means the auditor of the Company.

"Business Day" has the meaning given to that term in the Listing Rules;

"CHESS" means the Clearing House Electronic Sub-Register System established and operated by the Exchange including but not limited to:

- (a) the clearing and settlement of transaction in CHESS approved securities;
- (b) the transfer of securities; and
- (c) the registration of transfers.

"CHESS approved securities" means securities of a company for which CHESS approval has been given in accordance with the Operating Rules.

"Constitution" means this Constitution as amended from time to time.

"Corporations Act" means the Corporations Act 2001 (Cth) and the Corporations Regulations made under it as amended from time to time.

"Director" has the meaning given by section 9 of the Corporations Act and includes an Alternate Director.

"Exchange" means ASX Limited.

"Executive Director" means a person appointed as executive director under clause 22.

"Home Branch" means the State branch of the Exchange designated to the Company by the Exchange.

"Listing Rules" means the Listing Rules of the Exchange in force and as amended from time to time.

"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 the Exchange;

"Managing Director" means a person appointed as managing director under clause 22.

"Market Transfer" means:

- (a) a transfer of Shares in the Company where the transfer is pursuant to or connected with a transaction entered into on the stock market operated by the Exchange and, for the avoidance of doubt, includes a Proper ASX Transfer; or
- (b) an allotment of Shares in the Company as a result of the exercise of any rights, options or convertible notes where such rights, options or notes are traded on a market operated by the Exchange.

"Member" means a person entered in the Register as a member of the Company.

"Operating Rules" means the business rules of a Prescribed CS Facility and any other rules which are applicable while the Company has CHESS approved securities, each as amended or replaced from time to time.

"Prescribed CS Facility" has the meaning given to that term in the Corporations Act.

"Proper ASX Transfer" means a transfer which is under the scope of and which complies with, or is taken to comply with, the Operating Rules.

"Quorum" means any 3 Members entitled to vote either present in person or by proxy, attorney or representative.

"Register" means the register of Members to be kept by the Company.

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

"Related Body Corporate" has the meaning given to that term in the Corporations Act.

"Restricted Securities" has the meaning given to that term in the Listing Rules;

"Seal" means the common seal of the Company.

"Secretary" means a person appointed by the Directors under clause 24.1 to perform the duties of secretary of the Company.

"Share" or "Shares" means any issued Share or Shares in the share capital of the Company.

"Special Resolution" has the meaning given by section 9 of the Corporations Act.

"State" means the state or territory in which the Company is from time to time registered.

2. INTERPRETATION

2.1 In this Constitution:

- (a) word importing any gender include all others 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) references to statutes or regulations include all statutes or regulations amending, consolidating or replacing them.
- 2.2 Unless the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act.
- 2.3 Headings are inserted for convenience and do not affect the interpretation of this Constitution.
- 2.4 Where the phrase "permitted by the Listing Rules" or similar phrase is used in this Constitution that expression shall be deemed to include any act, omission or transaction which is subject to a waiver of the Listing Rules by the Exchange.
- 2.5 The Replaceable Rules contained in the Corporations Act do not apply to the Company.
- 2.6 The Company is a public company which is limited by Shares and has the legal capacity and powers of an individual both in and outside Australia together with all powers conferred on a company by the Corporations Act.

3. PREVIOUS CONSTITUTION

- 3.1 This Constitution supersedes the constitution of the Company (if any) in force immediately prior to the adoption of this Constitution.
- 3.2 The adoption of this Constitution does not affect the validity or effect of anything done under any previous constitution of the Company so that (and without limitation):
- (a) every Director and Secretary in office immediately prior to the adoption of this Constitution is taken to have been appointed and will continue in office under this Constitution; and
 - (b) any Seal properly adopted by the Company prior to the adoption of this Constitution is taken to be a Seal properly adopted under this Constitution.

4. LISTING RULES

- 4.1 If the Company has been admitted to the official list of the Exchange, then:
- (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; and
- (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.

5. SHARE CAPITAL AND VARIATION OF RIGHTS

- 5.1 Without prejudice to any special rights previously conferred on the holders of any existing Shares or class of Shares but subject to the Corporations Act, the Listing Rules and this Constitution, except as the Company in general meeting may when authorising any issue of Shares otherwise direct, Shares are under the control of the Directors who may allot or dispose of all or any Shares to such person at such times at such price and on such terms and conditions and having attached to them such preferred, deferred or other special rights or restrictions as the Directors determine.
- 5.2 Subject to the Listing Rules the Directors have the right to grant to any person options or other securities with rights of conversion to Shares or pre-emptive rights to any Shares for any consideration.
- 5.3 The Directors have the right to settle the manner in which fractions of a Share, however arising, are to be dealt with.
- 5.4 The Directors may not, without the prior resolution of the Company in general meeting, allot any Shares in the Company to any person where the allotment would have the effect of transferring a controlling interest in the Company.
- 5.5 A Director or any person associated with a Director may not participate in an issue by the Company of Shares under clause 5.1 or options or other securities under clause 5.2 unless the participation of the Director or the person associated with a director in the issue is permitted under the Listing Rules.
- 5.6 If at any time the Share capital is divided into different classes of Shares, the rights attached to any class (unless otherwise provided by the terms of issue of the Shares of that class), may, in a winding up or otherwise, be varied with the consent in writing of the holders of three quarters of the issued Shares of that class, or with the sanction of a Special Resolution passed at a separate meeting of the holders of the Shares of that class.

- 5.7 The provisions of this Constitution relating to general meetings shall apply (where applicable) to every separate meeting of the holders of a class of Shares except that:
- (a) a quorum is constituted by 2 persons who, between them, hold or represent by proxy one-third of the issued Shares of the class; and
 - (b) any holder of Shares of the class (present in person or by proxy, attorney or representative) may demand a poll.
- 5.8 The rights conferred on the holders of the Shares of any class are not deemed to be varied by the creation or issue of further Shares ranking equally with the first-mentioned Shares unless otherwise:
- (a) expressly provided by the terms of issue of the first-mentioned Shares; or
 - (b) required by the Corporations Act.

6. BROKERAGE OR COMMISSION

- 6.1 The Company may exercise the power to pay brokerage or commission conferred by the Corporations Act and the amount of brokerage or commission paid shall be disclosed in the manner required by the Corporations Act.
- 6.2 Payments by way of brokerage or commission may be satisfied by the payment of cash, by the allotment of fully or partly paid Shares or by any combination of cash or allotment.
- 6.3 The Company shall comply with the requirements of the Corporations Act and the Listing Rules in the payment of such brokerage or commission.

7. SHARES HELD IN TRUST

- 7.1 Except as required by law, the Company is not bound or compelled in any way to recognise a person as holding a Share or Shares on any trust.
- 7.2 Notwithstanding clause 7.1 the Company is not bound by or compelled in any way to recognise or to investigate (whether or not it has notice of the interest or rights concerned) any equitable, contingent, future or partial interest in any Share or the holding of any Share upon trust or any dealing by the trustee of such Share or (except as otherwise provided by this Constitution or by law) any other right in respect of a Share except an absolute right of ownership in the registered holder.

