

Constitution

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Ref: SK:RP:MM:01-1465579

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Constitution

netwealth Investments Limited
ACN 090 569 109
("Company")

1 Definitions and interpretation

1.1 Definitions

In this Constitution, unless the context requires otherwise:

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

"**Board**" means the board of Directors of the Company.

"**Business Day**" means a day on which banks are open for general banking business in Melbourne, excluding Saturdays, Sundays and public holidays.

"**Cleared Funds**" means:

- (a) a bank cheque or bank draft; or
- (b) money that is immediately available to a recipient and freely transferable by that recipient.

"**Company**" means the company defined at the beginning of this Constitution.

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

"**Director**" means a person occupying the position of director of the Company and includes any person acting as an Alternate.

"**Employee Member**" means a Member who is, or was when they became a Member, an employee of the Company or a subsidiary of the Company.

"**Foundation Share**" means a share in the capital of the Company designated as such and issued in accordance with clause 2.4.

"**Managing Director**" means a Director appointed to that office under clause 24.

"**Member**" means a person whose name is entered in the Register as the holder of a Share.

"**month**" means a period starting at the beginning of a day and ending:

- (a) immediately before the beginning of the numerically corresponding day of the next month; or
- (b) if there is no numerically corresponding day, at the end of the last day of that next month.

"**Office**" means the Company's registered office.

"**Operational Risk Ordinary Share**" means a share in the capital of the Company designed as such.

"Operational Risk Policy" means the policy adopted by the Board in relation to the Operational Risk Financial Reserve Account.

"Ordinary Share" means a share in the capital of the Company designed as such, and includes an Operational Risk Ordinary Share.

"present" means, when used in relation to a Member at a meeting, present in person or by proxy, attorney or representative.

"Public Offer" means, an issue by the Company of an invitation to the public to subscribe for shares or securities representing more than 50% of the total issued capital of the Company at the date of the invitation or such other amount as the Director may, in their absolute discretion, determine.

"Register" means the register of Members of the Company.

"Secretary" means a person appointed as a secretary of the Company in accordance with clause 29.

"Share" means a share in the Company.

"Subsidiary" has the meaning given to that term by section 9 of the Corporations Act.

"Transfer Event" means –

- (a) a Public Offer; or
- (b) a disposal of the whole or substantially the whole of the property, business and undertaking of the Company; or
- (c) the sale and transfer of all of the issued shares in the capital of the Company to any person who is not, at the date of the sale and transfer, the holder or otherwise entitled, to any other shares in the Company; or
- (d) any other event as determined by the Board in its absolute discretion.

"Winding Up" means –

- (a) an order is made for the winding up or dissolution or deregistration of the Company;
- (b) a liquidator or provisional liquidator being appointed to the Company; or
- (c) the Company being otherwise wound up, dissolved, deregistered or liquidated.

1.2 Words and expressions

In this Constitution, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) words denoting any gender include all genders;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this Constitution;
- (e) a reference to this Constitution includes any schedules or annexures;
- (f) headings are for convenience and do not affect interpretation;
- (g) a reference to any document or agreement includes a reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time;

- (h) a reference to "\$", "A\$" or "dollar" is a reference to Australian currency;
- (i) a reference to a time is a reference to Australian Eastern Standard Time or Australian Eastern Daylight Time, whichever is appropriate;
- (j) a reference to a party includes its executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (k) a reference to writing includes any method of representing words, figures or symbols in a permanent and visible form;
- (l) words and expressions denoting natural persons include bodies corporate, partnerships, associations, firms, governments and governmental authorities and agencies and vice versa;
- (m) a reference to any legislation or to any provision of any legislation includes:
 - (i) any modification or re-enactment of the legislation;
 - (ii) any legislative provision substituted for, and all legislation, statutory instruments and regulations issued under, the legislation or provision; and
 - (iii) where relevant, corresponding legislation in any Australian State or Territory;
- (n) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Constitution or any part of it;
- (o) the words "including", "for example", "such as" or other similar expressions (in any form) are not words of limitation; and
- (p) words or expressions defined in the Corporations Act but not in this Constitution have the same meaning in this Constitution.

1.3 Replaceable rules

To the extent permitted by law, the replaceable rules contained in the Corporations Act do not apply to the Company.

2 Shares

2.1 Rights

Subject to this Constitution and the terms of issue of Shares, all Shares attract the following rights, privileges and conditions:

- (a) the right to receive notice of and to attend and vote at all general meetings of the Company;
- (b) the right to receive dividends; and
- (c) in a winding up, the right to participate in the distribution of the assets of the Company (both capital and surplus), subject only to any amounts unpaid on the Shares.

2.2 Classes of Shares

All shares in the Company which are issued from time to time will be called:

- (a) Ordinary Shares; or
- (b) Foundation Shares; or
- (c) preference Shares,

unless otherwise determined by the Board under clause 2.6.

2.3 Ordinary Shares

All the Ordinary Shares are called "voting shares".

2.4 Foundation Shares

- (a) All Foundation Shares are called "non-voting shares".
- (b) The Directors of the Company may, at any time and from time to time in their absolute discretion, in accordance with clause 2.4(c), offer to issue Foundation Shares to any person as fully or partly paid shares or subject to such restrictions or limitations in respect of any matter as the Directors may determine.
- (c) For the purposes of clause 2.4(b), the Directors will give written notice to each offeree specifying –
 - (i) the total number of Foundation Shares offered;
 - (ii) the time within which the offer, if not accepted, will be deemed to be declined; and
 - (iii) the issue price (if any) payable for the Foundation Shares.
- (d) The holding of a Foundation Share –
 - (i) confers the same rights as the holders of Ordinary Shares to receive notices of general meetings;
 - (ii) until the occurrence of a Transfer Event or Winding Up (whichever first occurs), confers the right in respect of each Foundation Share to such non-cumulative Dividends (if any) as the Directors may from time to time think fit and the provisions of clauses 32 and 33 are to be read subject to this provision; and
 - (iii) on a Winding Up or a reduction of capital of the Company (however affected), confers the right in respect of each Foundation Share to participate rateably with all the holders of Ordinary Shares in all distributions of surplus assets or profits of the Company; but
 - (iv) will not confer any right to attend or vote or otherwise participate in any general meeting of Members, nor vote on any resolution to be put to Members without a general meeting, nor assent to or sanction (whether at a general meeting of Members or otherwise) any matters that require the consent, approval or sanction of Members or of Members of any class of shares, except as required by law.
- (e) On the occurrence of a Transfer Event, the Directors may in their absolute discretion, require all or any of the holders of Foundation Shares to sell and transfer all of the Foundation Shares held by any of them in the capital of the Company to any person (whether an existing Member or not) nominated by the Directors and willing to purchase the Foundation Shares for the fair value of those Foundation Shares in accordance with clause 2.4(f).
- (f) For the purposes of clause 2.4(e), the Directors will –
 - (i) determine the fair value of the Foundation Shares to be transferred and, in making that determination, will take into account any matters that they consider appropriate;
 - (ii) give written notice of the Board's decision to the relevant holder or holders of Foundation Shares specifying –
 - (A) the price per Foundation Share which the Directors have fixed as the fair value; and

