



# SolarShare

**Company Constitution**  
of  
**SolarShare Community Energy Ltd**  
Company Limited by Shares

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# Company Constitution of SolarShare Community Energy Ltd

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## Part A – Introductory provisions

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### 1. Interpretation

1.1 In this Constitution, unless the contrary intention appears:

- (a) a reference to this Constitution or any instrument includes any variation or replacement of any of them;
- (b) a reference to a person includes a body corporate, joint venture, association, government body, firm and any other entity;
- (c) a reference to legislation includes any amendments to it, any legislation substituted for it, and any subordinate legislation made under it;
- (d) the singular includes the plural and vice versa;
- (e) words of one gender include any gender;
- (f) headings do not affect the interpretation of this Constitution;
- (g) reference to a Party includes that Party's personal representatives, successors and permitted assigns;
- (h) reference to a thing (including a right) includes a part of that thing;
- (i) if a Party comprises two or more persons:
  - (i) reference to a Party means each of the persons individually and any two or more of them jointly;
  - (ii) a promise by that Party binds each of them individually and all of them jointly;
  - (iii) a right given to that Party is given to each of them individually; and
  - (iv) a representative, warranty or undertaking by that Party is made by each of them individually;
- (j) a provision must not be construed against a Party only because that Party prepared it;
- (k) a provision must be read down to the extent necessary to be valid and if it cannot be read down to that extent, it must be severed;
- (l) if a thing is to be done on a day which is not a Business Day, it must be done on the Business Day before that day;
- (m) another grammatical form of a defined expression has a corresponding meaning;
- (n) the word "include" is used without any limitation;

- (o) the rights, duties and remedies in this Constitution operate to the extent that they are not excluded by law;
- (p) examples are descriptive only and not exhaustive; and
- (q) a word or phrase defined in the Act has the meaning given by the Act to that word or phrase at the date of this Constitution.

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## 2. Definitions

2.1 The following definitions apply in this Constitution unless the context requires otherwise:

- (a) **Act** means the *Corporations Act 2001*(Cth) as amended from time to time.
- (b) **AGM** means the Annual General Meeting of the Company.
- (c) **Appointing Member** means the Member who appoints a proxy.
- (d) **Board** means all of the Company's current Directors.
- (e) **Business Day** means a day on which banks are open for general business in the State, other than a Saturday or Sunday.
- (f) **Chairperson** means the person elected by the Board, pursuant to clause 36.17, or a Deputy Chairperson appointed by that clause duly acting in the capacity of the Chairperson in the Chairperson's absence.
- (g) **Company** means SolarShare Community Energy Ltd ACN [600 571 220].
- (h) **Constitution** means this constitution and schedules and annexures to it, as amended and substituted from time to time.
- (i) **Director** means a person appointed or elected to the office of Director in accordance with this Constitution.
- (j) **Directors' Meeting** means a meeting of the Board.
- (k) **Direct Vote** means a direct vote which is validly executed in accordance with subclause 25.18.
- (l) **Electronic Transmission** means any process of communication that does not directly involve the physical transfer of paper and that is suitable for the retention, retrieval and reproduction of information by the recipient, and may include the transfer of data or information through an authorised electronic data interchange system consisting of, but not limited to, computer modems and computer networks.
- (m) **General Meeting** means a general meeting of the Members.
- (n) **Governance Charter** means the governance charter of the Company, as amended by the Board from time to time, which lists the necessary skills and qualifications required for a person to be eligible for appointment as a Director of the Company.
- (o) **Interest Rate** means the Reserve Bank of Australia ninety (90) day cash rate plus three percent (3%), or any rates as the Directors may determine from time to time.
- (p) **Majority** means a number more than half of the total number of votes cast, as in an

election, which exceeds the total number of remaining votes.

- (q) **Member** means any person who qualifies as a member of the Company and includes any person who is the holder of a share in the capital of the Company.
  - (r) **Members' Meeting** means a meeting of the Members and may refer to an AGM or General Meeting, as the context requires.
  - (s) **Month** means a calendar month.
  - (t) **Objective** means an objective of the Company as listed in clause 6 **Objectives of the Company**.
  - (u) **Office** means the registered office of the Company.
  - (v) **Officer** of the Company means
    - (i) a Director or secretary of the Company; or
    - (ii) a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the Company, or who has the capacity to affect significantly the Company's financial standing, or in accordance with whose instructions or wishes the Directors of the Company are accustomed to acting (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the directors or the Company); or
    - (iii) a receiver, or receiver and manager, of the property of the Company; or
    - (iv) an administrator of the Company; or
    - (v) an administrator of a deed of company arrangement executed by the Company; or
    - (vi) a liquidator of the Company; or
    - (vii) a trustee or other person administering a compromise or arrangement made between the Company and someone else, as defined in the Dictionary of the Act.
- (Note: An Officer does not include any honorary office of the Company if the office does not give its incumbent a right to participate in the management of the Company's affairs)
- (w) Ordinary Resolution means:
    - (i) in the case of a vote or resolution of Members - a resolution of a Members' Meeting at which more than fifty percent (50%) of the votes cast by Members who are entitled to vote, are cast in favour of the resolution; or
    - (ii) in the case of a vote or resolution of the Board - a resolution of a Directors' Meeting at which more than fifty percent (50%) of votes cast by Directors, who are entitled to vote, are cast in favour of the resolution.
  - (x) **Principal Executive Officer** means a person appointed under subclause 34.1 in clause 34 **Principal Executive Officer**.
  - (y) **Register** means the register of Members kept pursuant to Section 168(1) of the Act.
  - (z) **Secretary** means the person appointed to perform the duties of a secretary of the Company.

- (aa) **Share** means a share in the capital of the Company.
- (bb) **Sole Director** means the Director where there is only one Director of the Company.
- (cc) Special Resolution means:
  - (i) in the case of a resolution of Members – a resolution of a Members' Meeting at which more than seventy-five percent (75%) of the votes cast by Members who are entitled to vote, are cast in favour of the resolution; or
  - (ii) in the case of a resolution of the Board – a resolution of a Directors' Meeting at which more than seventy-five percent (75%) of votes cast by Directors, who are entitled to vote, are cast in favour of the resolution.
- (dd) **State** means the State or Territory in which the Company is incorporated.
- (ee) **Underwriter** means a company or other entity that holds share capital in the company for the specific purpose of offering that capital to investors for the purpose of a capital raising.
- (ff) **Voting Member** means a Member who holds a voting Share.

2.2 Any words not defined in this Constitution shall have their meaning as defined in the Act and if the words are not defined, shall take their ordinary meaning.

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### 3. Replaceable rules

3.1 The replaceable rules in the Act do not apply to the Company.

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### 4. Constitution subject to the Act

4.1 This Constitution is subject to the Act.

4.2 Where there is any inconsistency between a clause of this Constitution and the Act, the Act prevails to the extent of the inconsistency.

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### 5. Name of the Company

5.1 The name of the Company is SolarShare Ltd.

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### 6. Objectives of the Company

6.1 The Objectives of the Company are as follows:

- (a) To promote the uptake of renewable energy by facilitating accessible community investment with a financial return in local renewable energy projects; and
- (b) To create for Members a connection to:
  - (i) others in their community;
  - (ii) the way in which energy is generated;
  - (iii) the impact their energy generation has on the environment; and



- (iv) our society's transition to a sustainable future.

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## **7. Commitment to all stakeholders**

- 7.1 When making decisions in relation to the Company, the Directors may consider the interests of:
- (a) all stakeholders; and
  - (b) society and the environment, and the Company's impact on society and the environment,
- unless that would conflict with any duty under the Act, in particular the duty to act in the best interests of the Company and for a proper purpose.

## **Part B – Shares and Share capital**

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## **8. Limited liability of Members**

- 8.1 The liability of the Members is limited to the amount paid or payable on Shares held by them in accordance with the Act.

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## **9. Issue of Shares**

- 9.1 Subject to the Act and this Constitution, the Directors:
- (a) may issue such number and classes of shares (including creating new classes of shares), with attached rights, obligations, conditions, and priority in relation to the distribution of assets, as it determines appropriate from time to time;
  - (b) have full power to give any person a call or option over any Shares during any time and for any consideration as the Directors determine; and
  - (c) may allot, issue, cancel or otherwise dispose of Shares to any persons, on any terms and conditions, at that issue price and at those times as the Directors determine.
- 9.2 Without limiting the generality of clause 9.1, the Directors may issue shares with the attached rights, obligations and priority in relation to the distribution of assets as set out in Schedule 1 – Classes of Shares and Share Class Rules.

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## **10. Clause not used**

## **11. Applications for Shares**

- 11.1 Where the Company receives an application for a Share by or on behalf of the applicant and the Company allots a Share to the applicant as a consequence of that application, the application is to be treated as:
- (a) an agreement by the applicant to accept that Share subject to the terms and conditions on which the Share is allotted, including without limitation those set out in the following subclause 11.2;
  - (b) a request by the applicant for the Company to enter the applicant's name in the Register in respect of that Share; and

- (c) an agreement by the applicant to become a Member and, subject to the Act, to be bound by this Constitution on being registered as the holder of that Share.

11.2 Each Member receiving a Share as a result of an application for Shares agrees that:

- (a) it will not receive a hard copy of the certificate for that Share;
- (b) it will only be able to vote once at Members' Meetings in respect of each Share it holds; and
- (c) it will not, and will not seek to, transfer the Share to any persons who do not satisfy the eligibility criteria set out at clause 15 *Eligibility for membership*.

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## 12. Brokerage or commission

12.1 Subject to the provisions and restrictions contained in the Act, the Company may not pay brokerage or commission to any person in consideration of that person subscribing or agreeing to subscribe (whether absolutely or conditionally) for any Shares or for procuring or agreeing to procure subscriptions (whether absolutely or conditionally) for any Shares other than pursuant to a resolution of the Board.