8. SHARE CERTIFICATES

- 8.1 If the Company participates in a computerised or electronic share transfer system conducted in accordance with the Listing Rules, the Company is not required to issue a certificate for the Shares held by a Member and may cancel a certificate without issuing a duplicate certificate where the non-issue of a certificate is permitted by the Listing Rules or the Operating Rules.

- 8.2 Where Shares are not subject to a computerised or electronic share transfer system, a certificate for Shares (including a duplicate certificate) shall be issued in accordance with the provisions of the Corporations Act, this Constitution and the Listing Rules.
- 8.3 Where the Company has determined not to issue certificates or to cancel existing certificates, a Member will be entitled to receive such statements of holdings as are required to be distributed to a holder under the Corporations Act, the Listing Rules or the Operating Rules.
- 8.4 Subject to the provisions of this clause 8, if the Directors determine to issue a certificate for Shares held by a Member then:
- (a) a person whose name is entered as a Member in the Register or as an option holder in the register of options is entitled at no cost to receive a certificate in respect of the Shares or options registered in the person's name issued in accordance with the Corporations Act but, in respect of Shares or options held jointly by several persons, the Company is not bound to issue more than one certificate;
 - (b) delivery of a certificate for a Share may be effected by delivering it personally to the holder or by posting it in a prepaid envelope addressed to the holder at the address shown in the Register or by delivering or posting the certificate in accordance with the written instructions of the holder. Delivery of a certificate for a Share to one of several joint holders is sufficient delivery to all such holders;
 - (c) where satisfactory evidence has been received by the Company that the certificate for Shares previously issued has been stolen, lost or destroyed and has not been pledged, charged, sold or otherwise disposed of, and the holder has undertaken in writing to the Company to return any such certificate if it is found or received by the holder, then the Company shall issue a replacement certificate in accordance with the Corporations Act;
 - (d) where a certificate for Shares previously issued has been worn out or defaced and has been surrendered to the Company for cancellation and has been cancelled the person whose name is entered as the Member in respect of those Shares in the Register is entitled to receive a replacement certificate in accordance with the Corporations Act and the Listing Rules;
 - (e) the Directors may determine the number of Shares to be issued in any one certificate; and
 - (f) every certificate for Shares shall be issued in accordance with the Corporations Act and the Listing Rules.

9. JOINT HOLDERS

- 9.1 Where two or more persons are registered as the joint holders of Shares, they are deemed to hold the Shares as joint tenants with rights of survivorship, subject to this Constitution as to joint shareholdings and:

- (a) they and their respective legal personal representatives are jointly and severally liable to pay all calls, interest or other amounts payable in respect of the Shares; and
- (b) any one of them may give effective receipts for any dividend, interest or other amounts payable in respect of the Shares.

9.2 If more than three persons are registered as the joint holders of Shares, only the first three persons so registered will be regarded as the joint holders of the Shares and all other names will be disregarded by the Company for all purposes.

10. RESTRICTED SECURITIES

10.1 The Company shall comply with the requirements of the Listing Rules with respect to Restricted Securities and without limiting the generality of the foregoing:

- (a) Restricted Securities cannot be disposed of during any escrow period except as permitted by the Listing Rules or the Exchange and the Company will refuse to acknowledge any such disposal (including registering a transfer); and
- (b) during a breach of the Listing Rules relating to Restricted Securities, or a breach of a restriction agreement, the holder of the Restricted Securities is not entitled to any dividend or distribution or voting rights in respect of the Restricted Securities.

11. LIEN

11.1 The company has a first and paramount lien on every Share (other than a fully paid Share) for all money (whether presently payable or not) called or payable at a fixed time in respect of that Share and such lien extends to all dividends, rights and other distributions from time to time declared, paid or made in respect of that Share.

11.2 The Company also has a first and paramount lien on all Shares (other than fully paid Shares) for all money presently payable by that Member to the Company and all money which the Company may be called on by law to pay in respect of those Shares together with interest and any monies so paid may be recovered from the Member or the Member's legal personal representative as a debt due by the Member or the Member's estate to the Company.

11.3 Whenever any law of any place:

- (a) imposes any immediate, future or potential liability on the Company to make any payment; or
- (b) empowers any government or taxing authority or government official to require the Company to make any payment

in respect of any Share or any dividends or other moneys paid or due or payable the Company:

- (c) shall be fully indemnified by the Member holding the Shares or that Member's executor or administrator from all liability;
 - (d) has a lien on the Shares and all dividends payable in respect of those Shares for all money payable by the Company in respect of those Shares together with interest at a rate not exceeding 20% per annum as determined by the Directors from the date of payment to the date of repayment;
- 11.4 Nothing in this Constitution prejudices or affects any right or remedy which any law may confer on the Company.
- 11.5 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.
- 11.6 Subject to clause 11.7, the Company may sell, in such manner as the Directors may determine, any Share on which the Company has a lien.
- 11.7 A Share on which the Company has a lien may not be sold unless:
 - (a) a sum in respect of which the lien exists is presently payable; and
 - (b) the Company has, not less than 14 days before the date of sale, given to the registered holder of the Share, or a person otherwise entitled to the Share, a notice in writing setting out and demanding payment of such part of the amount in respect of which the lien exists as is presently payable.
- 11.8 For the purpose of giving effect to a sale mentioned in clause 11.6, the Company may receive the consideration (if any) paid for the Share and may execute a transfer of the Share in favour of the buyer or where the transfer of Shares is to be effected as a Market Transfer, the Company may do all things necessary or appropriate to effect the transfer.
- 11.9 The title of the transferee to the Share is not affected by any irregularity or invalidity in connection with the sale of the Share.
- 11.10 The Company shall apply the net proceeds of any sale of Shares under clause 11.6 in or towards satisfaction of that part of the amount in respect of which the lien exists as is presently payable together with any interest on that amount and expenses paid or payable in connection with the enforcement of the lien and the sale of the Shares.
- 11.11 The Company shall pay any balance of the net proceeds of sale (subject to any like lien for sums not presently payable that existed upon the Shares before the sale) to the person entitled to the Shares at the date of the sale.
- 11.12 The Directors may at any time exempt a Share or Shares wholly or in part from the provisions of this clause.

12. CALLS ON SHARES

- 12.1 Subject to the requirements of the Corporations Act and the Listing Rules the Directors may make calls on a Member in respect of any money unpaid on the Shares and not made payable at fixed times.
- 12.2 The Directors may determine that a call may be payable by instalments.
- 12.3 The Directors may revoke or postpone a call.
- 12.4 A call is deemed to be made at the time when the resolution of the Directors authorising the call is passed.
- 12.5 Each Member shall, on receiving at least 15 Business Days notice (or such longer period as the Listing Rules shall require) specifying:
- (a) the name of the Member;
 - (b) the number of Shares held by the Member;
 - (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) any taxation deductions applicable and how they may be applied for;
 - (g) market details regarding the Shares and any other shares as required by the Listing Rules; and
 - (h) such other information as required by the Listing Rules,
- pay to the Company at the time and place specified in the notice the amount called on the Shares.
- 12.6 The joint holders of a Share are jointly and severally liable to pay all calls in respect of the Share.
- 12.7 The accidental omission to give notice of any call or the non-receipt of any notice by any Member or Members does not invalidate the call.
- 12.8 If a sum called in respect of a Share is not paid before or on the day appointed for payment, the person from whom the sum is due shall pay interest on the sum from and including the day for payment to the time of actual payment at a rate not exceeding 20% per annum as determined by the Directors, and the Directors may waive payment of that interest wholly or in part.
- 12.9 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 shall for the purpose of this Constitution be deemed to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable and, in the case of non-payment, all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or

otherwise apply as if the sum had become payable by virtue of a call duly made and notified.