- (B) the time within which the instrument of transfer and share certificate referred to in clause 2.4(f)(iv) is required to be signed and delivered to the Company;
 - (iii) serve a copy of that notice on the person or persons nominated by the Directors to purchase the Foundation Shares; and
 - (iv) deliver or cause to be delivered to the relevant holder or holders of Foundation Shares an instrument of transfer for the Foundation Shares to be transferred.
- (g) If any holder of Foundation Shares to be transferred pursuant to clause 2.4(e) disputes the fair value of the Foundation Shares as determined by the Directors then –
- (i) the relevant holder must give written notice to the Company within 7 days of the date of the notice referred to in clause 2.4(f)(ii); and
 - (ii) on receipt of the notice referred to in clause 2.4(g)(i), the Directors will refer the matter to an independent expert (being a person reasonably believed by the Directors to be a competent valuer) to determine the fair value of those Foundation Shares.
- (h) In the event that any holder of Foundation Shares, having become bound to transfer the Foundation Shares held by him pursuant to clauses 2.4(e) and 2.4(f) does not, within 7 days of the date of the notice referred to in clause 2.4(f)(ii) or within 7 days of the determination of the fair value by the independent expert, deliver to the Company the instrument of transfer executed by or on behalf of the transferor together with the share certificate relevant to the Foundation Shares, the Directors may authorise a person (whether an officer of the Company or not) to execute on behalf of the holder of the Foundation Shares an instrument of transfer and to transfer the Foundation Shares to the nominated purchaser and, if applicable, to receive the purchase price on behalf of the transferor. The nominated purchaser will be registered as the holder of the Foundation Shares comprised in the instrument of transfer without production of the share certificate and will not be bound to see to the application of the purchase money (if any), nor will the nominated purchaser's title to the Foundation Shares be affected by any irregularity or invalidity in the proceedings relating to the transfer. For the avoidance of doubt, each holder of Foundation Shares irrevocably appoints each officer of the Company as its attorney to sign any transfer, redemption requests or any other documents of whatever nature, and to do all things which the attorneys may consider necessary or desirable in order to give effect to the provisions of this Constitution in relation to such Foundation Shares, and any two officers acting jointly may exercise this power of attorney.
- (i) In the event of a Public Offer, the Directors may in their absolute discretion, require all or any of the holders of Foundation Shares to convert all of the Foundation Shares held by any of them in the capital of the Company into Ordinary Shares in accordance with clause 2.4(j).
- (j) For the purposes of clause 2.4(i) –
- (i) the Directors will give written notice of the Board's decision to the relevant holder or holders of Foundation Shares specifying –
 - (A) the number of Ordinary Shares to be issued for the Foundation Shares to be converted; and
 - (B) the time within which the share certificate relevant to those Foundation Shares must be delivered to the Company;

- (ii) where notice has been given by the Company pursuant to clause 2.4(j)(i), all rights attaching to the Foundation Shares the subject of the notice will be suspended; and
 - (iii) each Ordinary Share issued on conversion of any Foundation Shares will, on and from the date of issue, rank in all respects equally with the Ordinary Shares then on issue in the capital of the Company.
- (k) In the event that any holder of Foundation Shares, having become bound to deliver to the Company the share certificate for any of the Foundation Shares held by him, does not surrender the share certificate within 7 days of the date of the notice referred to in clause 2.4(j)(i) the Directors may, in their absolute discretion, determine to exercise the powers under clause 2.4(h).
- (l) Any decision of the Directors pursuant to clauses 2.4(e) and 2.4(i) to exercise those powers and, if applicable, the power contained in clause 2.4(h), will be conclusive and irrevocable and no exercise of those powers will be deemed to be oppressive to any member of the Company.

2.5 Power to issue

Subject to this Constitution and the Corporations Act, the Board may issue or dispose of Shares to persons on the terms, at the issue price and at the times the Board determines. This includes the power to:

- (a) issue Shares with:
 - (i) any preferential, deferred or special rights, privileges and conditions; and
 - (ii) any restrictions in regard to dividend, voting, return of capital or otherwise;
- (b) grant options to have Shares issued;
- (c) issue preference Shares that are liable to be redeemed; and
- (d) reclassify any Share.

2.6 Power to buy back

- (a) Subject to paragraph (b), the Company may, in accordance with the Corporations Act, buy back its own Shares.
- (b) The Company may, in accordance with the Corporations Act and the Operational Risk Reserve, buy back its own Operational Risk Ordinary Shares.

3 Brokerage and commission

The Company may pay brokerage or commissions to a person in respect of that person or another person agreeing to take up Shares or debentures in the Company. Any brokerage or commissions paid may be made by cash, the issue of Shares, the issue of debentures, or a combination of those methods.

4 Ownership of Shares

4.1 Non-beneficial holders

Except as required by law or as otherwise provided by this Constitution, the Company:

- (a) may treat the registered holder of a Share as the absolute owner of it; and
- (b) need not recognise any equitable, contingent, future, partial or other claim to or interest in a Share by any person other than the registered holder.

4.2 Notice

clause 4.1 applies even if the Company has notice of the relevant claim or interest.

5 Joint holders

If the Register names two or more joint holders of a Share, they are taken to hold the Share as joint tenants with the benefits of survivorship and the person listed first in the Register is the only joint holder entitled to receive notices from the Company.

6 Share certificates

6.1 Right to certificate

Every Member is entitled, free of charge, to a certificate of title for all Shares registered in the Member's name.

6.2 Joint holders

Joint holders of a Share are entitled to a single certificate in their joint names. The certificate will be sent to the joint holder listed first in the Register.

6.3 Replacement certificates

If certificates are lost or destroyed, the Company will issue replacement certificates in accordance with the Corporations Act. In the case of worn or defaced certificates, the Board may order them to be cancelled and replaced.

7 Variation of rights

7.1 Procedure

If there are different classes of Shares, the rights attached to any class may, unless their terms of issue state otherwise, be varied or cancelled with:

- (a) the written consent of the holders of not less than 75% of the issued Shares of that class; or
- (b) the sanction of a special resolution passed at a separate general meeting of the holders of the Shares of that class.

7.2 Effect of further or new issue

Unless otherwise provided by their terms of issue, the rights attached to a class of Shares are not treated as varied by the issue of any further or new Shares that rank equally with them.

8 Calls on Shares

8.1 Board may make calls

Subject to the terms on which partly paid Shares are issued, the Board may:

- (a) make calls on the holders of Shares for some or all of the money unpaid on them;
- (b) make a call payable by instalments; and
- (c) revoke or postpone a call before the due date for payment.

8.2 Timing of call

A call is made when the Board resolution authorising the call is passed.

8.3 Notice

The Company must give a Member upon whom a call is made written notice of the call at least 14 days before the due date for payment. The notice must specify:

- (a) the amount of the call;
- (b) the due date for payment; and
- (c) the place for payment.

8.4 Liability to pay calls

A Member to whom notice is given in accordance with clause 8.3 must pay the call in accordance with the notice. Joint holders of Shares are jointly and severally liable to pay calls in respect of their Shares.

8.5 Failure to give notice

Failure to give notice of a call to any Member or the non-receipt of notice by any Member does not invalidate the call.