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## 13. Joint holders

13.1 Two or more persons registered as the holders of any Share are deemed to hold the Share as joint tenants with benefits of survivorship, subject to the following provisions:

- (a) the joint holders are jointly and severally liable for all payments made for the Share;
- (b) if a joint holder dies, the survivor or survivors are the only person or persons recognised by the Company as having any title to the Share, but the Directors may require evidence of death;
- (c) any one joint holder may give a valid receipt for any distribution or other amount payable to the joint holders; and
- (d) delivery of a notice or a certificate for a Share to any joint holder is sufficient delivery to all the joint holders.

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## 14. Recognition of trusts or other interests

14.1 Subject to the provisions of the Act, the Company is entitled to treat the registered holder of any Share as the absolute owner of that Share and, accordingly, the Company is not bound to recognise (whether or not it has notice):

- (a) a person as holding a Share on any trust; or
- (b) any equitable, contingent, future or partial interest in any Share or unit of a Share.

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## 15. Eligibility for membership

15.1 Unless otherwise resolved by the Directors, each Member of the Company must:

- (a) agree to receive each certificate for Shares to which it is entitled under the following clause 16 *Certificates* in electronic form;

- (b) agree to receive all notices from the Company via his or her registered electronic address provided to the Company;
- (c) agree to communicate with the Company via e-mail as far as possible, including but not limited to, submitting any notice or instrument of proxy to the Company's designated electronic address;
- (d) agree to accept any distribution via electronic funds transfer to his or her Australian beneficiary bank account, which details must be provided to the Company;
- (e) disclose any interest it has, controlling or otherwise, in any entity which is also a Member of the Company; and
- (f) meet any additional criteria established for membership in the Company as may be resolved by the Directors from time to time.
- (g) not hold more than 19% of the share capital of the Company or more than 19% of the Shares of any particular class;
  - I. directly; or
  - II. indirectly due to the aggregation of any interests it has, controlling or otherwise, in any entity which is also a member of the company

Except where that member's shareholding is held in the capacity of being an underwriter to the company.

- 15.2 No person or entity may hold shares of a particular class unless that person or entity complies with, or otherwise meets, any additional conditions or terms of eligibility that apply to that particular class of shares, if any.

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## **16. Certificates**

### **Issue of certificates**

- 16.1 Where the Company is required by the Act to issue certificates for Shares, the certificates must be issued in accordance with this Constitution and the Act and must include all information required by the Act.

### **Entitlement of Member to certificate**

- 16.2 Every Member is entitled, free of charge, to one certificate in the form determined by the Company for each class of Shares registered in its name.

### **Certificate for joint holders**

- 16.3 Where Shares are registered in the names of two or more persons, only one certificate is required to be issued for each class of those Shares.

### **Cancellation of certificate on transfer**

- 16.4 On every application to register the transfer of any Shares, or to register any person as a Member in respect of any Shares which may have been transmitted to that person by operation of law, the certificate for those Shares must be delivered up to the Company for cancellation and each

relevant Member must destroy all electronic copies of each such certificate.

- 16.5 The Company must issue a new certificate in similar form specifying the Shares transferred or transmitted and deliver it to the transferee or transmittee within five (5) Business Days after the registrable transfer or transmission notice is lodged with the Company.
- 16.6 If registration is required for only some of the Shares specified on the certificate delivered up to the Company, a new certificate specifying the Shares remaining untransferred or untransmitted must be delivered to the transferor.

### **Replacement of certificates**

16.7 The Company must issue a replacement certificate:

- (a) if the certificate is worn out or defaced, on production of the certificate to the Company; or
- (b) if the certificate is lost or destroyed, when the Company is provided with:
  - i. evidence that the certificate has been lost or destroyed, and has not been disposed of or pledged, as is required by the Act;
  - ii. an undertaking to return the certificate, if found, as required by the Act; and
  - iii. if the Directors consider it necessary, a bond or indemnity as the Act authorises the Directors to require.

16.8 The Company must issue all replacement certificates within five (5) Business Days after receiving the original certificate or evidence of loss or destruction of the original certificate.

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## **17. Calls**

### **Directors may make calls**

- 17.1 The Directors may make calls as they determine on the Members for all monies unpaid on Shares held by those Members which are not monies made payable by the conditions of allotment at fixed times.
- 17.2 A call is deemed to have been made when the resolution of the Directors authorising that call was passed.
- 17.3 A call may be made payable by instalments.
- 17.4 The Directors may revoke or postpone a call.

### **Notice of calls**

- 17.5 The Company must give written notice of a call at least thirty (30) Business Days before the call is due.
- 17.6 Any notice pursuant to the preceding subclause 17.5 must specify the time and place for payment.
- 17.7 The non-receipt of any notice by, or the accidental omission to give notice of any call to, any Member will not invalidate the call.

### **Difference in terms of issue as to calls**

17.8 The Directors may, on the issue of Shares, differentiate between the holders as to the amount of calls to be paid and the time for payment of those calls.

### **Fixed payments deemed calls**

17.9 Any sum which, by the terms of issue of a Share, becomes payable on allotment or at any fixed date, will for the purposes of this Constitution be deemed to be a call duly made and payable on the date on which the sum is payable.

17.10 In case of non-payment, all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise will apply as if the sum had become payable by virtue of a call duly made and notified.

### **Interest on sums not paid**

17.11 A sum called in respect of a Share and not paid on or before the date for payment bears interest from the date for payment to the time of actual payment at the Interest Rate.

17.12 The Directors may waive payment of interest, either in whole or in part.

### **Payment of calls**

17.13 Each Member must pay the amount of every call made on it at the times and places appointed by the Directors.

### **Proof of calls**

17.14 In any proceeding to recover monies due for any call, it is sufficient and conclusive evidence of the debt if it is proved that:

- (a) the name of the Member sued is entered in the Register as the holder or one of the holders of the Shares in respect of which the call was made;
- (b) the resolution making the call was recorded in the minute book; and
- (c) notice of the call was given to the Member sued in accordance with this Constitution.

### **Prepayment of calls**

17.15 The Directors may receive, from any Member willing to advance it, all or any part of the amount unpaid on the Shares held by that Member beyond the sums actually called up. The Directors may then either:

- (a) if the Member so requests, make a call on the Member for the amount advanced, pro rata in respect of all Shares held by that Member on which monies remain unpaid or on any other basis as agreed between that Member and the Directors; or
- (b) authorise payment by the Company of interest on the whole or any part of the amount so received until the amount becomes due or is repaid at the rate agreed between the Member paying the sum in advance and the Directors. The Directors may at any time authorise repayment of the whole or any part of the amount paid in advance on giving the Member one Month's notice of the date for repayment.

## **18. Forfeiture of Shares**

### **Forfeiture on non-payment of calls**

18.1 Unless the Directors otherwise determine, any Share on which a call is unpaid fourteen (14) days after the day for its payment has expired will be absolutely forfeited without any resolution of the Directors or other proceeding being required, and any such Share will be referred to as a 'Forfeited Share'.

18.2 Subject to the Act, the Directors may then proceed to cancel or sell the Forfeited Shares.

### **Evidence of forfeiture**

18.3 A written statement declaring that:

- (a) the person making the statement is a Director or Secretary of the Company; and
- (b) a Share has been forfeited on a date stated in the statement,

is conclusive evidence of the facts stated in the statement as against all persons claiming to be entitled to the Share.

### **Effect of forfeiture**

18.4 On forfeiture of a Share the person whose Share is forfeited will:

- (a) cease to be a Member in respect of the Forfeited Share;
- (b) lose all entitlements to dividends declared in respect of the Forfeited Share and not actually paid; and
- (c) remain liable to pay the Company all money which, at the date of forfeiture, was payable by it to the Company in respect of the Forfeited Share together with interest on that amount from the date of forfeiture until payment at the rate determined by the Directors, and the Directors are under no obligation to enforce payment.

### **Sale of Forfeited Share**

18.5 If the Directors determine to sell or otherwise dispose of any Forfeited Shares, the Company may sell or otherwise dispose of any Forfeited Shares on any terms and in any manner as the Directors determine, and in accordance with any applicable requirements of the Act.

18.6 The Company may do all things necessary to give effect to the sale or other disposal of the forfeited Shares, including authorising a Director or any other person to:

- (a) execute a transfer of the Shares sold in favour of the purchaser of the Shares; and
- (b) do all acts and things as are necessary or desirable under the Act to effect a transfer and to enable the forfeited Shares to be sold or otherwise disposed of.

18.7 The Company must register the transferee as holder of the Shares forfeited.

18.8 The transferee of the Forfeited Shares is not bound to see that forfeit money is properly applied as set out in this clause 18.

18.9 The transferee's title to the Shares is unaffected by any irregularity or invalidity in connection with the forfeiture, sale or other disposal of the Shares.

### **Proceeds of sale**

18.10 The proceeds of sale or other disposal of any Forfeited Shares that the Company receives must be applied in payment of:

- (a) first, the expenses of the sale;
- (b) secondly, any expenses necessarily incurred in connection with the forfeiture, including any interest accrued;
- (c) thirdly, the calls then due and unpaid; and
- (d) the balance (if any) must be paid to the Member whose Shares have been sold or otherwise disposed of within five (5) Business Days of the Company receiving the proceeds of sale or other disposal.

### **Redemption of Forfeited Shares**

18.11 A Forfeited Share may be redeemed at any time up to, but not including, the day on which the Forfeited Share is intended to be sold or otherwise disposed of, by payment to the Company of all calls due on the Forfeited Share and any other costs and expenses which may be permitted by the Act and on payment the person is entitled to the Forfeited Share as if the forfeiture had not occurred.

18.12 The remedy of any person aggrieved by the sale or other disposal of its Shares under this clause 18 is limited to a right of action in damages against the Company to the exclusion of any other right, remedy or relief against any other person.

### **Surrender of Shares**

18.13 The Directors may accept the surrender of any Share which they are entitled to forfeit on any terms they think fit and any Share so surrendered may be sold or otherwise disposed of in the same manner as a Forfeited Share.