- 12.10 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.
- 12.11 The Directors may accept from a Member an advance payment of the whole or a part of the amount unpaid on a Share and the Directors may authorise payment by the Company of interest upon the whole or any part of an amount so accepted until the amount becomes payable at such rate as is determined the Directors in their absolute discretion.

13. FORFEITURE OF SHARES

- 13.1 On or before the day appointed for payment, if any Member fails to pay any call or instalment of a call or any money payable under the terms of allotment of a Share, the Directors may at any time after that day and while any part of the call, instalment or other monies remains unpaid, serve a notice on the Member requiring payment of:
- (a) the unpaid call, instalment or other monies;
 - (b) any interest that may have accrued on the unpaid call, instalment or other monies; and
 - (c) any costs and expenses that may have been incurred by the Company as a result of the non-payment of the call, instalment or other monies.
- 13.2 A notice sent to a Member pursuant to clause 13.1 shall:
- (a) name a further day (not being less than 10 Business Days from the date of the notice) on or before which the call, instalment or other monies and all interest and expenses that have accrued are to be paid;
 - (b) identify the place where payment is to be made; and
 - (c) include a statement to the effect that in the event of non-payment of all of the monies on or before the date and at the place appointed, the Shares in respect of which the payment is due will be liable to be forfeited.
- 13.3 If the requirements of a notice served under clause 13.1 are not complied with, any Share in respect of which the notice has been given is thereupon forfeited without any resolution of the Directors to that effect.
- 13.4 A forfeiture includes all dividends declared in respect of the forfeited Share and not actually paid before the forfeiture,
- 13.5 A Share forfeited under clause 13.3 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 determine and the forfeiture may be cancelled on such terms as the Directors may determine at any time before a sale, re-allotment or disposition.

- 13.6 If any Share is forfeited under clause 13.3, notice of the forfeiture shall be given to the Member holding the Share immediately prior to the forfeiture and an entry of forfeiture shall be made in the Register.
- 13.7 The Directors may accept the surrender of any Share which they are entitled to forfeit on such terms as they determine and any Share so surrendered is deemed to be a forfeited Share.
- 13.8 A person whose Shares have been forfeited ceases to be a Member 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 Share (including interest at a rate not exceeding 20% per annum as determined by the Directors which may be charged from the date of forfeiture on the money unpaid) PROVIDED THAT the person's liability ceases if and when the Company receives payment in full of all money (including interest and expenses) payable in respect of the Shares.
- 13.9 A statutory declaration in writing declaring that the person making the statement is a Director or a Secretary and that a Share in the Company has been duly forfeited on a date stated in that declaration is prima facie evidence of the facts stated in that declaration as against all persons claiming to be entitled to the Share.
- 13.10 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 transferee.
- 13.11 The transferee of a forfeited Share shall be registered as the holder of the Share and is not bound to see to the application of any money paid as consideration.
- 13.12 The title of the transferee to the Share is not affected by any irregularity or invalidity in connection with the forfeiture, sale or disposal of the Share.
- 13.13 Where the transfer of forfeited Shares is to be effected by an ASX regulated transfer, the Company may do all such things as may be necessary or appropriate for it to do under the Operating Rules.

14. TRANSFER OF SHARES

- 14.1 Subject to this Constitution, a Member may transfer all or any of the Member's Shares by:
- (a) a Market Transfer; and
 - (b) an instrument which is in writing in any usual form or in any other form that the Directors approve or a sufficient instrument or transfer of marketable securities under the Corporations Act or in a form approved by the Exchange.
- 14.2 Where an instrument of transfer referred to in clause 14.1(b) is to be used by a Member to transfer Shares:

- (a) it shall be executed by or on behalf of both the transferor and the transferee or as otherwise may be executed in accordance with the Corporations Act;
 - (b) the instrument of transfer shall be left for registration at the Share registry of the Company, accompanied by the Share certificate (if any) and such information as the Directors properly require to show the right of the transferor to make the transfer;
 - (c) the Company shall register all registrable transfer forms, split certificates, renunciations and transfers, issue certificates and transmission receipts and mark or note transfer forms without charge except in the case where the Company issues a replacement certificate for Shares to replace a lost or destroyed certificate; and
 - (d) on registration of a transfer of Shares, the Company shall cancel the old Share certificate (if any).
 - 14.3 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.
 - 14.4 In the case of a Market Transfer the Company shall comply with all obligations which may be imposed on it by the Listing Rules and the Operating Rules in connection with any transfer of Shares.
 - 14.5 The Directors may decline to register any transfer of Shares (other than a Market Transfer) where:
 - (a) the Listing Rules or Operating Rules permit the Company to do so; or
 - (b) the Listing Rules or Operating Rules require the Company to do so.
 - 14.6 If in the exercise of their rights under clause 14.5 the Directors refuse to register a transfer of a security they shall 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.
 - 14.7 Notwithstanding any other provisions contained in this Constitution, the Company may not prevent, delay or interfere with the registration of a Market Transfer where to do so would be contrary to the provisions of any of the Listing Rules or the Operating Rules.
 - 14.8 Subject to the Corporations Act, the Listing Rules and the Operating Rules, the Company may at any time close the Register for a period not exceeding 30 days in any calendar year.
 - 14.9 The Company shall retain every instrument of transfer it receives for registration for such period as the Directors determine.
 - 14.10 The provisions of this clause 14 shall apply with necessary alterations to any other Listed Securities.
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15. TRANSMISSION OF SHARES

- 15.1 In the case of the death of a Member, the survivor or the legal representatives of the deceased (as the case may be) shall be the only person recognised by the Company as having good title to the Shares PROVIDED THAT 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 person with other persons.
- 15.2 If the registered holder of a Share dies or becomes bankrupt, the personal representative or the trustee of the estate of the registered holder, as the case may be, is (on the production of such information as is properly required by the Directors) entitled to the same dividends and to the same rights as the registered holder would have been entitled to if the registered holder had not died or become bankrupt.
- 15.3 Subject to this Constitution and to the Bankruptcy Act 1966 as amended, a person becoming entitled to a Share in consequence of the death or bankruptcy of a Member may, upon such information being produced as is properly required by the Directors, elect either to:
- (a) be registered themselves as holder of the Share; or
 - (b) have some other person nominated by the person registered as the holder of the Share.
- 15.4 Where the surviving joint holder becomes entitled to a Share in consequence of the death of a Member the Directors shall, on satisfactory evidence of that death being produced, direct the Register to be altered accordingly.
- 15.5 If the person becoming entitled under clause 15.3:
- (a) elects to be registered as holder of the Share, the person shall deliver to the company a notice in writing signed by the person in such form as the Directors approve stating that the person so elects; or
 - (b) nominates another person to be registered as the transferee of the Share, the person shall do all things necessary or appropriate to effect the transfer.
- 15.6 All the limitations, restrictions, and provisions of this Constitution, the Listing Rules, the Operating Rules or the Corporations Act relating to the right to transfer and the registration of transfer of Shares are applicable to any such notice or transfer as if the death or bankruptcy of the Member had not occurred and the actions and procedures taken to effect the transfer were actions taken by that Member.
- 15.7 In the case of a Market Transfer the provisions of this clause 15 are subject to any obligation that may be imposed on the Company or the person entitled to the Shares by the Listing Rules, Operating Rules or any law.