8.6 Instalments

If:

- (a) the Board requires a call to be paid by instalments; or
- (b) the terms of issue of a Share require that some or all of the issue price is payable by instalments,

then:

- (c) the instalments are payable at the times specified as if a call had been made by the Board and notice of that call had been given; and
- (d) the consequences of late or non-payment are the same as for late or non-payment of a call.

8.7 Interest and expenses on calls

If an amount called is not paid on or before the due date, the person liable to pay the amount must also pay:

- (a) interest on that amount from the due date to the time of actual payment at a rate determined by the Board; and
- (b) all expenses that the Company incurs as a consequence of the late or non-payment.

The Board may, in its absolute discretion, waive these payments in whole or in part.

8.8 Differentiation of calls

The Board may, on the issue of Shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

8.9 Payment in advance

The Board may:

- (a) accept prepayment by a Member of some or all of the amount unpaid and uncalled on any Shares held by that Member as a payment in advance of calls;
- (b) agree to payment by the Company of interest at a rate agreed between the Member and the Company on that part of the amount advanced that remains uncalled; and
- (c) subject to any agreement between the Company and the Member, repay all or part of the amount advanced that remains uncalled.

8.10 No additional entitlements

Payments in advance of calls do not entitle the paying Member to any dividend, benefit or advantage (other than the payment of interest under this clause 8) that the Member would not have been entitled to if it had paid the amount when it became due.

8.11 Proof of call

On the trial or hearing of any action for the recovery of money due for any call, proof that:

- (a) the minute books of the Company record the Board's resolution making the call;
- (b) notice of the call was given to the relevant Member in accordance with this Constitution; and
- (c) the relevant Member appeared in the Register at the time the call was made as the holder or one of the holders of the Shares in respect of which the call was made;

will be conclusive evidence of the debt.

9 Forfeiture notice

9.1 Notice

At any time after a call becomes payable and remains unpaid by a Member, the Board may serve a notice on the Member requiring payment of:

- (a) the unpaid amount;
- (b) any interest that has accrued; and
- (c) all expenses incurred by the Company as a consequence of non-payment.

9.2 Form of notice

A notice under clause 9.1 must:

- (a) specify a day (not earlier than 14 days from the date of the notice) by which payment must be made;
- (b) specify a place or places at which payment must be made; and
- (c) state that if a Member does not comply with the notice, the Shares in respect of which the call was made or instalment is payable will be liable to be forfeited.

10 Forfeiture

10.1 Failure to comply with notice

If a Member fails to comply with a notice served under clause 9, any Shares in respect of which the notice was given may be forfeited by a Board resolution passed before the required payment is made. All dividends, interest and other money payable in respect of the Shares and not actually paid will also be forfeited.

10.2 Notice

When a Share is forfeited:

- (a) notice of the forfeiture will be given to the Member in whose name the Share stood immediately prior to the forfeiture; and
- (b) the forfeiture and its date must be noted in the Register.

10.3 Interest extinguished

The forfeiture of a Share extinguishes all of a Member's rights and interest in that Share and all claims and demands that the Member may have against the Company in respect of that Share.

10.4 Property of the Company

On forfeiture, a Share becomes the property of the Company and may be sold, cancelled, re-issued or otherwise disposed of on terms determined by the Board.

10.5 Cancellation of forfeiture

At any time before a forfeited Share is sold, cancelled, re-issued or otherwise disposed of, the forfeiture may be cancelled on terms determined by the Board.

10.6 Cessation of membership

A person whose Shares have been forfeited ceases to be a Member in respect of the forfeited Shares but remains liable to the Company for and must immediately pay:

- (a) all money that was payable by the Member to the Company at the date of forfeiture in respect of the forfeited Shares (including interest and expenses, as set out in the notice given under clause 9.1); and
- (b) interest on that money from the date of forfeiture until payment at a rate determined by the Board.

10.7 Cessation of liability

A person's liability to the Company under clause 10.6 ceases when the Company receives payment in full of the money and interest owing.

11 Lien

11.1 Lien on Shares

The Company has a first and paramount lien over each Share for all money:

- (a) called or payable at a fixed time in respect of the Share that is due but unpaid (including interest and expenses payable under clause 9.1); or
- (b) paid or owed by the Company in respect of the Share for which the Company is indemnified under clause 13.

11.2 Dividends

The Company's lien over a Share extends to all dividends payable in respect of the Share and to the proceeds of sale of the Share.

11.3 Exemption

The Board may at any time declare any Share to be wholly or partly exempted from a lien.

11.4 Waiver on registration of transfer

Unless the Board determines otherwise, the registration of a transfer of Shares shall operate as a waiver of the Company's lien on those Shares.

11.5 Lien sale

If:

- (a) the Company has a lien on a Share and an amount secured by the lien is presently payable;

- (b) the Company has given the Member registered as holder of the Share (or that Member's executors or administrators) notice demanding payment of the amount; and
- (c) the amount is not paid in full within 14 days after notice was given, the Board may sell the Share in any manner it determines.

12 Terms of lien or forfeiture sale

12.1 Giving effect to a sale

To give effect to the sale of a Share to enforce a lien or on forfeiture, the Company may execute a transfer of the Share on behalf of the holder.

12.2 Purchaser

The purchaser of the Share:

- (a) will be registered as the new holder of the Share;
- (b) is not bound to check the regularity or validity of the sale or the application of the purchase money;
- (c) obtains title to the Share despite any irregularity or invalidity in the sale; and
- (d) will not be subject to any complaint or remedy by the former holder of the Share in respect of that purchase.

12.3 Proceeds

After the payment of all costs and expenses, the net proceeds of the sale or disposition of a Share to enforce a lien or on forfeiture will be applied by the Company in the following order:

- (a) in payment of all amounts secured by the lien or all amounts payable in respect of the forfeited Share; and
- (b) to the extent there is any surplus, in payment of that surplus to the former holder of the Share.

12.4 Signed statement

A statement signed by a Director or Secretary that a Share has been validly:

- (a) forfeited and sold, re-issued or disposed of; or
- (b) sold without forfeiture to enforce a lien,

will be conclusive evidence of these matters as against all persons claiming entitlement to the Share.

13 Indemnity

13.1 Indemnity

If the law of any country, state or place:

- (a) imposes or purports to impose any immediate, future or possible liability upon the Company; or
- (b) empowers or purports to empower any person to require the Company to make any payment,

in respect of Shares held by a Member (whether alone or jointly) or dividends or other moneys accruing or due to a Member, the Company:

- (c) is fully indemnified by the Member in respect of that liability or payment;
- (d) may recover as a debt due from the Member the amount of that liability or payment together with interest at a rate determined by the Board from the date of payment by the Company to the date of repayment by the Member; and
- (e) may deduct the amount of that liability or payment (together with any interest) from any dividend or other moneys payable by the Company to the Member.

13.2 Lien sale

The provisions of clauses 11 and 12 relating to the Company's lien for debts of a Member and the power of sale to enforce such a lien apply to all amounts for which the Company is indemnified under this clause 13.

13.3 Rights, remedies additional

Any rights and remedies that the Company may have under this clause 13 are in addition to and do not replace or limit any other rights or remedies it may have.

13.4 Executors and administrators

In this clause 13, the term "Member" includes, where appropriate, that Member's executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns.