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## **19. Transfer of Shares**

### **Transfer document**

19.1 Subject to this Constitution, the Act, and any restrictions on transfer attaching to particular Shares or classes of Shares, a Member may transfer all or any Shares by a transfer document duly stamped (if necessary) and delivered to the Company.

19.2 The transfer document must be:

- (a) in writing;
- (b) in the form that the Directors require or agree to accept; and
- (c) signed by or on behalf of the transferor or as otherwise permitted by the Act.

## Registration

- 19.3 Subject to the Act every transfer document must be delivered to the Company accompanied by the certificate for the Shares to be transferred and any other evidence the Directors may require to prove the title of the transferor or its right to transfer the Shares.
- 19.4 The Company must retain all transfer documents registered for at least six (6) years but any transfer document which the Directors refuse to register must (except in the case of fraud or suspected fraud) be returned on demand to the person who deposited that document.

## Registration of transfer

- 19.5 Subject to the following subclauses 19.6 and 19.7, the Company must register each transfer of Shares which complies with the preceding subclauses 19.1 – 19.4 and the Act and must do so without charge.

## Directors may refuse to register transfer

- 19.6 The Directors may refuse to register any transfer of Shares, including, without limitation, if a potential transferee does not fulfil the requirements set out in clause 15 **Eligibility for membership**, and the Directors are not required to provide any reason for their refusal.
- 19.7 To avoid any doubt, the Directors may refuse to register any and all transfer of Shares that purport to transfer Shares to a transferee who does not satisfy clause 15 and does not agree to be bound by this Constitution on being registered as the holder of that Share.

## Notice of refusal to register

- 19.8 Where the Directors refuse to register a transfer, they must send notice of the refusal to the transferee within two (2) months from the date on which the transfer was lodged with the Company.
- 19.9 Failure to give notice in accordance with the preceding subclause 19.8 will not invalidate the decision of the Directors.

## Transfer not complete until name entered in the Register

- 19.10 The transferor of a Share remains the holder of the Share until the name of the transferee is entered in the Register in respect of that Share.

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## 20. Transmission of Shares

### Death of a Member

- 20.1 If a Member dies:
- (a) and the Member was a joint holder of any Shares, any surviving joint holders are the only persons recognised by the Company as having any title to or interest in those Shares; or
  - (b) the legal personal representatives of the Member (not being one of two or more joint holders) are the only persons recognised by the Company as having any title to or interest in the Shares registered in its name.
- 20.2 Nothing in the preceding subclause 20.1 releases the estate of a deceased Member from any liability on a Share, whether that Share was held by the deceased solely or jointly with other



persons.

### **Transmission on death or bankruptcy**

20.3 Subject to clause 15 *Eligibility for membership*, any person who becomes entitled to a Share because a Member dies or becomes bankrupt, or otherwise by operation of law may, on producing the evidence of entitlement which the Directors may require, elect either to be registered personally as the holder of the Share or to have some person nominated by it registered as the transferee of that Share.

### **Election as to registration on transmission**

20.4 Subject to clause 15 *Eligibility for membership*, if the person entitled to a Share under the preceding subclause 20.3:

- (a) elects to be registered personally, he or she must deliver or send to the Company a personally signed written notice stating that election; or
- (b) elects to have another person registered, he or she must effect a transfer of the Share in favour of that person.

20.5 All limitations, restrictions and provisions of this Constitution relating to the right to transfer, the form of transfer and the registration of transfers of Shares will be applicable to any notices or transfers.

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## **21. Alteration of capital**

### **Conversion and cancellation**

21.1 The Company may:

- (a) convert all or any of its Shares into a larger or smaller number of Shares and any amount unpaid on the Shares being converted is divided equally among the replacement Shares; and
- (b) cancel Shares which have been forfeited.

### **Dealing with fractions**

21.2 Subject to the Act, the Directors may do anything required to give effect to any resolution which alters the Company's share capital.

21.3 Where a Member becomes entitled to a fraction of a Share on a consolidation, this power includes:

- (a) making cash payments;
- (b) determining that fractions may be disregarded to adjust the rights of all parties;
- (c) appointing a trustee to deal with any fractions on behalf of Members; and
- (d) rounding up each fractional entitlement to the nearest whole Share by capitalising any amount available for capitalisation even though only some of the Members may participate in the capitalisation.

## **Reduction of capital**

21.4 Subject to the Act, and any rights and entitlements of Members holding types of shares that entitle them to specific assets or proceeds of particular assets of the Company, the Company may reduce its capital in any manner, including by way of distributing specific assets, including securities of the Company or of any other corporation, trust or entity.

## **Power to buy back Shares**

21.5 The Company may, in accordance with the Act, buy back its own Shares on any terms and conditions determined by the Directors.

21.6 The consideration paid for a buyback of Shares may include specific assets, including securities of the Company or of any other corporation, trust or entity.

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## **22. Variation or cancellation of rights**

### **Variation or cancellation of rights of class of Shares**

22.1 Subject to the Act, all or any of the rights and privileges attached to any class of Shares (unless otherwise provided by the terms of issue of the Shares of that class) may be varied or cancelled, including by converting or reclassifying Shares from one class to another:

- (a) with the written consent of holders of at least seventy-five percent (75%) of the Shares issued in that class; or
- (b) with the approval of a Special Resolution passed at a meeting of holders of the Shares of that class.

### **No consent or sanction required for redemption**

22.2 A consent or sanction referred to in the preceding subclause 22.1 is not required to redeem any Shares or vary any other rights attaching to any Shares where that redemption or variation is in accordance with the terms of issue of those Shares.

### **No variation by issue of further Shares ranking equally**

22.3 The rights conferred on the holders of the Shares of any class will not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by the creation or issue of further Shares ranking equally in respect of those rights.

### **No variation by issue of Shares in relation to specific assets**

22.4 The rights conferred on the holders of the Shares of any class will not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by the creation or issue of Shares of a different class (or the creation of a new class), including where such other class will have the exclusive right to receive any particular benefit in relation to a specific asset (or assets) of the Company, provided that the specific asset does not, or has not, generated income or revenue prior to the issue of Shares of that new class.

## **Part C – Members' Meetings**

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### **23. Members' Meetings**

## **AGM**

23.1 An AGM must be held in accordance with the Act.

23.2 The business of an AGM may include:

- (a) receiving and considering the statement of financial performance, statement of financial position, the reports of the Directors and of the auditors, and the statement of the Directors;
- (b) electing Directors;
- (c) adopting the remuneration report;
- (d) appointing the auditor; and
- (e) fixing the remuneration of the auditor

whether or not this is stated in the notice of meeting.

## **Calling of General Meetings**

23.3 Two (2) or more Directors of the Company may convene a General Meeting at any time and place they determine, in accordance with the requirements of this Constitution and the Act.

## **Requisition**

23.4 Members with at least five percent (5%) of the votes that may be cast at the General Meeting may requisition the holding of a General Meeting in accordance with the Act.

23.5 The Directors must convene any General Meeting requisitioned pursuant to the preceding subclause 23.4 in accordance with the time limits under the Act.

23.6 Members with more than fifty percent (50%) of the votes of all of the Members who make a request pursuant to subclause 23.4 may call and arrange to hold a General Meeting if the Directors do not do so within twenty-one (21) Business Days after the request is given to the Company

## **Notice of Meetings**

23.7 Subject to the Act, at least twenty-one (21) Calendar Days notice of a General Meeting must be given to those persons who are entitled to receive such notice.

## **Directors entitled to notice**

23.8 A Director is entitled to receive notice of and to attend all Members' Meetings and all separate meetings of the holders of any class of Shares, and is entitled to speak at those meetings.

## **Contents of notice**

23.9 The notice of a Members' Meeting must contain, or be accompanied by, all information required by the Act, including:

- (a) the date, time and place of the meeting;
- (b) the general nature of the business to be conducted at the meeting and any resolutions to be proposed;

- (c) a statement that:
- (d) a Member entitled to attend and vote is entitled to appoint a proxy; and
- (e) a proxy need not be a Member;
- (f) an instrument of proxy in the form described in this Constitution or in any other form as the Directors may determine or accept;
- (g) instructions on how to cast a Direct Vote; and
- (h) information about how instruments of proxy can be delivered to the Company.

### **Method of notice**

23.10 Notice may be given to a person:

- (a) personally;
- (b) by leaving it at the person's address last notified;
- (c) by sending it by mail to the person's address last notified; and
- (d) by sending it by Electronic Transmission to the person's last nominated notification address or contact held by the Company in its Register of Members.

### **Omission to give notice**

23.11 Subject to the Act, the non-receipt of notice by a person entitled to receive notice or the accidental omission to give notice does not invalidate a meeting.

### **Changes to General Meeting**

23.12 If the Directors determine that:

- (a) a General Meeting has become unnecessary;
- (b) the postponement of a General Meeting is in the interests of Members;
- (c) the venue for a General Meeting is no longer appropriate, convenient or practical; or
- (d) a change is otherwise necessary to conduct the General Meeting efficiently,

the Directors may:

- (e) change the venue for the General Meeting;
- (f) cancel the General Meeting;
- (g) postpone the General Meeting; and/or
- (h) make any change they consider necessary to the efficient conduct of the General Meeting.

23.13 The preceding subclause 23.12 does not permit the Directors to cancel a meeting convened in accordance with the Act by a single Director, by Members, by the Directors on request of Members or by a court unless the party which convened the meeting (or at the request of whom the meeting was convened) consents to the cancellation.

23.14 The only business that may be transacted at a General Meeting, the holding of which is postponed, is the business specified in the original notice convening the meeting.

### **Class Meetings**

23.15 The provisions of this Constitution relating to General Meetings apply so far as they are capable of application and with any necessary changes to every meeting of the holders of a class of Shares and:

- (a) any holder of Shares of the class, present in person or by proxy, or attorney or representative, may demand a poll; and
- (b) only holders of Shares of the relevant class may vote in the resulting poll.

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## **24. Proceedings at General Meetings**

### **Member deemed to be present**

24.1 A Member may attend a General Meeting at which it is entitled to be present, and is deemed to be present, in any of the following ways:

- (a) in person;
- (b) by attorney;
- (c) by proxy;
- (d) by casting a Direct Vote; or
- (e) in the case of a Member which is a body corporate, by a representative appointed under section 250D of the Act.