16. CONVENING GENERAL MEETINGS

- 16.1 Annual general meetings of the Company are to be held in accordance with the Corporations Act and the Listing Rules.
- 16.2 The Directors may convene a general meeting of the Company whenever they determine to do so.
- 16.3 If there are no Directors holding office the Secretary shall convene a general meeting for the purpose of electing Directors.
- 16.4 A general meeting shall also be convened on requisition as is provided for by the Corporations Act. The requisition for a general meeting shall state any resolution to be proposed at the meeting and shall be signed by the requisitionists and deposited at the Registered Office.
- 16.5 Subject to the Listing Rules and to the provisions of the Corporations Act relating to Special Resolutions and agreements for shorter notice, at least 28 days' notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) specifying the place, day and the hour of the meeting and, in the case of special business, the general nature of that business shall be given to such persons entitled to receive notices from the Company and, for the purposes of receipt of proxy appointments, the notice shall specify a place and fax number and may specify an electronic address.
- 16.6 A notice convening a general meeting must:
- (a) set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
 - (b) state the general nature of the meeting's business;
 - (c) if a Special Resolution is to be proposed at the meeting, set out an intention to propose the Special Resolution and state the resolution; and
 - (d) otherwise comply with section 249L of the Corporations Act.
- 16.7 The non-receipt of notice of a general meeting by or the accidental omission to give notice of a general meeting to a person entitled to receive notice does not invalidate any resolution passed at the general meeting.
- 16.8 All business that is transacted at a general meeting is special business with the exception at an annual general meeting of the:
- (a) declaration of a dividend;
 - (b) consideration of the accounts;
 - (c) reports of the Directors and the Auditor;
 - (d) appointment of the Auditor; and

(e) election of Directors.

16.9 The Directors may postpone or cancel any general meeting whenever they determine to do so other than a meeting convened as the result of a requisition under clause 16.4.

16.10 The Company shall notify the Home Branch

(a) of any general meeting at which Directors are to be elected at least 20 Business Days before the earliest intended date for the general meeting and that notice shall state that nominations for election to the office of Director are to be received not later than 5 Business Days after the date that the notice to the Home Branch bears, or any extended period as the Directors may determine;

(b) of any other general meeting (other than a meeting to pass a Special Resolution) at least 10 Business Days before such meeting is held; and

(c) of any general meeting convened to pass a Special Resolution, at least 15 Business Days before such meeting is held.

17. PROCEEDINGS AT GENERAL MEETINGS

17.1 No business may be transacted at any general meeting unless a Quorum is present and, for the purpose of determining whether a Quorum is present, a person attending as a proxy or attorney or representative shall be deemed to be a Member.

17.2 If a Quorum is not present within 30 minutes from the time appointed for the meeting-

(a) where the meeting was convened upon the requisition of Members, the meeting shall be dissolved; or

(b) in any other case:-

(i) the meeting stands adjourned to such day and at such time and place as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and

(ii) if at the adjourned meeting a Quorum is not present within 30 minutes from the time appointed for the meeting, the meeting shall be dissolved.

17.3 If the Directors have elected one of their number as chairman of their meetings, that person shall preside as chairman at every general meeting of the Company.

17.4 Where a general meeting is held and:

(a) a chairman has not been elected as provided by clause 17.3; or

- (b) the chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act, then any deputy chairman elected by the Directors shall act as chairman of the meeting.
- 17.5 If a deputy chairman has not been elected or is absent or unable or unwilling to act, the Directors present must elect one of their number to be chairman of the meeting, or, if no Director is present or if all Directors present decline to take the chair, the Members present must elect one of their number to be chairman of the meeting.
- 17.6 The chairman is responsible for the conduct of a general meeting and may make rulings and, in addition to any general power to adjourn, may adjourn the meeting without putting a question to the vote if such action is required to ensure the orderly conduct of the meeting.
- 17.7 The chairperson may with the consent of any meeting at which a Quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place, but so that:
 - (a) no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place; and
 - (b) when a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- 17.8 Except as provided by clause 17.7, it is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.
- 17.9 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded:
 - (a) by at least 5 Members present in person or by proxy;
 - (b) by a Member or Members present with at least 5% of the votes that may be cast on the resolution on a poll; or
 - (c) by the chairman.
- 17.10 A poll may be demanded:
 - (a) before a vote is taken;
 - (b) before the voting results on a show of hands are declared; or
 - (c) immediately after the voting results on a show of hands are declared.
- 17.11 Unless a poll is properly 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 meeting is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

- 17.12 If a poll is properly demanded, it shall be taken in such manner and (subject to clause 17.13) either at once or after an interval or adjournment or otherwise as the chairman directs, and the result of the poll is the resolution of the meeting at which the poll was demanded
- 17.13 A poll demanded on the election of a chairman or on a question of adjournment must be taken immediately.
- 17.14 The demand for a poll may be withdrawn,
- 17.15 Before a vote is taken the chairman shall inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- 17.16 Subject to the requirements of the Corporations Act in relation to Special Resolutions, a resolution is taken to be carried if the proportion that the number of votes cast in favour of the resolution exceeds one half of the total number of votes cast on the resolution.
- 17.17 In the case of an equal number of votes, whether on a show of hands or on a poll, the chairman of the meeting shall, in addition to the vote or votes (if any) to which the chairman may be entitled as a Member, proxy, representative or attorney, have a casting vote and the chairman has a discretion both as to the use of the casting vote and as to the way in which it is used.
- 17.18 Subject to any rights or restrictions for the time being attached to any class or classes of Shares at general meetings of Members or classes of Members:
- (a) each Member entitled to vote may vote in person or by proxy, attorney or representative;
 - (b) on a show of hands, every person present who is a Member or a proxy, attorney or representative of a Member has one vote;
 - (c) on a poll, every person present who is a Member or a proxy, attorney or representative of a Member shall, in respect of each:
 - (i) fully paid Share, have one vote for the Share; and
 - (ii) partly paid Share, shall have a fraction of a vote for each partly paid Share equivalent to the proportion which the amount paid (not credited) is of the total amounts paid and payable (excluding amounts credited).
- 17.19 In the case of joint holders the vote of the Member whose name stands first in the Register shall be accepted to the exclusion of the vote of any other joint holder.
- 17.20 If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health then the Member's committee or trustee or such other person as properly has the management of the Members estate may exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were a Member.