14 Transfer of Shares

14.1 Right of transfer

There is no right of transfer of any Shares and the Board will not register any transfer unless:

- (a) a proper instrument of transfer is delivered to the Company in accordance with clause 14.2; and
- (b) either:
 - (i) the transfer is a permitted transfer under clause 14.3;
 - (ii) the transfer constitutes a transmission in accordance with clause 15; or
 - (iii) all Members agree in writing to the transfer.

14.2 Transfer procedure

An instrument of transfer of Shares must be:

- (a) in writing and in any usual or common form or in any other form approved by the Board;
- (b) executed by or on behalf of both the transferor and the transferee;
- (c) duly stamped (if required by law to be stamped);
- (d) delivered to the Office for registration; and
- (e) accompanied by:
 - (i) a certificate for the Shares dealt with in the transfer (unless the Board waives production of the certificate on receiving satisfactory evidence of its loss or destruction); and
 - (ii) any further information that the Board reasonably requires to establish the right of the person transferring the Shares to make the transfer.

14.3 Permitted transfers

The following transfers are permitted transfers for the purposes of clause 14.1(b)(i):

- (a) a transfer by a Member holding a Share as the trustee of a family trust to the new trustee or trustees of that trust; and
- (b) a transfer by a Member holding a Share as a bare trustee or nominee to the person beneficially entitled.

14.4 Transferor remains holder

A Member transferring Shares remains the holder of the Shares until the transfer is registered and the name of the transferee is entered in the Register in respect of the Shares.

14.5 Board approval for certain transfers

Board approval is required for certain transfers under clause 15. If the Board's approval is required, the Board may refuse to register the transfer without giving any reasons or specifying any grounds.

14.6 Refusal to register transfer

If the Board refuses to register a transfer, the Company must, within two months after the date on which the transfer was lodged with it, give the transferee notice of the refusal. If notice is not given within two months, the transfer will be deemed to have occurred at the end of that period.

14.7 Suspension of registration

Subject to the Corporations Act, the Board may suspend the registration of transfers for any time or times not exceeding a total 30 days in any calendar year.

15 Transmission of Shares

15.1 Legal personal representatives

If the sole holder of a Share dies, the Company will only recognise the legal personal representative of the deceased holder as having any title to the Share.

15.2 Joint holders

If a holder of a jointly held Share dies, the Company will only recognise the surviving joint holders as having any title to the deceased holder's Share. The estate of the deceased holder is not released from any liability in respect of the Share.

15.3 Transmission

If a person entitled to a Share as a consequence of the death, mental incapacity or bankruptcy of a Member gives the Board the information it reasonably requires to establish that person's entitlement:

- (a) the person may:
 - (i) by giving a written and signed notice to the Company, elect to be registered as the holder of the Share (and the Board will register the person as soon as practicable); or
 - (ii) by giving a completed transfer to the Company, transfer the Share to another person with the approval of the Board; and
- (b) the person has, whether or not registered as the holder of the Share, the same rights in relation to dividends, meetings, voting and all other matters that the

deceased, incapable or bankrupt Member would have had if not deceased, incapable or bankrupt.

15.4 Joint entitlement

If two or more persons are jointly entitled to a Share as a consequence of the death, mental incapacity or bankruptcy of a Member, they will be considered joint holders of the Share.

15.5 Indemnity

Any person who is registered under this clause 15 must indemnify the Company against all liabilities, costs and expenses incurred by the Company as a result of that registration.

16 Conversion and reduction of Share capital

16.1 Conversion

Subject to clauses 2.4 and 7 and the Corporations Act, the Company may convert:

- (a) an Ordinary Share into a preference Share;
 - (b) a preference Share into an Ordinary Share; and
 - (c) all or any of its Shares into a larger or smaller number of Shares,
- by resolution passed at a general meeting.

16.2 Unpaid amounts

For the purposes of clause 16.1(c), any amount unpaid on Shares being converted is to be divided equally among the replacement Shares.

16.3 Fractions

To give effect to a conversion under clause 16.1(c), the Board may do anything it thinks expedient or appropriate including, if a Member becomes notionally entitled to a fraction of a Share as a result of the conversion:

- (a) make a cash payment or disregard fractional entitlements so as to adjust the rights of Members between themselves;
- (b) vest fractional entitlements in a trustee to be dealt with as determined by the Board; or
- (c) round up fractional entitlements to the nearest whole Share by capitalising an amount under clause 33.3, even though not all Members participate in the capitalisation.

16.4 Reduction

The Company may reduce its Share capital in any way permissible by the Corporations Act.

17 General meetings

17.1 Calling

The Board may call a general meeting at any time. The ability of Members to:

- (a) request that the Board call a general meeting; and
- (b) call and arrange to hold a general meeting themselves,

is limited to the powers set out in the Corporations Act.

17.2 Notice

Subject to the provisions of the Corporations Act allowing general meetings to be held on shorter notice, at least 21 days written notice of a general meeting must be given to:

- (a) each Member;
- (b) each Director;
- (c) any auditor of the Company; and
- (d) any other person required by Law.

No other person is entitled to receive notice of a general meeting.

17.3 Content of notice

A notice of a general meeting must:

- (a) set out the place, date and time for the meeting (and, if the meeting is to be held in two 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 the special resolution itself; and
- (d) contain a statement specifying that:
 - (i) the Member has a right to appoint a proxy;
 - (ii) the proxy does not need to be a Member; and
 - (iii) a Member entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise.

17.4 Resolutions without general meetings

Subject to the Corporations Act, the Company may pass a resolution without a general meeting being held if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Members if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Member signs.

17.5 Failure to give notice

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

18 Proceedings at general meetings

18.1 Quorum

No business may be transacted at a general meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum consists of two Members entitled to vote at the meeting, unless the Company only has one Member entitled to vote at the meeting, in which case the quorum is one.

18.2 Determining quorum

Each individual present at a general meeting may only be counted once toward a quorum. If a Member has appointed more than one proxy, attorney or representative, only one of them may be counted towards a quorum.

18.3 Quorum not present

If a quorum is not present within 15 minutes after the time appointed for a general meeting:

- (a) if the meeting was convened at the request of Members, it is automatically dissolved; and
- (b) in any other case:
 - (i) it will stand adjourned to the same time and place on the fifth Business Day after the meeting; and
 - (ii) if a quorum is not present within 15 minutes from the time appointed for the adjourned meeting, it is automatically dissolved.

18.4 Chairperson

The chairperson (or, in the chairperson's absence, the deputy chairperson) of Board meetings will be the chairperson at each general meeting. If:

- (a) there is no such chairperson or deputy chairperson;
- (b) neither the chairperson nor the deputy chairperson is present within 15 minutes after the time appointed for holding the meeting; or
- (c) both the chairperson and the deputy chairperson are unwilling to act as chair of the meeting,

the Members present and entitled to vote will elect a Member or Director to chair the meeting.

18.5 Function of chairperson

The chairperson of a general meeting is responsible for the general conduct and procedures to be adopted at the meeting.

18.6 Adjournment by chairperson

The chairperson of a general meeting at which a quorum is present:

- (a) may, with the consent of the meeting; and
 - (b) must, if directed by ordinary resolution of the meeting,
- adjourn the meeting to another time and place.

18.7 Adjourned meeting

The only business that can be transacted at an adjourned meeting is the unfinished business of the initial meeting. Notice of the adjourned meeting must be given if the meeting is adjourned for more than 14 days.