### **Attorney of Member**

24.2 Any Member may appoint an attorney to act on his or her behalf at all meetings of the Company or all meetings of the Company during a specified period.

24.3 Before the first meeting at which an attorney acts on the Member's behalf, a power of attorney validly appointing the attorney must be deposited at the office or at any place specified in the notice convening that meeting or sent to the Company's designated electronic address.

### **Quorum**

24.4 No business may be transacted at a Members' Meeting unless a quorum of Members is present.

24.5 For the purpose of a General Meeting, a quorum of Members is:

- (a) where there is only one Member, with that Member; or where the Company has less than five (5) Members, all of those Members,
- (b) where there are five (5) or more Members, ten percent (10%) of Members, with a minimum of five (5) Members and a maximum of fifteen (15), and where all such Members are entitled to vote on a Resolution at the General Meeting and are present at the General Meeting or deemed to be present under subclause 24.1.

24.6 For the avoidance of doubt, Members who are deemed to be present at any Members' Meeting under subclause 24.1 will be deemed to be present for the purposes of determining quorum under subclause 24.4.

### **No quorum**

24.7 Where there is no quorum within thirty (30) minutes of the time appointed for the meeting:

- (a) any meeting convened on the requisition of Members is dissolved; and
- (b) any other meeting will be adjourned to the time and place as determined by notice to the Members.

24.8 If the Company Directors do not specify when the meeting is adjourned to, the meeting is adjourned to:

- (a) if the date is not specified – the same day next week;
- (b) if the time is not specified – the same time; and
- (c) if the place is not specified – the same place.

### **Chairperson**

24.9 The Chairperson or the deputy Chairperson in the Chairperson's absence will be the Chairperson at each General Meeting.

24.10 If:

- (a) there is no such Chairperson;
- (b) the Chairperson and deputy Chairperson (if any) are unwilling to act; or
- (c) neither the Chairperson nor deputy Chairperson (if any) are present within thirty (30) minutes after the appointed time for holding the meeting,

the Members present must elect one of the Directors to take the role of Chairperson.

24.11 If no Director is present or willing to take the role of Chairperson, the Members must elect one of the Members to be Chairperson.

24.12 The Chairperson may, in the case of a conflict of interest or otherwise in their discretion, appoint someone else (who need not be a Director) to chair one or more items of business or resolutions at a General Meeting.

24.13 If the Chairperson appoints someone under the preceding subclause 24.12:

- (a) the appointee may exercise all of the Chairperson's powers and discretions during their appointment; and
- (b) the Chairperson resumes the chair after the appointment concludes.

### **Powers of the Chairperson**

24.14 The Chairperson is responsible for the general conduct of and procedures at the General Meeting.

24.15 The Chairperson's decisions about general conduct and procedure are final.

24.16 At any General Meeting, if:

- (a) the Chairperson declares that a Resolution has been carried, or carried by a particular majority, or not carried; and
- (b) an entry to that effect is recorded in the minutes of proceedings of the Company,

that declaration is conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against that resolution.

### **Adjournment of General Meetings**

24.17 The Chairperson of a General Meeting may adjourn the meeting to a different time and place, but no business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

### **Notice of adjourned General Meeting**

24.18 If any General Meeting is adjourned for more than one month, Members of the Company must be given notice of the adjournment in the same manner in which notice was, or ought to have been, given of the original meeting.

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## **25. Voting**

### **Resolution determined by Majority**

25.1 All resolutions unless specified otherwise or where the Act requires the Resolution to be passed by a Majority, must be passed by an Ordinary Resolution.

### **Votes**

25.2 Subject to any rights or restrictions attaching to any class of Shares, where a Member is entitled to vote under this clause 25, that Member will be entitled to cast only one vote in respect of all of the Shares held by that Member (regardless of whether the Member holds shares of two or more classes that all entitle such Member to vote) and not one vote in respect of each Share.

25.3 Subject to this Constitution and the rights or restrictions on voting which are attached to or imposed on any class of Shares:

- (a) on a show of hands every Member present or who has cast a Direct Vote (including each holder of preference Shares who has a right to vote) will have one vote in respect of all of the fully paid Shares held by that Member; and
- (b) on a poll every Member present or who has cast a Direct Vote (including each holder of preference Shares who has a right to vote) will have:
  - (i) one (1) vote for all of the fully paid Shares held by that Member; or
  - (ii) subject to clause 25.2, a fraction of a vote for all partly paid Shares held by that Member, equivalent to the proportion which the amount paid (not credited) on all such Shares is of the total amounts paid and payable (excluding amounts credited) for all such Shares (or, where applicable, a fraction of a Share), ignoring any amounts paid in advance of a call;

whichever is the higher.

25.4 A Member who has cast a Direct Vote on a resolution will not be entitled to any additional votes on the resolution by virtue of that Member being present at the meeting in person or by proxy.

#### **No casting vote**

25.5 Subject to the following subclause 25.6, the Chairperson does not have a casting vote.

#### **Equal votes**

25.6 In the event of an equal number of votes, whether as a result of a show of hands or poll, the Chairperson of the meeting is entitled to a casting vote except where the membership of the Company is comprised of only two (2) Members.

#### **Voting by joint holders**

25.7 Where there are joint registered holders of Shares, any one such person can vote at a meeting or poll as if she or he were the sole holder of such share, and if there is more than one such joint holder present at a meeting, then only the person whose name appears first in the Register, of those present, shall be entitled to vote.

25.8 Several legal personal representatives of a deceased Member will, for the purpose of clause 24 ***Proceedings at General Meetings***, be deemed to be joint holders of the Shares registered in the name of that Member.

#### **Voting by transmittee**

25.9 A person entitled to transmission of a Share under clause 20 ***Transmission of Shares*** who, at least forty-eight (48) hours before the time notified for a General Meeting (or an adjourned meeting), satisfies the Board of that person's right to that Share, may vote at that General Meeting in respect of that Share as if that person were registered in the Register as the holder of the Share.

#### **Voting by Member of unsound mind**

25.10 If a Member is of unsound mind, or is someone whose person or estate is liable to be dealt with under a law relating to mental health, that Member's committee or trustee or other person who properly manages the Member's estate may, if that person has at least forty-eight (48) hours before the time notified for a General Meeting (or an adjourned meeting) satisfied the Board of its relationship to the Member or the Member's estate, exercise the Member's rights in respect of the General Meeting as if the committee, trustee or other person were the Member.

#### **Votes by proxies**

25.11 Any Member who is entitled to attend and vote at a meeting may appoint a proxy to attend and vote on their behalf at that meeting.

25.12 If a Member is entitled to cast two (2) or more votes, they may:

- (a) appoint two (2) or more proxies;
- (b) appoint an alternate proxy or proxies to act if the first proxy is unable to act; and
- (c) specify the number of votes each proxy may exercise.



25.13 If a Member appoints a proxy, that proxy may vote on a show of hands.

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

25.15 If a Member is present at any General Meeting for which the Member has validly appointed a proxy to attend and vote for the Member:

- (a) the proxy's authority to speak for the Member is suspended while the Member is present; and
- (b) the proxy's authority to vote for the Member on any resolution is not suspended while the Member is present but is revoked by the Member voting in person or if the Member casts a Direct Vote on that resolution.

25.16 A proxy may vote or abstain as he or she chooses except to the extent that an appointment of the proxy indicates the manner in which the proxy must vote on any resolution, in which case the proxy may only vote or abstain on a poll or show of hands as instructed by the proxy appointment.

25.17 The Directors may require that a person purporting to be the proxy of a Member provide evidence of his or her appointment but are not required to do so.

### **Direct Voting**

25.18 A Member who is entitled to attend and vote on a resolution at any Members' Meeting is entitled to cast that vote as a Direct Vote in a manner which does not require the Member to be present at the relevant meeting, so that the vote can be made by the Member notifying the Company of the Member's vote by:

- (a) email or any other Electronic Transmission means approved by the Directors;
- (b) any online or electronic voting system; or
- (c) any other means approved by the Directors.

25.19 The Directors may determine regulations, rules and procedures in relation to Direct Voting, including specifying the form, method and timing of giving a Direct Vote at a meeting in order for the Direct Vote to be valid.

25.20 If a Member casts a vote as a Direct Vote in accordance with this Constitution and any regulations, rules and procedures determined by the Directors, the Direct Vote will be as valid and binding for all intents and purposes as if the Member had attended the relevant meeting and cast a vote at the meeting in person.

25.21 Unless the Directors determine otherwise, a Direct Vote may not be withdrawn or altered once it is received by the Company.

### **Ruling on entitlements and votes**

25.22 An objection raised with the Chairperson of a General Meeting as to:

- (a) whether a purported voter is qualified; or
- (b) whether the admission or rejection of a vote by any person present and entitled (or claiming to be entitled) to vote should be admitted or rejected,

may only be made at the General Meeting or adjourned meeting at which the purported voter wishes to vote or the vote objected to is given or tendered.

25.23 In relation to that objection:

- (a) the decision of the Chairperson is final and conclusive; and
- (b) a vote not disallowed as a result is valid and effective for all purposes.

### **Method of voting**

25.24 Subject to any rights or restrictions attaching to any class of Shares, at a General Meeting a Resolution put to vote at the General Meeting must be decided on a show of hands unless, prior to the vote, a poll is demanded under the following subclause 25.25 or the Act.

### **Demand for poll**

25.25 A poll may be demanded on any resolution by:

- (a) the Chairperson;
- (b) at least five (5) Members who are present; or
- (c) any one or more Members who are present, holding Shares conferring not less than five percent (5%) of the total voting rights of all Members having the right to vote on the resolution.

### **Conducting a poll**

25.26 The Chairperson will decide in each case the manner and the date and time in which a poll is taken.

25.27 In every case the Chairperson must ascertain the number of votes attaching to Shares held or represented by persons voting in favour of a resolution and by those voting against the Resolution.