- 17.21 A Member is not entitled to vote at a general meeting in respect of those Shares upon which calls are outstanding.
- 17.22 In the case of a dispute as to the admission or rejection of a vote, the chairman of the meeting shall decide the matter and the chairman's decision is final and conclusive.
- 17.23 The appointment of a proxy may specify the proportion or number of votes that the proxy may exercise.
- 17.24 If a Member is entitled to cast 2 or more votes at the meeting, that Member may appoint 2 proxies and if the Member appoints 2 proxies and the appointment does not specify the proportion or number of the Member's votes each proxy may exercise, each proxy may exercise half of the votes.
- 17.25 An instrument appointing a proxy shall be in writing under the hand or the seal of the appointor or of the appointor's attorney duly authorised in writing.
- 17.26 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.
- 17.27 An instrument appointing a proxy is deemed to confer authority to demand or join in demanding a poll.
- 17.28 An instrument appointing a proxy shall:
- (a) be in the form approved by the Directors from time to time and which complies with the Corporations Act; and
 - (b) comply with the Listing Rules.
- 17.29 An instrument appointing a proxy may not be treated as valid unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a copy or facsimile which appears on its face to be an authentic copy of that power or authority certified as a true copy by statutory declaration is or are received by the Company at the Registered Office or Share registry of the Company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote.
- 17.30 Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if before the proxy votes:
- (a) the appointing Member dies;
 - (b) the Member is mentally incapacitated;
 - (c) the Member revokes the proxy's appointment;

- (d) the Member revokes the authority under which the proxy was appointed by a third party; or
 - (e) the Member transfers the Share in respect of which the proxy was given.
- 17.31 A Director is entitled to receive notice of and to attend all general meetings and all separate general meetings of the holders of any class of Shares in the Company and is entitled to speak at those meetings.
- 17.32 The chairman may require any person who wishes to attend a general meeting to comply with searches, restrictions or other security arrangements as the chairman considers appropriate. The chairman may refuse entry to any person who does not comply with the arrangements, any person who possesses a recording or broadcasting device without the consent of the chairman or any person who possesses an article which the chairman considers to be dangerous, offensive or liable to cause disruption.
- 17.33 If any general meeting becomes so unruly or disorderly, whether or not accompanied by any violence or threats of violence, that in the opinion of the chairman the business of the meeting cannot be conducted in a proper and orderly manner, the chairman may, in the chairman's sole and absolute discretion and without giving any reason for doing so, either adjourn or terminate the meeting.
- 17.34 If any meeting is, in the opinion of the chairman, unduly protracted, the chairman may in the chairman's sole and absolute discretion and without giving any reason for doing so, implement such procedural rules as the chairman deems appropriate or adjourn the meeting.
- 17.35 If any meeting is terminated by the chairman pursuant to clauses 17.33 and 17.34, the chairman shall put any incomplete items of business which required a vote at that meeting to the vote by poll either immediately and without discussion or at such other time, at such place and in such manner as the chairman directs. The results of any such poll on each such item of business is deemed for all purposes to be a resolution or Special Resolution (as the case may be) of the meeting and shall be recorded in the minutes of the meeting accordingly.
- 17.36 After the chairman declares a meeting to be adjourned, terminated or over, no business or question may be brought forward, discussed or decided.
- 17.37 The chairman's ruling on all matters relating to the order of business, procedure and conduct of a meeting is final.

18. APPOINTMENT, REMOVAL AND REMUNERATION OF THE DIRECTORS

- 18.1 The number of Directors must not be less than 3 nor more than 20 or such lesser number as the Directors may determine. The Company in general meeting may, by resolution, increase or reduce the number of Directors and may also determine in what rotation the increase or reduced number is to go out of office.

- 18.2 At the annual general meeting in every year and subject to clause 22.6, one-third of the Directors, or the number nearest one-third and any other Director not in such one-third who has held office for 3 years or more must retire from office.
- 18.3 A retiring Director is eligible for re-election.
- 18.4 The Directors to retire at any annual general meeting must be 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 must (unless they otherwise agree among themselves) be determined by lot.
- 18.5 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 she or some Member intending to propose him or her has no later than 5 Business Days after the date shown on the notice to the Home Branch referred to in clause 16.11(a), left at the Registered Office a notice in writing duly signed by the nominee giving consent to the nomination and signifying the Director's candidature for the office or the intention of such Member to propose him or her. Notice of each and every candidature for election as a Director shall be given to each Member with or as part of the notice of the Meeting at which the election is to take place. The Company shall observe the requirements of section 225 of the Corporations Act with respect to the election of the Directors.
- 18.6 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.
- 18.7 A Director is not required to hold any Share or Shares in the Company.
- 18.8 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.
- 18.9 The Company in general meeting may by resolution and the Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, but so that the total number of Directors does not at any time exceed the number determined in accordance with clause 18.1.
- 18.10 Any Director appointed under clause 18.9 holds office until the next annual general meeting of the Company and is then eligible for re-election but is not to be taken into account in determining the Directors who are to retire by rotation at that meeting.
- 18.11 The Company in general meeting may by resolution (of which special notice is given in accordance with the Corporations Act) remove any Director from office and may by resolution appoint another person in that Director's stead.
- 18.12 Any Director appointed under clause 18.11 is to be treated as if he or she had become a Director on the day on which the Director in whose place he or she was appointed was last elected a Director.

- 18.13 In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:
- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under any law relating to mental health;
 - (b) resigns from the office by notice in writing to the Company;
 - (c) is absent without the consent of the remaining Directors from meetings of the Directors held during a period of 6 months;
 - (d) is removed from office under clause 18.11;
 - (e) ceases to be a Director by virtue of Part 2D or any other provision of the Corporations Act;
 - (f) becomes bankrupt or makes any arrangement or composition with his or her creditors generally; or
 - (g) becomes prohibited from being a Director by reason of any order made under the Corporations Act.
- 18.14 The Directors shall be paid out of the funds of the Company by way of remuneration for their services as Directors a sum not exceeding such fixed sum per annum as may be determined by the Directors prior to the first annual general meeting of the Company, to be divided among themselves as agreed and in default of agreement then in equal shares.
- 18.15 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 Members in the notice convening the meeting.
- 18.16 No non-executive Director shall be paid as part or whole of his or her remuneration a commission on or a percentage of profits or a commission on or a percentage of operating revenue, and no Executive Director shall be paid as whole or part of his or her remuneration a commission on or percentage of operating revenue.
- 18.17 The Directors' remuneration is deemed to accrue from day to day.
- 18.18 If a Director, being willing, is called on to perform extra services or to make any special exertions or otherwise for the Company, the Company may remunerate that Director by payment of a fixed sum determined by the Directors and that remuneration may be either in addition to or in substitution for that Director's Share in the remuneration provided for in clause 18.14.
- 18.19 The Directors may also be paid all travelling and other expenses properly incurred by them in attending, participating in and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or otherwise in connection with the business of the Company.