18.8 Show of hands

Unless a poll is demanded under clause 18.9:

- (a) a resolution put to a vote at a general meeting must be decided on a show of hands; and
- (b) a declaration by the chairperson that a resolution has been carried, carried by a particular majority or lost and an entry to that effect in the minutes of the meeting will be conclusive evidence of that fact without proof of the number or proportion of votes recorded in favour or against the resolution.

18.9 Demanding a poll

Either before or on declaration of the result of a show of hands, a poll may be demanded by:

- (a) the chairperson;
- (b) at least five Members entitled to vote on the resolution; or
- (c) Members with at least 5% of the votes that may be cast on the resolution on a poll.

The demand for a poll does not affect the continuation of the meeting for the transaction of other business and may be withdrawn.

18.10 When and how polls must be taken

A poll will be taken when and in the manner the chairperson directs, except for:

- (a) a poll demanded on the election of a chairperson; or
- (b) a poll demanded on the adjournment of a meeting,

which must be taken immediately. The result of the poll will be the resolution of the meeting at which the poll was demanded.

18.11 Equal number of votes

If an equal number of votes is cast for and against a resolution:

- (a) the chairperson does not have a casting vote in addition to the chairperson's vote as a Member, proxy, attorney or representative; and
- (b) the resolution is not passed.

19 Voting at general meetings

19.1 Number of votes

Subject to this Constitution and any rights or restrictions attached to any Share or class of Share, every Member who is present at a general meeting and entitled to vote:

- (a) on a show of hands, has one vote; and
- (b) on a poll, has one vote for each Share the Member holds.

19.2 Joint holders

In the case of joint holders of a Share, the vote of the Member whose name appears first in the Register will be accepted to the exclusion of the votes of the other joint holders.

19.3 Unpaid calls

A Member is not entitled to vote at a general meeting unless all calls and other sums payable by the Member to the Company in respect of Shares have been paid.

19.4 Voting by transmittees and guardians

Subject to the Corporations Act, if the Board is satisfied at least 24 hours before the time fixed for a general meeting that a person:

- (a) is entitled to the transmission of a Share under clause 15; or
- (b) has the power to manage a Member's property under a law relating to the management of property of the mentally incapable,

that person may vote and exercise any other rights in relation to the general meeting as if it were the registered holder of the Share and the Board must not count the vote of the actual registered holder.

19.5 Objections

An objection to the qualification of any voter:

- (a) may only be raised at the meeting or adjourned meeting at which the voter tendered its vote; and
- (b) must be determined by the chairperson, whose decision, if made in good faith, will be final and conclusive.

A vote that the chairperson does not disallow pursuant to an objection is valid for all purposes.

20 Proxies, attorneys and representatives

20.1 Proxies

A Member entitled to attend and vote at a general meeting may appoint a proxy to attend and vote for the Member at the meeting. A proxy may be an individual or a body corporate.

20.2 Number of proxies

A Member entitled to one vote at a general meeting may appoint one proxy. A Member entitled to more than one vote may appoint no more than two proxies.

20.3 Proportion of votes exercisable by proxies

If a Member appoints two proxies, the appointment may specify the proportion or number of the Member's votes each proxy may exercise. If the appointment does not specify this, each proxy may exercise half of the votes and any fractions of votes will be disregarded.

20.4 Rights of proxies

Subject to this Constitution and the proxy's terms of appointment, a proxy has the same rights as the appointing Member to speak at a general meeting, to vote and to join in and demand a poll.

20.5 Voting rights of proxies

A proxy may vote either on a show of hands or a poll, unless a Member has appointed two proxies at a meeting, in which case neither may vote on a show of hands. If a proxy's appointment specifies the way in which the proxy must vote, the proxy must follow those instructions in accordance with the Corporations Act.

20.6 Attorneys and representatives

A Member may:

- (a) appoint an attorney; or
- (b) if the Member is a body corporate, appoint a representative,

to act for the Member at general meetings or to appoint a proxy to act for the Member at general meetings.

20.7 Rights of attorneys and representatives

Unless restricted by the terms of appointment or the Corporations Act, an attorney or representative may exercise the same powers on the Member's behalf that the Member could exercise at a general meeting or in voting on a resolution.

20.8 No membership requirement

A proxy, attorney or representative may, but need not be, a Member.

20.9 Standing appointments

A Member may appoint a proxy, attorney or representative to act at a particular general meeting or make a standing appointment. A Member may revoke any appointment.

20.10 Instrument of appointment of proxies

Subject to clause 20.12, the instrument of appointment of a proxy must be in a written form approved by the Board and must be signed or executed:

- (a) if the appointing Member is an individual, by the appointing Member or that Member's attorney; and
- (b) if the appointing Member is a body corporate, by the body corporate in accordance with the Corporations Act or by the body corporate's duly authorised attorney or representative.

20.11 Instrument of appointment of attorneys and representatives

Subject to clause 20.12, the instrument of appointment of an attorney or a representative must be in a written form and must:

- (a) if an individual Member appoints an attorney, consist of a valid power of attorney signed by the appointing Member in the presence of at least one witness; and
- (b) if a body corporate appoints an attorney or representative, consist of a valid power of attorney or, in the case of a representative, valid certificate of appointment executed by the appointing Member in accordance with the Corporations Act.

20.12 Alternative method of appointment

Notwithstanding clauses 20.10 and 20.11, the instrument of appointment of a proxy, attorney or representative will be valid if it is in a form and is authenticated in any manner prescribed by the Corporations Act.

20.13 Company must receive appointments

The appointment of a proxy, attorney or representative is only effective in relation to a general meeting if the Company receives the instrument effecting the appointment and any additional documents required by clause 20.15:

- (a) in the case of a proxy or attorney, at least 48 hours before the time for holding the meeting or adjourned meeting (unless the notice of meeting specifies a shorter time period); and
- (b) in the case of a representative, before the commencement of the meeting or adjourned meeting.

20.14 Definition of receipt

The Company receives the documents referred to in clause 20.13 when they are received:

- (a) at the Office;
- (b) at a fax number at the Office;
- (c) at a place, fax number or electronic address specified in the notice of meeting; or
- (d) if the notice of meeting specifies other electronic means by which a Member may give the documents, by those means in accordance with the Corporations Act.

20.15 Additional documents

If an appointment purports to be executed under a power of attorney or other authority, the original power or authority or a certified copy of it must be received by the Company along with the appointment.

20.16 Chairperson may declare appointment valid

If:

- (a) the instrument of appointment of a proxy, attorney or representative does not comply with the terms of this Constitution; or
- (b) the appointment and any additional documents are not received by the Company in accordance with the terms of this Constitution,

the appointment will be treated as invalid unless the chairperson declares otherwise.

20.17 Adjourned meetings

An appointment of a proxy, attorney or representative for a particular general meeting is valid at the adjourned meeting.

20.18 Rights of proxies and attorneys if Member present

A proxy or attorney has no power to act for a Member at a general meeting at which the Member is present in person or, in the case of a body corporate, by representative. A proxy has no power to act for a Member at a general meeting at which the Member is present by attorney.