25.28 The Chairperson will determine any dispute about admitting or rejecting a vote and that determination, made in good faith, will be final and conclusive.

### **Result**

25.29 The Chairperson's declaration of the result of a show of hands or poll, and an entry in the minutes of the Company to that effect is final and conclusive evidence of the result.

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## **26. Resolutions without Meetings**

### **Where only one Member**

26.1 Where the Company has only one Member, any Resolution may be passed without a General Meeting being held if that Member (or its duly authorised representative or attorney) records the resolution and signs the record.

### **Where more than one Member**

26.2 Where the Company has more than one (1) Member, any Resolution, other than a Resolution to remove an auditor under section 329 of the Act, may be passed without a General Meeting being

held if all the Members entitled to vote on the Resolution (or their duly authorised representatives or attorneys) sign a statement that they are in favour of a Resolution set out in the document ('Resolution Document').

- 26.3 Identical copies of the Resolution Document and accompanying information may be distributed for signing by different Members.
- 26.4 The Resolution is passed when the last Member signs the Resolution Document and, for the avoidance of doubt, this process may be facilitated by the Company communicating with the Members by their registered electronic address.

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## **27. Proxies**

### **Instrument Appointing proxy**

- 27.1 An appointment of a proxy is only valid if:
- (a) it is made in accordance with Division 6 of Part 2G.2 of the Act;
  - (b) the instrument appointing the proxy ('Proxy Instrument') contains the relevant information; and
  - (c) the Company has received the Proxy Instrument at least twenty-four (24) hours before the relevant meeting.
- 27.2 An appointment of proxy may be a standing one.

### **Form of proxy**

- 27.3 The Proxy Instrument must contain:
- (a) the full name and address of the Member;
  - (b) the Company's name;
  - (c) the full name and address of the proxy or proxies;
  - (d) details of the specific meeting that the proxy or proxies are authorised to vote at; and
  - (e) where two (2) or more proxies have been appointed, the manner and proportions of the voting rights that the proxies will hold,
- and must otherwise comply with s250A of the Act.
- 27.4 The Proxy Instrument may specify the manner in which the proxy is to vote in respect of each of the resolutions to be proposed.
- 27.5 Where a Member appoints a proxy in respect of some but not all of the Shares held by that Member, the Member may not vote in respect of any of the Member's Shares.
- 27.6 Any Proxy Instrument deposited in accordance with this Constitution which does not name the appointee will be deemed to be given in favour of the Chairperson of the meeting to which it relates.

## **Revocation of proxy**

27.7 The Appointing Member may revoke a proxy appointment at any time.

27.8 Notwithstanding the preceding subclause 27.7, a proxy vote is valid unless the Company has received notice twenty-four (24) hours before the start of the meeting at which the vote is cast that the Appointing Member:

- (a) has died;
- (b) is bankrupt or insolvent;
- (c) revoked the proxy's appointment;
- (d) revoked the authority under which a third party appointed the proxy; or
- (e) transferred the Share in respect of which the proxy was given.

## **Powers of a proxy**

27.9 A person appointed as proxy may exercise all of the Appointing Member's rights.

27.10 The validity of any Resolution is not affected by the failure of a proxy to vote in accordance with any instructions given by the Appointing Member.

## **Appointment by corporations**

27.11 Any corporation which is a Member of the Company can by resolution of its directors appoint a person to act as its representative at a meeting of the Company's Members, and any such person is entitled to exercise the same powers on behalf of the corporation as if the corporation was a natural person and individual Member of the Company.

# **Part D – Directors**

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## **28. Directors**

### **Number of Directors**

28.1 Unless otherwise determined by an Ordinary Resolution of a General Meeting, the number of Directors must be at least five (5) but no more than nine (9) Directors.

28.2 The Company may increase or reduce the number of Directors by Ordinary Resolution.

### **Appointment of Directors**

28.3 Subject to any other provision of this Constitution or other applicable law (including the Act) the Directors may appoint:

- (a) any person as a Director by Ordinary Resolution of a General Meeting pursuant to their eligibility in subclause 28.5 and nomination validity pursuant to subclause 28.6; and
- (b) any person as a Director pursuant to their eligibility in subclause 28.5 either to fill a casual vacancy or as an addition to the Board,

provided that the total number of Directors does not at any time exceed the maximum number of

Directors as specified by this Constitution.

28.4 The Directors may nominate any such persons appointed pursuant to the preceding subclause 28.3 as a continuing Director following confirmation by Ordinary Resolution at the next AGM provided that the nomination is in accordance with this clause 28.

### **Eligibility to be a Director**

28.5 A person may not be nominated or elected as a Director unless:

- (a) the person has the necessary skills and qualifications as determined and articulated by the Governance Charter;
- (b) the Board has no reason to believe that they are not of good character; and
- (c) the Board has no reason to believe that they would not devote themselves in good faith to the best interests of the Company.

### **Valid nomination**

28.6 A person's nomination for election as a Director is not valid, and must not be put before the AGM, unless two (2) Members have, in writing, nominated and seconded the person's election and the written nomination is:

- (a) signed by the nominated person;
- (b) signed by two (2) Members;
- (c) provided to the Company Secretary at least fourteen (14) days before the AGM; and
- (d) accompanied by a consent to act as Director signed by the person nominated for election as a Director.

### **Director not required to be a Member**

28.7 A Director is not required to hold any Shares in the Company in order to act as Director.

### **Auditor cannot be Director**

28.8 No:

- (a) auditor of the Company; or
  - (b) partner or employee or employer of an auditor of the Company,
- can be appointed as a Director of the Company.

28.9 A Director may be removed from office by:

- (a) the Company by Ordinary Resolution; or
- (b) the majority of Voting Members by notice to the Company.

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## **29. Tenure of Director**

### **Directors' tenure of office**

- 29.1 A Director's term of office begins at the end of the AGM in which they were elected.
- 29.2 Subject to the Act and the following subclause 29.3, each Director will hold office for three (3) years from the date elected, or until the Director's office is otherwise vacated under this Constitution.
- 29.3 The Board may stipulate that any nominee's term is for a shorter period than three (3) years where a shorter period than three (3) years is necessary to achieve (or as close as possible achieve) the outcome that approximately one third of the serving directors will fall due for re-election each AGM.
- 29.4 The Board must exercise its discretion under the preceding subclause 29.3 to achieve to the nearest extent possible the outcome that approximately one third of the serving Directors will fall due for re-election at each AGM.
- 29.5 To achieve the result specified in the preceding subclause 29.4, initial Directors will be elected for a period of up to three (3) years.
- 29.6 The period for which each initial Director will be nominated will be determined:
- (a) by agreement between the Directors; or
  - (b) if the Directors cannot agree in such a way that achieves the desired outcome, by ballot.

### **Retiring Director eligible for re-election**

- 29.7 A Director who retires from office or whose office is vacated under this Constitution will be eligible for election or re-election to the Board except as expressly provided in this Constitution.

### **Removal of Director**

- 29.8 A Director may be removed from office by:
- (a) the Company by Ordinary Resolution; or
  - (b) the majority of Voting Members by notice to the Company.

### **Vacation of office**

- 29.9 The office of a Director will be automatically vacated if the Director:
- (a) is declared bankrupt;
  - (b) becomes of unsound mind or a person whose person or estate is liable to be dealt with under the laws relating to mental health;
  - (c) is prohibited from being a Director in accordance with the Act or any order made under the Act or the Director's office is vacated;
  - (d) resigns by giving the Company written notice;
  - (e) personally fails to attend Directors' Meetings for a continuous period of three (3) months without leave of absence from the Board; or

- (f) is appointed to hold any office or position:
- (a) of employment with the Company; or
- (b) as auditor of the Company.

29.10 A Director whose office is vacated under subclauses 29.9(a), 29.9(b) or 29.9(c) will not be eligible for re-election until the disabilities referred to are removed.

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## **30. Directors' contracts**

### **Directors not disqualified from holding office or contracting with Company**

30.1 Except as otherwise provided in the Act:

- (a) no Director will be disqualified from holding any office or place of profit with any company promoted by the Company, with any corporation in which the Company is a Member or which is a Member of the Company, or in which the Company is otherwise interested;
- (b) no Director will be disqualified from contracting with the Company or any corporation in which the Company is a member or is otherwise interested (whether as vendor, purchaser or otherwise); and
- (c) no contract referred to in this clause 30 or any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested can be avoided and no Director will be liable to account to the Company for any profit arising from that contract or arrangement or from any office referred to in this clause 30 by reason only of that Director holding that office or of the Director's fiduciary relationship with the Company.

### **Director can act in professional capacity**

30.2 Subject to the Act, a Director or a Director's firm may act in a professional capacity (other than as auditor or employee) for the Company, and that Director or that Director's firm is entitled to remuneration for professional services as if the relevant Director were not a Director.

### **Director not to vote on contract in which the Director has a material personal interest**

30.3 Subject to the Act, a Director must not vote at any Directors' Meeting about any contract or arrangement in which the Director has, whether directly or indirectly, a material personal interest, however, that Director may execute or otherwise act in respect of that contract or arrangement.

### **Directors to declare interest**

30.4 Any Director who has a material personal interest in a matter that relates to the Company's affairs must give the other Directors notice of that interest, unless:

- (a) the interest is of a type referred to in section 191(2)(a) of the Act; or
- (b) all of the conditions referred to in section 191(2)(c) of the Act are satisfied.

30.5 The Director must declare the nature and extent of the Director's interest and the relation of the interest to the Company's affairs at a Directors' meeting as soon as possible after the Director becomes aware of their interest in the matter.

30.6 A Director who has an interest in a matter may give a standing notice to the other Directors of the nature and extent of that Director's interest in the matter in accordance with section 192 of the Act.

### **Directors to declare potential conflicts**

30.7 Any Director who holds any office or possesses any property in circumstances where the holding or possession might, either directly or indirectly, create conflicting duties or interests with those duties or interests that the Director has in his or her capacity as a Director, must declare the fact of holding that office or possessing that property, and the nature and extent of any conflict, at the first Directors' Meeting held after he or she becomes a Director or (if already a Director) at the first Director's Meeting held after he or she becomes aware of the relevant facts which give rise to the conflict.