19. POWERS AND DUTIES OF DIRECTORS

- 19.1 Subject to the Corporations Act the Listing Rules and to any other provision of this Constitution, the business of the Company is managed by the Directors who 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.
- 19.2 Without limiting the generality of clause 19.1, the Directors may at any time:
- (a) exercise all the powers of the Company to borrow or raise 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 property of the Company on such terms and conditions as they may determine PROVIDED THAT:
 - (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 payment having been given to all Members at least 10 Business Days 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.
- 19.3 The Directors may raise or secure the payment or repayment of moneys or any debt, liability or obligation in such manner and on such terms and conditions as they may determine and, in particular, by the issue of debentures, debenture stock (perpetual or otherwise), bonds, notes or other securities or debt instruments the payment of which may be charged on all or any part of the property of the Company (both present and future) including its uncalled capital for the time being.
- 19.4 If the Director acting solely in his or her capacity as a Director of the Company 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 persons or person so becoming liable from any loss in respect of such liability.
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20. CONFLICT OF INTEREST

- 20.1 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 their office of Director and on such terms as to remuneration or otherwise as the Directors shall approve.
- 20.2 A Director may be or may 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.
- 20.3 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 or as a shareholder in or director of any such other company.
- 20.4 The Directors shall advise the Company, which in turn shall advise the Exchange without delay of any material contract involving Directors' interests. The advice shall include:
- (a) the names of the parties to the contract;
 - (b) the name or names of the Director or Directors who has or have any material interest in the contract;
 - (c) particulars of the contract; and
 - (d) particulars of the relevant Director's or Director's interest or interests in that contract.
- 20.5 No Director is disqualified by his or her office from contracting with the Company whether as a vendor, a purchaser or otherwise, nor shall any such 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 and 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 nature of the Director's interest must be disclosed at a Directors' meeting as soon as practicable after the interest is created or becomes known to the Director and PROVIDED FURTHER THAT the Director may not vote in relation to any contract or proposed contract or arrangement in which the Director has a material interest (whether directly or indirectly) and PROVIDED FURTHER THAT such Director shall comply with the requirements of Part 2D of the Corporations Act.
- 20.6 Subject to the requirements of Part 2D of the Corporations Act, a general notice that a Director is a member of or otherwise interested in any specific firm or company and is to be regarded as interested in all transactions with that firm or company shall be a sufficient disclosure under this clause, and after providing such general notice it shall not be necessary for a Director to give a special notice relating to any particular transaction with that firm or company.
- 20.7 Subject to the requirements of Part 2D of the Corporations Act a Director shall not be deemed to be interested in or to have been at any time interested in any

contract or arrangement by reason only that in a case where the contract or arrangement has been or will be made with, for the benefit of or on behalf of a Related Body Corporate, he or she is a Shareholder in that Related Body Corporate.

21. MEETINGS OF DIRECTORS

- 21.1 The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they determine.
- 21.2 A Director may at any time, and the Secretary shall on the requisition of a Director, convene a meeting of the Directors PROVIDED THAT not less than 24 hours notice is given to each Director either by personal telephone contact or in writing and PROVIDED FURTHER THAT the Directors may by unanimous resolution agree to shorter notice.
- 21.3 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of Directors in attendance and entitled to vote and any such decision is for all purposes deemed a decision of the Directors.
- 21.4 The Directors shall elect one of their number as chairman of their meetings and may determine the period for which the person elected as chairman is to hold office and the Directors may also elect one of their number as deputy-chairman.
- 21.5 In the event of there being an equal number of votes, the chairman of the meeting, in addition to the chairman's deliberate vote, has a casting vote except where only two Directors are present and entitled to vote on a question. The chairman has a discretion as to whether or not to use the casting vote and as to which way it is used.
- 21.6 At a meeting of Directors, the number of Directors whose attendance is necessary to constitute a quorum is 2, or such greater number as is determined by the Directors from time to time.
- 21.7 Subject to the provisions of section 248F of the Corporations Act a quorum is not present during the consideration of a matter at a meeting of Directors unless two Directors are present who are entitled to vote on a motion in relation to that matter.
- 21.8 Provided a quorum is present at the place where the meeting is held, other Directors unable to attend in person may participate in the proceedings of the meeting in accordance with clause 21.21.
- 21.9 In the event of a vacancy or vacancies in the office of a Director or offices of Directors, the remaining Director or Directors may act PROVIDED THAT 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:
- (a) increasing the number of Directors to a number sufficient to constitute such a quorum; or
 - (b) convening a general meeting of the Company.

21.10 When a Directors' meeting is held and:

- (a) a chairman has not been elected as provided by clause 21.4; or
- (b) the chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the deputy-chairman (if any) shall act as chairman of the meeting and if there is no such person or that person is absent or unable or unwilling to act, the Directors involved shall elect one of their number to be a chairman of the meeting.

21.11 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 consisting of at least one of their number and such other persons as they determine.

21.12 The members of such a committee may elect one of their number as chairman of their meetings and if such a meeting is held and:

- (a) a chairman has not been elected as provided by this clause; or
- (b) the chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the members involved may elect another of their number to be chairman of the meeting.

21.13 A committee may meet and adjourn as it thinks proper and the committee shall exercise the powers delegated to it in accordance with the directions of the Directors.

21.14 Questions arising at a meeting of a committee are to be determined by a majority of votes of the members present and voting.

21.15 In the event of there being an equal number of votes, the chairman, in addition to the chairman's deliberative vote, has a casting vote.

21.16 A resolution in writing signed by all Directors eligible to vote or their respective Alternate Directors (except those Directors (or their alternates) who expressly indicate their abstention in writing to the Company shall be as valid and effective as if the resolution had been passed at a Directors' meeting duly convened and held.

21.17 A resolution referred to in clause 21.16 may consist of several documents in identical form and each document must contain a statement that the Directors are in favour of the resolution and the wording of the resolution and the statement of the Directors must be identical and each document signed by one or more Directors.

21.18 A facsimile transmission or other document bearing the signature of the Director shall be deemed to be a document in writing signed by the Director.

21.19 A statement sent electronically by a Director to an agreed electronic address that he or she is in favour of a specified resolution is deemed to be a document containing

that statement and duly signed by the Director at the time when the statement is received at the agreed electronic address.

21.20 All acts done by any meeting of the Directors or of a committee or by any person acting as a Director are valid as if the person had been duly appointed and was qualified to be a Director or to be a member of the committee notwithstanding that:

(a) it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a member of the committee or to act as a Director; or

(b) a person so appointed was disqualified.

21.21 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 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 to all the other Directors taking part.

21.22 A Director may not leave a Directors' meeting held under clause 21.21 by disconnecting his or her 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 express consent of the chairman of the Directors' meeting PROVIDED THAT if the Director would not be permitted by Part 2D of the Corporations Act to be present or to vote during the consideration of a matter then such Director may disconnect the 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 that matter.

21.23 A minute of the proceedings at a Directors' meeting held under clause 21.21 shall be sufficient evidence of such proceedings and of the observance of all necessary

formalities if certified as a correct minute by the chairman at the Directors' meeting.