20.19 Priority of conflicting appointments

The following rules govern conflicting appointments:

- (a) an appointment of a proxy is revoked (or suspended for the particular general meeting if a standing appointment) if the Company receives a further proxy appointment that would result in the Member having more proxies than the Member is entitled to under clause 20.2;
- (b) the proxy appointment made first in time under clause 20.19(a) is the first to be treated as revoked or suspended under that clause; and
- (c) if more than one attorney or representative appointed by a Member is present at a general meeting and the Company has not received notice of revocation of any of the appointments:
 - (i) an attorney or representative appointed to act at that particular meeting may act to the exclusion of an attorney or representative appointed under a standing appointment; and
 - (ii) subject to clause 20.19(c)(i), the more recently appointed attorney or representative may act to the exclusion of an attorney or representative appointed earlier in time.

20.20 Continuing authority

A vote cast by a proxy, attorney or representative at a general meeting will be valid even if, before the vote, the appointing Member:

- (a) dies or becomes mentally incapacitated;
- (b) revokes the appointment or the authority under which the appointment was made by a third party; or
- (c) transfers the Shares to which the appointment relates,

unless the Company has received written notification of the matter before the start or resumption of the meeting.

21 Class meetings

The provisions of this Constitution relating to general meetings apply, with any necessary modifications, to separate meetings of a class of Members except that the necessary quorum will be two Members of the relevant class entitled to vote at the meeting, unless there is only one such Member, in which case the quorum is one.

22 Directors

22.1 Minimum number

The Company will have at least three Directors, unless otherwise provided by the Corporations Act.

22.2 No membership requirement

A Director may, but need not be, a Member.

22.3 Other positions

A Director may simultaneously hold any other office or paid position in the Company on terms determined by the Board.

22.4 Meetings of Members

A Director is entitled to notice of and to attend all general meetings and class meetings.

22.5 Appointment and removal by Members

Subject to clause 22.1, the Company may by resolution passed in general meeting:

- (a) appoint a person to be a Director;
- (b) remove a Director from office;
- (c) appoint another person in a Director's place;
- (d) fix the maximum number of Directors and increase or reduce that number; and
- (e) subject to clause 24, determine any rotation and retirement policies for Directors.

22.6 Appointment by Board

The Board may appoint a person to be a Director at any time either to fill a casual vacancy or as an addition to the existing Directors, but the total number of Directors must not exceed any maximum number fixed in accordance with clause 22.5(d).

22.7 Term of office

A Director will hold office until the Director dies or ceases to be a Director under clause 22.8.

22.8 Cessation of appointment

A person automatically ceases to be a Director if:

- (a) the person is not permitted by the Corporations Act (or an order made under the Corporations Act) to be a Director;
- (b) the person becomes bankrupt or enters into or becomes subject to any arrangement or composition with creditors;
- (c) the person becomes mentally incapable or a person whose estate or property is liable to be dealt with in any way under any law relating to mental health;
- (d) the person resigns by notice in writing to the Company;
- (e) the person is removed from office under clause 22.5; or
- (f) the term for which the person was appointed or elected expires.

23 Alternates

23.1 Appointment

With the approval of the Board, a Director may appoint an Alternate to act in the appointing Director's place for a specified period and may terminate that appointment at any time.

23.2 No membership requirement

An Alternate may, but need not be, a Member.

23.3 Powers and duties

An Alternate is entitled to the same rights and powers as a Director while acting in that capacity (including the right to receive notice of and to attend and vote at Directors' meetings) and is subject to the same duties.

23.4 Cessation of appointment

An Alternate's appointment ceases if:

- (a) the appointing Director terminates it;
- (b) the appointing Director ceases to be a Director; or
- (c) an event occurs that would cause the Alternate to cease to be a Director under clause 22.8 if the Alternate were a Director.

23.5 Written notice

The appointment of an Alternate or its termination by the appointing Director is only effective when it is in writing signed by the appointing Director and a copy is given to the Company.

24 Managing Director

24.1 Appointment

The Board may appoint one or more Directors to the office of Managing Director on the terms and for the period that the Board determines.

24.2 Powers

The Board may delegate any of its powers to a Managing Director:

- (a) on the terms and subject to any restrictions the Board determines; and
- (b) so as to be concurrent with, or to the exclusion of, the powers of the Board, and may revoke the delegation at any time.

24.3 Remuneration

Subject to any agreement between the Company and a Managing Director, the Board may determine the remuneration of a Managing Director.

24.4 Cessation of appointment

A Managing Director will not be required to retire by rotation or be taken into account in determining the number of Directors to retire by rotation. A Managing Director's appointment ceases if:

- (a) the Board terminates it (which it may do at any time, subject to any agreement between the Company and the Managing Director); or
- (b) the Managing Director ceases to be a Director.

25 Remuneration of Directors

25.1 Remuneration fixed by Board

The Board may fix the remuneration of Directors for their services.

25.2 Expenses

In addition to remuneration for services, the Company will pay Directors all reasonable travelling and other expenses properly incurred:

- (a) in attending Board meetings or any meetings of committees of Directors;
- (b) in attending any general meetings of the Company; and
- (c) in connection with the Company's business.

25.3 Extra services

If a Director, at the request of the Board and for the purposes of the Company, performs any extra services or makes special exertions (including going or living away from the Director's usual residential address) the Company may remunerate that Director for doing so. This remuneration may be in addition to or in substitution for remuneration under clauses 25.1 and 25.2.

26 Powers and duties of Directors

26.1 Management of the Company

The business of the Company will be managed by the Board. The Board may exercise all the powers of the Company except any powers that are required by this Constitution or the Corporations Act to be exercised by the Company in general meeting.

26.2 Specific powers

Without limiting the generality of clause 26.1, the Board may exercise all the powers of the Company to:

- (a) borrow money;
- (b) charge any of the Company's property, business or uncalled capital;
- (c) issue debentures or give any security for a debt, liability or obligation of the Company or any other person;
- (d) guarantee or become liable for the payment of money or the performance of any obligation by or of any other person; and
- (e) pay out of the Company's funds all expenses of the promotion, formation and registration of the Company and the vesting in it of the assets acquired by the Company,

on any terms determined by the Board.

26.3 Duties under the Corporations Act

A Director must comply with the Corporations Act and fulfil any duties prescribed in it.

26.4 No disqualification

A Director is not disqualified by reason only of being a Director from:

- (a) holding any office, place of profit or position of employment with the Company;
- (b) acting in a professional capacity for the Company;

- (c) being a member or creditor of any corporation (including the Company) or partnership; or
- (d) entering into any agreement or arrangement with the Company.

26.5 Disclosure of interests

If required to do so under the Corporations Act, a Director must disclose to the Board any material personal interest the Director has in a matter relating to the affairs of the Company. The Secretary must record details of any such disclosures in the minutes of the relevant Board meeting.

26.6 Voting if Director has an interest

A Director with a material personal interest in a matter being considered at a Board meeting may only vote on matters that relate to the interest and be counted towards a quorum in accordance with the Corporations Act.

26.7 Obligation of secrecy

Every Director and other agent or officer of the Company must:

- (a) keep the transactions and affairs of the Company confidential, except:
 - (i) to the extent necessary to enable the person to perform his or her duties to the Company;
 - (ii) as required by the Board or the Company in general meeting; and
 - (iii) as required by law; and
- (b) if requested by the Board, sign a confidentiality undertaking consistent with this clause 26.7.