### **Secretary to record declarations of Directors**

30.8 The Secretary must record in the minutes of the meeting any declarations made or notices given by a Director under this Constitution.

### **Contract not voided**

30.9 If a Director fails to disclose his or her interests in a contract at a Directors' Meeting which considers the contract or at the first Directors' Meeting after the acquisition of his or her interest, any such contract is not voided.

### **Consequences of failing to disclose interest**

30.10 If a Director fails to disclose any conflict after the first Directors' Meeting after they become aware of relevant facts which give rise to that conflict:

- (a) the Director is excluded from any Directors' Meeting pending an investigation by the Board;
- (b) the Board must prepare a report detailing the failure to disclose a conflict; and
- (c) that report must be put before the next General Meeting where Members will vote as to whether to remove or reinstate the Director.

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## **31. Directors' powers and duties**

### **Management of the Company**

31.1 The Board, unless specified otherwise in this Constitution:

- (a) is responsible for the management of the Company;
- (b) is authorised to exercise all such powers of the Company as are not by the Act or this Constitution required to be exercised by the Company at a General Meeting; and
- (c) may pay or, or cause to be paid, all expenses incurred in promoting and forming the Company.

### **Power to borrow or raise money**

31.2 The Board may exercise all the powers of the Company to borrow money and to mortgage or charge its property or any part thereof and to issue debentures and other securities whether outright or as security for any debt liability or obligation of the Company



### **Power to mortgage and deal with negotiable instruments**

31.3 Subject to the following subclause 31.4, the Board may decide the way in which negotiable instruments are to be executed or endorsed by the Company.

### **Directors' execution of negotiable instruments**

31.4 The Directors may exercise all of the powers of the Company to borrow, raise money, mortgage or charge any of its assets with at least two (2) directors executing and endorsing the documents on behalf of the Company.

### **Delegation**

31.5 The Board may in writing delegate any of their powers other than:

- a) this power of delegation; and
- b) a function which is a duty imposed on the Board by the Act or by any other law,

to any competent and reliable person or persons, or any committee or committees as the Directors specify in writing and in accordance with the duties and obligations imposed on Directors.

### **Directors may vote in other corporations**

31.6 Subject to the Act, the Directors may exercise the voting power conferred by the shares in any corporation held by the Company in any manner they determine, including in circumstances where a Director may be interested in the exercise, such as an exercise in favour of any resolution appointing a Director as an Officer of a corporation or voting or providing for the payment of remuneration to Officers of the other corporation.

### **Agent or attorney**

31.7 The Directors may at any time appoint any person to be a Company agent or attorney for any purpose and with any powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for any period and subject to any conditions as the Directors determine.

31.8 Any appointment may be made in favour of:

- (a) any company;
- (b) the members, directors, nominees or managers of any company or firm; or
- (c) any fluctuating body of persons (whether nominated by the Directors or otherwise).

31.9 Any document appointing an agent or power of attorney may provide for the protection or convenience of the agent or attorney and of persons dealing with the agent or attorney as the Directors may determine.

### **Sub-Delegation of Powers**

31.10 The Directors may authorise any agent or attorney they have appointed to sub-delegate all or any of the powers, authorities and discretions vested in them for the time being.

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## **32. Community fund**

32.1 The Board may set aside up to ten percent (10%) of the Company's profits per annum to establish a community fund which may be applied:

- (a) for charitable purposes; and
- (b) to further the Objectives of the Company.

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### **33. Remuneration of Directors**

#### **Remuneration of Directors**

33.1 Subject to any contract a Director has with the Company, and subject to approval by Ordinary Resolution of the Company in General Meeting the Board may determine a Director's remuneration.

33.2 The Board may determine the form of remuneration including:

- (a) salary;
- (b) bonuses; and
- (c) participation in profits.

#### **Director expenses**

33.3 The Board may decide to pay a Director, in addition to any remuneration under the preceding subclauses, all reasonable expenses (including travel and accommodation) incurred by a Director:

- (a) in attending any Directors' Meeting or General Meeting;
- (b) undertaking the Company's business; or
- (c) carrying out their Directors' duties.

#### **Additional remuneration for extra services**

33.4 If any Director performs extra services or makes any special exertions, whether in going or residing abroad or otherwise for any of the purposes of the Company, the Company may pay that Director a fixed sum to be determined by the Directors. This payment may be either in addition to or instead of any remuneration determined under the preceding subclauses.

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### **34. Principal Executive Officer**

#### **Appointment of a Principal Executive Officer**

34.1 The Board may appoint the Principal Executive Officer of the Company who shall be responsible and accountable to the Board for the day-to-day management of the Company and shall undertake and fulfil any functions so delegated, and in accordance with the terms of the delegation as determined by the Board from time to time.

34.2 The Board may determine all the terms of an appointment under the preceding subclause 34.1, including:

- (a) remuneration (if any); and

(b) the length of the appointment (if specified).

34.3 The appointment of a Principal Executive Officer ends if:

- (a) the Board revokes their appointment; or
- (b) their appointment was for a specified time and that period expires.

### **Powers of the Principal Executive Officer**

34.4 A Principal Executive Officer may:

- (a) exercise any powers delegated by the Board under the following subclause; and
- (b) attend all meetings of the Board, unless excused or requested not to by the Board.

### **Directors may Confer Powers on Principal Executive Officer**

34.5 The Board may delegate any of its powers to a Principal Executive Officer:

- (a) subject to any terms or restrictions decided by the Board; and
- (b) concurrent with, or to the exclusion of, the Board's powers.

### **Revocation of Powers**

34.6 The Board may, at any time, vary or revoke any powers granted to the Principal Executive Officer under the preceding subclauses.

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## **35. Secretary**

35.1 The Board may appoint a Secretary, including any assistant Secretaries, in accordance with the Act.

35.2 The Board may determine:

- (a) the Secretary's duties and functions; and
- (b) any terms and conditions of the Secretary's appointment, including:
- (c) remuneration; and
- (d) term of appointment.

35.3 A Secretary may be removed by the Board.

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## **36. Directors' Meetings**

### **Convening a Directors' Meeting**

36.1 Subject to the following subclause 36.2, a Director may call a Directors' Meeting at any time by giving at least twenty (20) Business Days notice to each Director.

36.2 The requirement to give notice in accordance with the preceding subclause 36.1 is not required where all of the Directors consent.

### **Failure to give notice does not invalidate the Directors' Meeting**

36.3 Despite the requirement to give notice of a Directors' Meeting under subclause 36.1, failure to give or receive that notice will not invalidate any meeting.

### **Place of Directors' Meeting**

36.4 Unless specified otherwise in the notice, Directors' Meetings will be held at the registered office of the Company.

36.5 With the consent of all the Directors, the Directors can conduct the meetings, or an individual Director may attend a meeting:

- (a) by telephone;
- (b) by audio-visual link; or
- (c) using any other technology as agreed by all Directors from time to time.

36.6 A meeting conducted by telephone, audio-visual linkup or some other instantaneous communications medium will be deemed to be held at the place agreed on by the Directors attending that meeting, provided that at least one of the Directors present at the meeting was at that place for the duration of the meeting.

36.7 Meetings may be held outside Australia.

### **Director to be regarded as present at Meeting**

36.8 A Director is regarded as present at a meeting where the meeting is conducted by telephone, audio-visual linkup or other instantaneous communications medium, if the Director is able to hear, and to be heard by, all others attending the meeting.

### **Conduct of a Directors' Meeting**

36.9 The Directors may meet and regulate their Directors' Meetings as they see fit.

### **Quorum for Directors' Meetings**

36.10 The quorum for a Directors' Meeting is four (4) Directors.

36.11 If at a Directors' Meeting there are three (3) or fewer Directors present, those Director/s may act for the purpose of increasing the number of Directors at the Directors' Meeting or to summon a General Meeting.

36.12 If a quorum is not present within thirty (30) minutes of the time specified for the Directors' Meeting the meeting will be adjourned to a date, time and place specified by the Chairperson.

### **Voting at a Directors' Meeting**

36.13 Each Director has one (1) vote.

### **Passing a Resolution**

36.14 All resolutions of the Board are passed by Ordinary Resolution.

### **Equal Votes**

36.15 In the event of an equal number of votes, the Chairperson of the meeting is entitled to a casting vote.

### **Meeting Competent to Exercise All Powers**

36.16 A Directors' Meeting at which a quorum is present will be competent to exercise all or any of the powers and discretions vested in or exercisable by the Directors generally.

### **Chair**

36.17 The Directors may elect a Chairperson and Deputy Chairperson to chair their meetings and any General Meetings and determine the periods for which they are to hold office.

36.18 If no Chairperson or deputy Chairperson is elected or if at any meeting neither the Chairperson nor the deputy Chairperson is present at the time appointed for the meeting, the Directors present at the meeting may choose one of the Directors present to be Chairperson of the meeting.

### **Documents tabled at Directors' Meeting**

36.19 An original document, or a photocopy, facsimile or electronic copy of that document, which is in the possession of, or has been seen by, all Directors attending the Directors' Meeting before, or at the time of, that Directors' Meeting, is deemed to be a document tabled at that Directors' Meeting.

### **Questions to be decided by Majority**

36.20 Questions arising at any Directors' Meeting will be decided by a majority of votes of Directors present and voting, and if the votes cast are equal, the Chairperson will have a second or casting vote.

### **Resolution in writing**

36.21 A resolution in writing of which notice has been given to all Directors for the time being entitled to receive notice of that meeting and which is signed by a majority of Directors for the time being entitled to attend and vote at Directors' Meetings will be as valid and effectual as if it had been passed at a Directors' Meeting duly convened and held.

36.22 A resolution pursuant to the preceding subclause 36.21 may consist of several documents in like form each signed by one or more of the Directors.