- 21.24 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.

22. MANAGING DIRECTOR AND EXECUTIVE DIRECTOR

- 22.1 The Directors may from time to time appoint one or more of their number to the office of Managing Director or to the office of Executive Director either for a fixed term or at will, but not for life and, subject to the terms of any agreement entered into in a particular case, may revoke any such appointment.
- 22.2 The appointment of a Managing Director or Executive Director automatically terminates if the Managing Director or Executive Director ceases for any reason to be a Director.
- 22.3 A Managing Director or 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 a combination of all or any such ways) as the Directors may determine.
- 22.4 The Directors may, upon such terms and conditions and with such restrictions as they determine, confer upon a Managing Director or Executive Director any of the powers exercisable by them and any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Directors.
- 22.5 The Directors may at any time withdraw or vary any of the powers so conferred on a Managing Director or an Executive Director.
- 22.6 A Managing Director shall not retire by rotation in accordance with clause 18.2, but if there is more than one Managing Director then the first appointed Managing Director shall not be subject to re-election and the other Managing Director and the Executive Directors shall be subject to re-election.

23. ALTERNATE DIRECTORS

- 23.1 A Director may, with the approval of the Directors, appoint a person (whether a Member of the Company or not) to be an Alternate Director in the Director's place during such period as the Director thinks fit.
- 23.2 An Alternate Director involved in any meeting of Directors has one vote for each Director for which that person is an Alternate Director and if that person is a Director also has one vote as a Director.
- 23.3 An Alternate Director is entitled to notice of all meetings of the Directors and, if the appointor is not involved in such a meeting, is entitled to participate and vote in the appointor's stead.

- 23.4 An Alternate Director may exercise any powers that the appointor may exercise and in the exercise of any such power the Alternate Director is an officer of the Company and is not deemed an agent of the appointor,
- 23.5 An Alternate Director is not required to hold any Share in the Company.
- 23.6 An Alternate Director is subject in all respects to the conditions attaching to the Directors generally except that an Alternate Director is not entitled to any remuneration under clause 18.5 otherwise than from the Alternate Directors appointor.
- 23.7 The appointment of an Alternate Director may be terminated at any time by the appointor notwithstanding that the period of the appointment of the Alternate Director has not expired, and the appointment terminates in any event if the appointor vacates office as a Director.
- 23.8 An appointment or the termination of an appointment of an Alternate Director shall be effected by a notice in writing served on the Company which is signed by the Director who makes or made the appointment.

24. SECRETARY

- 24.1 There must be at least one Secretary of the Company who may be appointed by the Directors for such term, at such remuneration and on such conditions as the Directors determine.
- 24.2 The Directors have power to suspend or remove a Secretary.
- 24.3 The Directors may vest in a Secretary such powers, duties and authorities as they may from time to time determine and a Secretary shall exercise all such powers and authorities subject at all times to the control of the Directors.
- 24.4 A Secretary is entitled to participate in all meetings of the Directors and all general meetings of the Company and may be heard on any matter.

25. MINUTES

- 25.1 The Directors shall cause minutes to be made:
- (a) of the names of the Directors present at or involved in all general meetings and all meetings of the Directors; and
 - (b) of all proceedings of general meetings and of meetings of Directors,
- and cause those minutes to be entered, within one month after the relevant meeting is held, in the minute book.
- 25.2 The minutes referred to in clause 25.1 shall be signed by the chairman of the meeting at which the proceedings took place or by the chairman of the next succeeding meeting.

26. POWER OF ATTORNEY

- 26.1 The Directors may, by power of attorney, appoint any person or persons to be the attorney of the Company for such purposes and with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors) and for such period and subject to such conditions as the Directors determine.
- 26.2 A power of attorney document may:
- (a) contain any provisions for the protection and convenience of persons dealing with the attorney as the Directors determine; and
 - (b) authorise the attorney to delegate any of the powers, authorities and discretions vested in the attorney.

27. COMMON SEAL AND EXECUTION OF DOCUMENTS

- 27.1 The Seal of the company may not be affixed to any instrument except by the authority of a resolution of the Directors or a committee of the Directors duly authorised by the Directors.
- 27.2 Every instrument to which the Seal is affixed must be signed as a witness by at least 1 Director and signed as a counter-witness by another Director, Secretary or another person appointed by the Directors to witness that document.
- 27.3 The company may execute instruments without the Seal by:
- (a) two (2) Directors signing the instrument; or
 - (b) a Director and the Secretary signing the instrument.
- 27.4 Nothing in this clause 27 shall limit the ways in which the Company may execute documents.

28. INSPECTION OF RECORDS

- 28.1 Subject to 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 Members and other persons.
- 28.2 A Member or other person (not being a Director) has no right to inspect any documents of the Company, except as conferred by the Corporations Act or any other law or except as authorised by the Directors or by the Company in general meeting.

29. DIVIDENDS AND RESERVES

- 29.1 Subject to the rights of persons (if any) entitled to Shares with special rights as to dividends, the Directors may declare a final dividend out of profits in accordance

with the Corporations Act and may authorise the payment or crediting by the Company to the Members of such a dividend.

- 29.2 The Directors may authorise the payment or crediting by the Company to the Members of such interim dividends as appear to the Directors to be justified by the profits of the Company.
- 29.3 Interest may not be paid by the Company in respect of any dividend, whether final or interim.
- 29.4 The Directors may, before declaring any dividend, set aside out of the profits of the Company such sums as they think proper as reserves to be applied, at the discretion of the Directors, for any purpose for which the profits of the Company may be properly applied.
- 29.5 Pending any such application the reserves may, at the discretion of the Directors, be used in the business of the Company or be invested in such investments as the Directors may determine.
- 29.6 The Directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends without transferring those profits to a reserve.
- 29.7 Subject to the rights of persons (if any) entitled to Shares with special rights as to dividends, all dividends are to be declared and paid according to the amounts paid or credited as paid on the Shares in respect of which the dividend is paid.
- 29.8 Unless any Share is issued on terms providing to the contrary, all dividends are to be apportioned and paid proportionately to the amounts paid or credited as paid on the Shares during any portion or portions of the period in respect of which the dividend is paid.
- 29.9 An amount paid or credited as paid on a Share in advance of a call is not to be taken as paid or credited as paid on the Share for the purposes of clause 29.7 and 29.8.
- 29.10 The Directors may deduct from any dividend payable to a Member all sums of money (if any) presently payable by that Member to the Company on account of calls or otherwise in relation to that Member's Shares in the Company.
- 29.11 The Directors, when paying or declaring a dividend, may direct payment of a dividend wholly or partly by the distribution of specific assets, including fully paid shares in, debentures of or other securities of the Company or any other corporation.
- 29.12 If a difficulty arises in regard to such a distribution, the Directors may settle the matter as they consider expedient and fix the value for distribution of the specific assets or any part of those assets and may find that cash payments will be made to any Members on the basis of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as the Directors consider expedient. If a distribution of specific assets to a particular Member or Members is illegal or, in the Directors' opinion, impracticable then the Directors may make a

cash payment to that Member or Members on the basis of the cash amount of the dividend instead of the distribution of specific assets.