27 Delegation of Directors' powers

27.1 Power to delegate

The Board may delegate any of its powers to:

- (a) a committee of Directors;
- (b) a Director;
- (c) an employee or adviser of the Company; or
- (d) an attorney.

27.2 Terms of delegation

A delegation of powers under clause 27.1 may be made:

- (a) for a specified period or without specifying a period; and
- (b) on the terms (including the power to delegate further) and subject to any restrictions that the Board determines.

A document of delegation may contain provisions for the protection and convenience of those who deal with the delegate that the Board thinks appropriate.

27.3 Delegate to comply with directions

A delegate under clause 27.1 must exercise its powers subject to any direction from the Board.

27.4 Board may revoke delegation

The Board may revoke a delegation of its powers at any time.

27.5 Proceedings of committees

Subject to the terms on which power is delegated to a committee and any directions from the Board:

- (a) a committee is free to determine the rules that regulate its meetings and proceedings; and
- (b) in the absence of such a determination, the rules will be the same as those that govern Board meetings in this Constitution, so far as they are applicable.

28 Board meetings

28.1 Procedure

Subject to this Constitution and the Corporations Act, the Board may meet, adjourn and otherwise regulate its meetings as it determines.

28.2 Calling

A Director may at any time, and the Secretary must on request from a Director, convene a Board meeting

28.3 Notice

Each Director must be given reasonable notice of a Board meeting or the resumption of an adjourned Board meeting. Notice may be given in any manner determined or adopted by the Board from time to time.

28.4 Use of technology

A Board meeting may be held using any audio, audio-visual or other technology:

- (a) that enables the participating Directors to simultaneously hear each other and participate in discussion; or
- (b) to which all Directors have consented.

A minute certified by the chairperson of such a meeting will be conclusive evidence of the proceedings at that meeting and the observance of all necessary formalities.

28.5 Consent

A Director's consent under clauses 28.3 and 28.4 may be a standing one and may only be withdrawn within a reasonable period before the meeting.

28.6 Quorum

The quorum necessary for the transaction of business at a Board meeting is two Directors unless the Board determines a greater number. A quorum must be present for the entire meeting.

28.7 When a Director is treated as present

If a Board meeting is held by audio or audio-visual technology:

- (a) a Director is treated as present if the Director is able to hear and be heard by all others attending; and
- (b) unless the chairperson is notified that a Director is leaving the meeting, the Director will be assumed to have been present for the duration of the meeting.

If a meeting is held using any other technology consented to by all Directors, the Board must determine the basis on which Directors are treated as present.

28.8 Chairperson

The Board may elect a Director to chairperson its meetings and determine the period for which the chairperson holds office. The Directors may also elect a deputy chairperson to act in the chairperson's absence. If:

- (a) no chairperson has been elected; or
- (b) both the chairperson and any deputy chairperson decline to act or are not present within 15 minutes after the time appointed for holding a meeting,

the Directors present may elect a Director to chair the meeting.

28.9 Decisions

A resolution of the Board must be passed by a majority of votes cast by Directors. If an equal number of votes is cast for and against a resolution:

- (a) the chairperson does not have a casting vote in addition to the chairperson's vote as a Director; and
- (b) the resolution is not passed.

28.10 Too few Directors

The Directors may continue to act even if there are vacancies on the Board. If the number of Directors is reduced below the minimum required under clause 22.1, the continuing Directors may act as a Board only:

- (a) to convene a general meeting of Members; or
- (b) in emergencies.

28.11 Written resolutions passed by multiple Directors

The Directors may pass a resolution without holding a Board meeting if a majority of the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Director signs.

28.12 Signing written resolutions

For the purposes of clause 28.11, the Company may accept a copy of a signed document sent by facsimile or electronic means.

28.13 Valid proceedings

Each resolution passed or other thing done by or with the participation of a person acting as a Director or member of a committee is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting on the resolution or doing that thing.

29 Secretary

29.1 Appointment

Subject to the Corporations Act, the Board must appoint one or more persons to be Secretary. The appointment may be made for a specified period or without specifying a period and the Board may remove the Secretary from office at any time.

29.2 Terms

The appointment of a Secretary will be on the terms and at the remuneration that the Board determines.

29.3 Cessation of appointment

A person automatically ceases to be a Secretary if:

- (a) the person is not permitted by the Corporations Act (or an order made under the Corporations Act) to be a Secretary;
- (b) the person becomes bankrupt or enters into or becomes subject to any arrangement or composition with one or more of its creditors;
- (c) the person becomes mentally incapable or a person whose estate or property is liable to be dealt with in any way under any law relating to mental health;
- (d) the person resigns by notice in writing to the Company;
- (e) the person is removed from office under clause 29.1; or
- (f) the term for which the person was appointed expires.

30 Minutes

30.1 Board must keep minutes

The Board must cause minutes to be kept of:

- (a) the proceedings and resolutions of meetings of Members, Directors and committees of Directors;
- (b) the names of Directors present at each meeting of Directors or committees of Directors;
- (c) any resolutions passed by Members or Directors without a meeting;
- (d) if the Company has only one Director, the making of declarations by the Director;
- (e) any disclosures or notices of Directors' interests; and
- (f) any other matters for which the Corporations Act requires minutes to be kept.

30.2 Minutes must be signed

Minutes must be signed in accordance with the Corporations Act. Minutes of a meeting must be signed within a reasonable time after the meeting by:

- (a) the chairperson of that meeting; or
- (b) the chairperson of the next meeting.

Minutes of the passing of a resolution without a meeting must be signed by a Director within a reasonable time after the resolution has passed.

30.3 Minutes as evidence

A minute recorded and signed in accordance with the Corporations Act is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proven.

30.4 Access to minutes

The Company must ensure that the minute books for meetings of Members and for resolutions passed without meetings are open for inspection by Members free of charge.

31 Seal and execution of documents

31.1 Common seal

The Board may decide whether or not the Company has a common seal. The Board is responsible for the safe custody of a common seal and any duplicate seals.

31.2 Use of seals

A common seal or duplicate seal may only be used with the authority of the Board.

31.3 Executing documents

Every document to which a common seal or duplicate seal is affixed must be signed by:

- (a) a Director; or
- (b) any other person or persons appointed by the Board to attest to the fixing of the seal.

If a document is not required at law to be executed under seal, it will be binding on the Company if signed by one Director or some other person or persons appointed by the Board for that purpose.

32 Dividends

32.1 Payment of dividends

Subject to this Constitution, the Corporations Act and the terms of issue of Shares, the Board may:

- (a) resolve to pay any interim, final or bonus dividend it thinks appropriate;
- (b) fix the time and method for payment; and
- (c) determine that a dividend is payable to the holders of one class of Shares to the exclusion of any other class.

32.2 Amendment or revocation of resolution

The Board may amend or revoke a resolution made under clause 32.1 at any time before the date fixed for payment.

32.3 Circumstances in which a Dividend may be paid

A dividend may only be paid in accordance with the Corporations Act.

32.4 Amount of dividends

Dividends will be paid according to the amounts paid up or credited as paid up on the Shares in respect of which the dividend is being paid. In determining this:

- (a) an amount paid in advance of calls is not taken as paid or credited as paid on a Share; and
- (b) if an amount was paid on a Share during the period to which the dividend relates, the Board may resolve that only the relevant portion of that amount counts as part of the amount paid on the Share.