36.23 For the purposes of the preceding subclauses 36.21 and 36.22 a signature will be valid if it is transmitted by facsimile, e-mail or other generally accepted technology.

36.24 The effective date of the resolution referred to in subclause 36.21 is the date on which the document or any of the counterpart documents was last signed.

### **Resolution passed is deemed to be determination of Board**

36.25 Any resolution properly passed at a duly convened Directors' Meeting at which a quorum is present will be deemed to be a determination by all the Directors or the Board for the purposes of this Constitution.

## Validity of acts of Directors

36.26 All acts done by the Board, a committee or any person acting as a Director will be valid even it is discovered afterwards that there was some defect in the appointment or election of that Director or person acting as a Director or that any Director was disqualified or had vacated office or was otherwise not entitled to vote or act.

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## 37. Indemnity and insurance

### Indemnity

37.1 For the purposes of this clause 37, to the relevant extent means to the extent:

- (a) that the Company is not precluded by law from indemnifying the Officer; and
- (b) that the Officer is not otherwise entitled to be indemnified and is indemnified by another person.

37.2 The Company, to the relevant extent, indemnifies every person who is or has been an Officer of the Company against any liability incurred by the Officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of their duties as an Officer.

37.3 The Company, to the relevant extent, indemnifies every person who is or has been an Officer of the Company against any liability for legal costs incurred in connection with proceedings relating to their capacity as an Officer.

### Insurance

37.4 Subject to the following subclause 37.5, to the maximum extent permitted by law the Company may pay, or agree to pay, a premium for a contract insuring a person who is or has been a Director, Secretary or other Officer of the Company, including a person who is or has been, at the request of the Company, a director or secretary of another company, or a Director, Secretary or other Officer of a subsidiary of the Company, against a liability incurred by the person in that capacity, including a liability for legal costs, unless the liability:

- (a) arises out of conduct involving wilful breach of duty in relation to the Company; or
- (b) arises out of a contravention of sections 182 or 183 of the Act.

### Exclusions required by law

37.5 The Company must not indemnify any person in respect of any liability or legal costs pursuant to subclauses 35.2 or 35.3, or pay any premium for a contract pursuant to the preceding subclause 37.4, if and to the extent that the Company is prohibited by law from doing so.

## Part E – Accounts and reports

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## 38. Accounts of the Company

### The Directors must keep accounts

38.1 The Directors of the Company must ensure that written records of the Company's financials are maintained and that such records:

- (a) accurately record and explain transactions;
- (b) accurately record and explain the financial position of the Company; and
- (c) are sufficient for financial statements to be prepared and for the accounts of the Company to be audited.

### **Accounts must be audited**

38.2 The financial statements of the Company for each financial year must be audited by the auditor in accordance with the Act.

### **Auditor**

38.3 The auditor of the Company must be appointed and removed in accordance with the Act.

### **Storing of accounts**

38.4 The financial records of the Company shall be kept at the registered office of the Company or at such other place as the Directors determine.

### **Inspection of accounts**

38.5 Subject to the Act, a Member who is not a Director does not have any right to inspect the accounts.

38.6 The Board may authorise a Member who is not a Director to inspect the accounts.

### **Financial reports**

38.7 Subject to any requirement under the Act, the Directors must present the financial reports of the Company at the AGM.

38.8 A copy of the financial reports must be sent to each Member entitled to receive notice of General Meetings at least fourteen (14) Business Days before the AGM.

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## **39. Reserves**

### **Reserves**

39.1 Subject to any profits or income of the Company in relation to any specific asset or assets of the Company that must be set aside for any particular class of shares, before declaring or determining any dividends, the Directors may set aside out of the Company's profits any sums they think proper as reserves to be applied to meet contingencies, to equalise dividends, to pay special dividends, to repair, improve or maintain any Company property, or for any other purpose the Directors in their absolute discretion consider to be in the Company's interests. Pending that application, the reserves may, at the Directors' discretion, be used in the Company's business or be invested as the Directors determine (including the purchase of Shares). The Directors may deal with and vary these investments and dispose of all or any part for the Company's benefit and may divide the reserves into special reserves as they think fit.

39.2 Subject to any profits or income of the Company in relation to any specific asset or assets of the Company that must be set aside for any particular class of shares, the Directors may, as they think fit, appropriate to the Company's profits any amount previously set aside as a reserve.

### **Carry forward of profits**

39.3 The Directors may carry forward any profits they consider ought not to be distributed as dividends without transferring those profits to a reserve.

### **Revaluation of assets**

39.4 Subject to the Act, the Directors may revalue any assets of the Company.

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## **40. Dividends**

### **Power to determine or declare dividends vested in Directors**

40.1 The power to determine that a dividend is payable and to declare dividends (including interim dividends) is vested in the Directors who may fix the amount and the timing for payment and the method of payment of any dividend in accordance with this Constitution.

### **No dividends payable in relation to partly paid Shares**

40.2 No dividend is payable in relation to a Share that is not fully paid.

### **Discretion as to source of dividends**

40.3 Subject to any rights, conditions and terms of issue of any particular class of shares (especially in relation to any classes of shares which entitle, or do not entitle, their holders to receive dividends derived from any particular source or asset), the Directors may, when declaring or determining a dividend, to the extent permitted by law, direct that the dividend be payable:

- (a) to particular Members wholly or partly out of any particular fund or reserve or out of profits derived from any particular source; and
- (b) to the remaining Members wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source,

and may make that direction despite that by doing so the dividend will form part of the assessable income for taxation purposes of some Members and will not form part of the assessable income of others.

### **Distributions payable by distribution of assets**

40.4 The Directors may determine that any dividend or other distribution or other monies payable for or in respect of a Share, including any distribution or consideration pursuant to subclauses 21.3 and 21.5, be paid wholly or partly by the distribution of specific assets, including bonus Shares or other securities of the Company or any other corporation, trust or entity (subject to any terms of issue of the class of shares entitled to receive such dividend or distributions).

40.5 Each Member agrees and consents to:

- (a) the distribution to it of any assets pursuant to subclauses 21.3, 21.4, 21.5 and 40.4, including securities of the Company or of any other corporation, trust or entity; and
- (b) where the distribution is of securities:
- (e) accept the number of securities that are allotted to it;
- (f) be a member, unit holder and/or security holder of the relevant corporation, trust or entity;



- (g) be bound by the constitution, trust deed and/or constituent documents of the relevant corporation, trust or entity; and
- (h) have the Member's name placed in any register kept by or in respect of the relevant corporation, trust or entity, including any register of members, unit holders or security holders.

40.6 A Member may not withdraw its consent under the preceding subclause 40.5.

#### **Directors' discretion**

40.7 All matters concerning dividends or other distributions including valuation of assets may be determined by the Directors in their discretion, and in particular the Directors may:

- (a) settle any difficulty, dispute or matter regarding any dividend or other distribution;
- (b) fix the value for distribution of the specific assets or any part of those assets;
- (c) determine that cash payments will be made to, or at the direction of, any Members on the basis of the value so fixed in order to adjust the rights of all parties; and
- (d) vest any specific assets in trustees as the Directors consider appropriate.

40.8 If a distribution of specific assets to, or at the direction of, a particular Member or Members is illegal or, in the Directors' opinion, impracticable, the Directors may make a cash payment to the Member or Members on the basis of the cash amount of the dividend or other distribution instead of the distribution of specific assets.

#### **Currency**

40.9 Dividends and other distributions which are paid in cash must be paid in Australian currency.

#### **No interest payable by the Company**

40.10 Interest is not payable by the Company in respect of any dividend or other distribution.

#### **Directors may retain certain dividends and distributions**

40.11 The Directors may retain the dividends or other distributions payable on Shares to which any person is entitled to become a Member because of death, bankruptcy or other operation of law until that person or a nominated transferee becomes a Member in respect of the Shares.

40.12 In the event that dividends or other distributions on Shares are unable to be deposited into a Member's bank account because that Member failed to provide current and/or correct bank account details to the Company, the Directors may retain such dividends and distributions until that Member provides the correct bank details to allow the payment of funds.

#### **Directors may deduct money payable to Company**

40.13 The Directors may deduct from any dividends or other distributions payable to a Member all sums of money presently payable by the Member to the Company on account of calls or otherwise.

#### **Payment**

40.14 Any dividend, distribution, interest or other monies payable for or in respect of any Shares will be paid to each Member via electronic funds transfer to that Member's specified bank account.

## Unclaimed distributions

40.15 Except as otherwise provided by law, all dividends or other distributions unclaimed for one year after having been declared may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed.

## Dividend Reinvestment Plans

40.16 The Directors may implement and in their discretion maintain, on terms and conditions determined by the Directors, dividend reinvestment plans (**Dividend Reinvestment Plan**) for cash dividends paid by the Company in relation to Shares to be reinvested by way of subscription for Shares or other securities to be issued and allotted by the Company. Participation in a Dividend Reinvestment Plan will be available to those Members who wish to participate in the Dividend Reinvestment Plan and are eligible to do so under the terms and conditions of the Dividend Reinvestment Plan.

40.17 The Directors may vary, amend or suspend any terms or conditions of a Dividend Reinvestment Plan as and when they determine in their discretion.

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## 41. Capitalising profits

### Capitalising profits

41.1 The Directors may resolve to capitalise any sum for the time being standing to the credit of any of the Company's reserve accounts, arising from a revaluation or sale of assets, or otherwise available for distribution to Members. Subject to any specific rights or entitlements of Members of a particular class of shares, the sum capitalised will be applied 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) in one or both of the following ways:

- (a) in or towards paying up any amounts for the time being unpaid on any Shares held by those Members; or
- (b) in paying up in full or in part any unissued Shares or debentures of the Company to be allotted and distributed credited as fully paid to those Members.

### Directors' powers in relation to capitalisation of profits

41.2 In giving effect to any resolution for capitalisation under the preceding subclause 41.1, the Directors may:

- (a) appoint any person to make an agreement on behalf of the Members entitled to benefit from the resolution where that agreement is required under the Act or is otherwise considered by the Directors to be desirable;
- (b) issue fractional certificates or make cash payments where Shares or debentures become issuable in fractions; and
- (c) otherwise provide for adjusting differences and settling any difficulty arising under the resolution including a determination that fractions will be disregarded or that a fractional entitlement be increased to the next whole number.