- 29.13 Any dividend, interest or other money payable in cash may be paid by electronic funds transfer, cheque or in such other manner as the Directors may determine
- 29.14 All dividends declared but unclaimed may be invested by the Directors as they determine for the benefit of the Company until claimed or until required to be dealt with in accordance with any law relating to unclaimed monies.

30. CAPITALISATION OF PROFITS

- 30.1 Subject to the Listing Rules a Company may capitalise profits. The capitalisation need not be accompanied by the issue of Shares.
- 30.2 Subject to the Listing Rules if the capitalisation involves the issue of Shares the Directors may do all things necessary to give effect to the resolution and, in particular, to the extent necessary to adjust the rights of the Members among themselves, may;
- (a) issue fractional certificates or make cash payments in cases where Shares or debentures become issuable in fractions; and
 - (b) authorise any person to make, on behalf of all or any of the Members entitled to any further Shares or debentures on the capitalisation, an agreement with the Company providing for the issue to them, credited as fully paid up, of any such further Shares or debentures or for the payment up by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing Shares by the application of their respective proportions of the sum resolved to be capitalised, and any such agreement is effective and binding on all the Members concerned.

31. NOTICES

- 31.1 A notice may be given by the Company to any Member or other person receiving notice under this Constitution either by serving it on the person personally or by sending it by post or facsimile transmission to the person at their address as shown in the Register or the address or number supplied by the person to the Company for the giving of notices to the person or to the electronic address nominated by that person.
- 31.2 If a notice is sent by post, service of the notice is deemed to be effected by properly addressing, prepaying, and posting an envelope containing the notice, and the notice is deemed to have been served three (3) days after the date of its posting.
- 31.3 If a notice is sent by facsimile transmission or other electronic means, service of the notice is deemed to be effected by properly addressing the facsimile transmission and transmitting same and to have been served on the Business Day following its despatch.

- 31.4 A notice may be given by the company to the joint holders of a Share by giving the notice to the joint holder first named in the Register in respect of the Share.
- 31.5 Every person who by operation of law, transfer or other means whatsoever becomes entitled to any Share is absolutely bound by every notice given in accordance with this Constitution to the person from whom that person derives title prior to registration of that person's title in the Register.
- 31.6 All notices sent by post outside Australia shall be sent by pre-paid airmail post or facsimile or in another way that ensures that it will be received quickly.
- 31.7 Notice of every general meeting shall be given in a manner authorised by clauses 31.1 to 31.6 (inclusive) and in accordance with the Corporations Act to:
- (a) every Member,
 - (b) every Director or Alternate Director;
 - (c) the Auditor;
 - (d) the Exchange (If the Company is listed); and
 - (e) every person entitled to a Share in consequence of the death or bankruptcy of a Member who, but for his or her death or bankruptcy, would be entitled to receive notice of the meeting.
- 31.8 Where the Company has bona fide reason to believe that a Member is not known at the Member's registered address, and the Company has subsequently made an enquiry in writing at that address as to the whereabouts of the Member which enquiry either elicits no response or a response indicating that the Member or their present whereabouts are unknown, all future notices will be deemed to be given to such Member if the notice is exhibited in the Registered Office (or, in the case of a member registered on a Register, in a conspicuous place in the place where the Register is kept) for a period of 48 hours (and shall be deemed to be duly served at the end of that period) unless and until the Member informs the Company that the Member has resumed residence at this registered address or notifies the Company of a new address to which the Company may send the Member notices (which new address shall be deemed the registered address).

32. AUDIT AND ACCOUNTS

- 32.1 The Directors shall cause the Company to keep accounts of the business of the Company in accordance with the requirements of the Corporations Act and the Listing Rules.
- 32.2 The Directors shall cause the accounts of the Company to be audited in accordance with the requirements of the Corporations Act and the Listing Rules.

33. WINDING UP

- 33.1 If the Company is wound up, whether voluntarily or otherwise, the liquidator may (but without prejudice to the rights of any holders of Shares issued on special terms or conditions):
- (a) with the approval of a Special Resolution, divide among the Members in specie the whole or any part of the assets of the Company;
 - (b) set a value upon any property to be divided;
 - (c) determine how the division is to be carried out as between the Members or different classes of Members; and
 - (d) with the approval of a Special Resolution, vest the whole or any part of any such assets of the Company in a trustee upon such trusts for the benefit of the Members or any of them as the liquidator determines.
- 33.2 Where an order is made for the winding up of the Company or it is resolved by Special Resolution to wind up the Company, then on a distribution of assets to members, Shares classified by the Home Branch as Restricted Securities at the time of the commencement of the winding up shall rank in priority after all other Shares.
- 33.3 Subject to the rights of Members (if any) entitled to Shares with special rights in a winding-up, all monies and property that are to be distributed among Members on a winding-up, shall be so distributed in proportion to the Share held by them respectively irrespective of the amount paid-up or credited as paid up on the Shares.

34. INDEMNITY OF OFFICERS, AUDITORS OR AGENTS

- 34.1 Except as may be prohibited by Part 2D of the Corporations Act every auditor or agent of the Company shall be indemnified out of the property of the Company against any liability incurred by him or her in his or her capacity as auditor or agent of the Company or any related corporation in respect of any act or omission whatsoever and howsoever occurring or in defending any proceedings, whether civil or criminal.
- 34.2 The Company shall indemnify each Director and Secretary out of the assets of the Company to the extent that:
- (a) The Company is not precluded by law from doing so;
 - (b) And for the amount that the Director or Secretary is not otherwise entitled to be indemnified and is not actually indemnified by another person (including a subsidiary or an insurer under any insurance policy); and
 - (c) And for the amount that the Director or Secretary is not otherwise entitled to be indemnified and is not actually indemnified out of the assets of another corporation where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the Director or Secretary in relation to another corporation.

34.3 Subject to the Corporations Act and where the board of Directors considers it appropriate the Company may:

- (a) execute a documentary indemnity in any form in favour of any Director or Secretary;
- (b) make payments by way of premium in respect of any contract effecting insurance on behalf of or in respect of a Director or Secretary against any liability incurred by that person in or arising out of the conduct of the business of the Company or a subsidiary of the Company or in or arising out of the discharge of the duties of the Director or Secretary; and
- (c) bind itself and amend any contract or deed with any Director or Secretary to make the payments.

35. CHESS

35.1 The Directors may do anything permitted by the Corporations Act, the Listing Rules or the Operating Rules which they consider necessary or desirable in connection with the participation of the Company in any computerised or electronic system established or recognised by the Corporations Act, the Listing Rules or the Operating Rules for the purpose of facilitating dealings in Shares.

35.2 The Company may provide facilities for members to hold securities in the Company on an issuer sponsored sub-register in accordance with the Listing Rules and the Operating Rules.

35.3 The Company may do anything necessary or desirable for it to do under the Operating Rules to protect or enforce any lien, charge or other right to which it is entitled under any law or under this Constitution.

35.4 The Company shall comply with the listing Rules and with the Operating Rules in respect of its participation in CHESS.