32.5 Source of dividends

The Board may resolve to pay a dividend to some Members out of amounts derived from a particular source and pay the same dividend to other Members entitled to it out of amounts derived from another source.

32.6 Form of dividends

- (a) Subject to paragraph (b), the Board may resolve to pay a dividend in cash or satisfy it by distribution of specific assets (including shares or securities of any other corporation), the issues of Shares, the issue of debentures or the grant of options. The Board may also direct that a dividend may be paid in cash in relation to some Shares and in specific assets in relation to other Shares.
- (b) The Board may only pay a dividend in relation to Operational Risk Ordinary Shares in cash.

32.7 Resolution of distribution difficulties

In making a distribution under clause 32.6, the Board may:

- (a) deal with any difficulties as it thinks expedient;
- (b) disregard fractional entitlements;
- (c) fix the value of specific assets;
- (d) make cash payments to Members on the basis of the value fixed in order to adjust the rights of Members;
- (e) vest cash or specific assets in trustees; and
- (f) authorise any person to make, on behalf of the entitled Members, an agreement with the Company for the issue to them of Shares or debentures or the grant of options and any such agreement will be effective and binding on all Members concerned.

If a distribution of specific assets to or at the direction of a Member is illegal or, in the Board's opinion, impractical, the Board may make a cash payment instead.

32.8 Method of payment

Any dividend or other money payable to a Member or other person in respect of Shares may be paid by:

- (a) automatic payment to a bank account nominated by that person in writing; or
- (b) cheque mailed to that person's registered address or to any other address nominated by that person in writing.

The Company will not be liable for any loss arising from a mode of payment referred to in this clause 32.8.

32.9 Payments to joint holders

If a Share is held jointly, the payments under clause 32.8 may be directed to the registered address of the Member listed first in the Register or to any another address or bank account nominated by that Member in writing. Any one of the joint holders of a Share may give an effective receipt for any dividend or other money payable in respect of the Share.

32.10 Retention of dividends

The Company may retain the dividend payable on a Share over which the Company has a lien to satisfy the liabilities to which the lien relates.

32.11 No interest on dividends

The Company must not pay interest on a dividend.

33 Reserves and provisions

33.1 Accumulation of reserves

Before paying any dividend to Members, the Board may:

- (a) set aside reserves out of the profits of the Company or out of other amounts available for distribution to Members as permitted by law;
- (b) carry forward any amount out of profits that the Board decides not to distribute without transferring that amount to a reserve; or
- (c) do both.

33.2 Application of reserves

Reserves may, in the Board's discretion:

- (a) be applied for any purpose to which the profits of the Company or other amounts available for distribution to Members may be properly applied; and
- (b) pending such an application, be employed in the business of the Company or invested in investments selected by the Board and varied and dealt with by the Board.

33.3 Capitalisation of profits

The Board may resolve to capitalise profits, reserves or other amounts available for distribution to Members. The Board may, but need not, resolve to apply the sum capitalised in any of the ways set out in clause 33.4 for the benefit of Members in the proportions to which those Members would have been entitled in a distribution of that sum by way of dividend.

33.4 Applying a sum for the benefit of Members

The ways in which a sum may be applied for the benefit of Members under clause 33.3 are:

- (a) in paying up any amounts unpaid on Shares or debentures held by Members;
- (b) in paying up in full Shares or debentures to be issued to Members as fully paid; or
- (c) partly as mentioned in clause (a) and partly as mentioned in clause (b).

33.5 Implementing the resolution

The Board may do all things necessary to give effect to a resolution under clause 33.3 and deal with any difficulties as it thinks expedient.

33.6 Operational Risk Financial Requirement Reserve

- (a) The Board may resolve to establish and maintain a reserve called an Operational Risk Financial Requirement Reserve.
- (b) If an Operational Risk Financial Requirement Reserve has been established:
 - (i) there shall be credited to the Operational Risk Financial Reserve Account such amounts the Company receives from the issue of Operational Risk Ordinary Shares; and
 - (ii) there shall be debited to the Operational Risk Financial Reserve Account such amounts (if any) as resolved by the Board from time to time in accordance with its Operational Risk Policy and the law.

34 Accounts

34.1 Obligations

The Company must keep written financial records in accordance with the Corporations Act and prepare any reports required by the Corporations Act.

34.2 Inspection

A Member who is not a Director does not have any right to inspect the Company's financial records except:

- (a) as authorised by the Board on terms determined by the Board; or
- (b) as required by the Corporations Act.

35 Notices

35.1 Method

A notice is properly given by the Company to a person if it is:

- (a) in writing signed on behalf of the Company (by original or printed signature); and
- (b) either:
 - (i) delivered personally;
 - (ii) sent by post to that person's registered address or an alternative address nominated by that person; or
 - (iii) sent electronically or by fax to an electronic address or fax number nominated by that person.

35.2 Receipt

A notice given in accordance with clause 35.1 is taken as having been given and received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post:
 - (i) within Australia, on the second Business Day after the date of posting;
 - (ii) to or from a place outside Australia, on the seventh Business Day after the date of posting;
- (c) if transmitted by e-mail, on transmission; or
- (d) if transmitted by facsimile, at the time recorded on the transmission report indicating successful transmission of the entire notice,

but if the delivery or transmission is not on a Business Day or is after 5.00 pm (recipient's time) on a Business Day, the Notice is taken to be received at 9.00 am (recipient's time) on the next Business Day.

35.3 Joint holders

Notices to joint holders of Shares may be given to the joint holder listed first in the Register.

35.4 Personal representatives or trustees

A person entitled to a Share as a consequence of the death, mental incapacity or bankruptcy of a Member but not yet registered as the holder of that Share is taken to receive any notice served in accordance with this clause 35 on the person from whom it derives its title.

35.5 Evidence of service

A certificate in writing signed by a Director or Secretary that a notice was sent is conclusive evidence of service.

36 Winding up

36.1 Distribution of assets

Subject to the terms of issue of Shares, if the Company is wound up, the liquidator may, with the sanction of a special resolution of the Company:

- (a) divide the surplus assets of the Company remaining after payment of its debts among the Members in proportion to the number of Shares held by them (with partly paid Shares counted as fractions of fully paid Shares);
- (b) for that purpose, fix the value of assets and determine how the division is to be carried out between the Members and different classes of Members; and
- (c) vest assets of the Company in trustees on any trusts determined by the liquidator for the benefit of the contributories.

36.2 No distribution of liabilities

The liquidator cannot require a Member to accept as part of the distribution of assets of the Company any shares or other securities in respect of which there is any liability.

37 Indemnity and insurance

Subject to and to the extent permitted by the Corporations Act, the Company must:

- (a) indemnify; and
- (b) enter into and pay premiums on a contract insuring;

any current or former officer of the Company or its Subsidiaries against any liability incurred by that person in that capacity, including legal costs.

38 Subsidiary

- 38.1 Subject to the provisions of the Corporations Act, if at the time the Company is a wholly owned subsidiary of a body corporate for the purposes of the Corporations Act, the Directors of the Company are authorised to act in the best interests of the holding company.