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## 42. Return of capital to Members

### **Return of capital other than on winding up**

42.1 The Company may return to Members capital paid up on their Shares in accordance with the Act and this Constitution.

### **Distribution of surplus assets on winding up**

42.2 In a winding up of the Company, any assets available for distribution to Members will, subject to the rights which are attached to any class of Shares, this Constitution and the Act, be distributed amongst the Members to return capital paid up on their Shares and distribute any surplus in proportion to the amount paid up (not credited) on Shares held by them.

### **Fee or commission paid to liquidator on winding up to be approved in General Meeting**

42.3 The Company must not pay any Director or liquidator any fee or commission on the sale or realisation of the whole or part of the Company's undertaking or assets unless the Company in General Meeting approves.

42.4 The approval specified in the preceding subclause 42.3 must be given at a meeting convened by notice specifying the fee or commission proposed to be paid.

### **Distribution *in specie* on winding up**

42.5 If the Company is wound up (whether voluntarily or otherwise), the liquidator may:

- (a) with the approval of a Special Resolution, divide among the contributories *in specie* or kind any part of the assets of the Company;
- (b) with the approval of a Special Resolution, vest any part of the assets of the Company in trustees or trusts for the benefit of the contributories or any of them as the liquidator thinks fit; and
- (c) set the values it considers fair and reasonable on any property to be divided and determine how the division is to be carried out.

## **Part F – General Provisions**

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### **43. Minutes and Registers to be kept**

#### **Minutes and records**

43.1 The Directors must keep minutes of all decisions and acts at all meetings of the Company and Directors' Meetings, including:

- (a) any declarations made by a Member of the Company;
- (b) any declarations made by a Director of the Company;
- (c) the appointment and removal of Directors;
- (d) the names of all Directors present at any given meeting; and
- (e) Resolutions passed and relevant proceedings at all meetings of the Company including Directors' Meetings.

43.2 Minutes signed by the Chairperson of any meeting or by the Director or Member exercising the power shall be conclusive evidence of the matters stated in the minutes.

## Registers

43.3 The Directors must cause the Company to keep a register of Members and other registers required under the Act.

## Inspection of records

43.4 Subject to the Act, the Directors may determine whether and to what extent the documents and records of the Company will be open to inspection by any person.

43.5 The preceding subclause 43.4 does not limit the rights of a Director or former Director under the Act.

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## 44. Notices

### Service of notices by Company

44.1 A notice may be given by the Company to any Member in any one of the following ways:

- (a) personally, by giving it to the Member;
- (b) by leaving it addressed to the Member at the Member's address;
- (c) by sending it by Electronic Transmission to the Member at the Member's last nominated notification address or contact held by the company in its register of Members;
- (d) by facsimile to the Member at the Member's facsimile number;
- (e) by e-mail to the Member's electronic address;
- (f) by post by sending it addressed to the Member at the Member's address; or
- (g) otherwise by any method (including by advertisement) as the Directors may determine.

### Electronic communications

44.2 Where the Company is required by the Act or this Constitution to:

- (a) give information in writing;
- (b) provide a signature;
- (c) produce a document;
- (d) record information; or
- (e) retain a document,

that requirement is taken to have been met if the Company uses an electronic communication or an electronic form of the relevant document, and the Company complies with any further requirements of the *Electronic Transactions Act 1999* (Cth).

### **Notices to joint holders**

44.3 A notice may be given by the Company to the joint holders of a Share by giving the notice to the joint holder whose name appears first in the Register and that notice will be sufficient notice to all the joint holders.

### **Notice deemed to be served**

44.4 Any notice:

- (a) by advertisement will be deemed to have been served on the day of publication of the newspaper containing the advertisement;
- (b) sent by post will be deemed to have been served on the day following the day on which the notice is posted;
- (c) sent by Electronic Transmission means will be deemed to have been served on the same day that it is sent; and
- (d) served on a Member personally or left at the Member's address will be deemed to have been served when delivered.

### **Service by post**

44.5 A notice sent by post will be properly served if the notice was correctly addressed and was posted with the required postage. A certificate in writing signed by any manager, Secretary or other Officer of the Company that the notice was so addressed and posted is conclusive evidence of proper service by post.

### **Notices to Members whose whereabouts unknown**

44.6 Where:

- (a) the Company in good faith has reason to believe that a Member is not known at the registered address or electronic address shown for that Member in the Register;
- (b) the Company has subsequently made an enquiry at that address, and/or electronic address, as to the whereabouts of the Member; and
- (c) the enquiry either elicits no response or a response indicating that the Member's present whereabouts are unknown,

all future notices will be deemed to be given to the Member if the notice is exhibited in the Office for a period (not including weekends and public holidays) of forty-eight (48) hours and will be deemed to be duly served at the commencement of that period.

44.7 The preceding subclause 44.6 will apply unless and until the Member informs the Company of its new electronic address and that the Member has resumed residence at the Member's address shown in the Register or notifies the Company of a new postal and electronic address to which the Company may send the Member notices (which new address is deemed to be the Member's registered place of address).

### **Notices binding on transferees**

44.8 Every person who becomes entitled to any Share by operation of law, transfer or otherwise will be bound by every notice in respect of the Share which, before that person's name and address is

entered on the Register, is duly given to the person from whom title to the Share is derived.

### **Notice to deceased or bankrupt Members**

44.9 Any notice or document given to a Member will be deemed to have been duly given in respect of any Shares held solely or jointly by the Member despite the Member having died or becoming bankrupt and whether or not the Company has notice of the death or bankruptcy until some other person is registered in the Member's stead as the holder or joint holder.

### **Signing notices**

44.10 The signature to any notice to be given by the Company may be written, printed or provided by electronic means.

### **Counting days**

44.11 Where a given number of days' notice or notice extending over any other period is required to be given, the day on which notice is deemed to be given will not be counted in the number of days or other period.

## Schedule 1 – Classes of Shares and Share Class Rules

Unless otherwise determined by the directors, the following rights, privileges, terms and conditions attach to each of the following classes of Shares:

### Ordinary Shares

- (a) The holders of such Ordinary Shares will have the right to receive notice of, to attend, and to vote at all meetings of the Company in accordance with this Constitution (i.e. one vote per Member, not one per Share, in accordance with clause 25.2);
- (b) The holders of such Ordinary Shares will have the right to participate in the dividends (if any) declared on that share (noting that this is subject to any rights of the holders of any other class of shares who are exclusively entitled to dividends from specific sources);
- (c) The holders of such Ordinary Shares will have the right to participate in returns of capital (if any) declared on that share (noting that this is subject to any rights of the holders of any other class of shares who are exclusively entitled to returns of capital from specific sources);
- (d) On winding up of the company, be entitle to participate in any surplus assets of the company (if any), after payment of all debts and liabilities of the Company (noting that this is subject to any rights of the holders of any other class of shares who are exclusively entitled to surplus assets from specific sources);

### Asset Specific Shares

- (a) For the avoidance of doubt, the Directors may issue shares of any number of 'Asset Specific Shares' classes (i.e. there may be more than one class of shares to which the following rights, privileges and conditions apply).
- (b) The Directors may determine any additional conditions or terms of issue in relation to any particular class of Asset Specific Shares, including, without limitation:
  - i. imposing any additional eligibility criteria in relation to who can hold, or be issued with, such shares (e.g. based on the residence or geographic location in which the Members, or potential Members, are based); or
  - ii. excluding, adding to, or otherwise amending any of the conditions set out in the paragraphs below.
- (c) The Asset Specific Shares will be linked to a particular asset, or group of assets, or assets arising out of a particular event or project (e.g. one particular solar farm or one particular project) (**Linked Asset**), but more than one class of Asset Specific Shares may be linked to the same Linked Asset (in which case, the apportionment of the Linked Asset, or income, proceeds or profit derived from such Linked Asset, between shares of the different classes, will be as per the specific terms of issue of each of those classes). The Linked Asset, or any part thereof, may:
  - i. be held directly by the Company; or
  - ii. be held in a separate legal entity in which the Company has an interest, or is otherwise entitled to receive all or some of the profit or income from (in which case the Company's interest in such legal entity is also part of the Linked Asset).
- (d) The holders of Asset Specific Shares will be entitled to receive notice of, to attend, and to vote at all meetings of the Company in accordance with this Constitution (i.e. one vote per Member, not one per Share, in accordance with clause 25.2).

- (e) Subject to the other paragraphs of the rules in relation to Asset Specific Shares, the holders of the Asset Specific Shares will be exclusively (to the exclusion of Members holding other classes of shares) entitled to:
- i. participate in the dividends declared by the Company from the profits derived from the Linked Asset (**Linked Asset Profit**);
  - ii. to the extent permitted by this Constitution or the Act, participate in the return of capital declared by the Company from proceeds or income of the Linked Asset or its disposal; and
  - iii. on the winding up of the Company, be entitled to participate in the distribution (as provided in the Constitution) of any surplus assets of the Linked Asset or the disposal thereof, subject to paragraph (p) below.
- (f) Subject to the other paragraphs of these rules in relation to Asset Specific Shares, the holders of the Asset Specific Shares will not be entitled to:
- i. participate in any dividends declared by the Company from any source other than Linked Asset Profits;
  - ii. participate in the return of capital declared by the Company from proceeds or income from any source other than the Linked Asset; or
  - iii. participate in any distribution of any assets of the Company, other than the Linked Assets or derived from the Linked Assets, on the winding up of the Company – whether in repayment of the issue price of the Asset Specific Shares, or any surplus thereof, whatsoever, subject to paragraph (p) below.
- (g) Where:
- i. the Linked Asset is held by a separate legal entity in which the Company has an interest, or is otherwise entitled to receive all or some of the profit or income from that separate legal entity in relation to the Linked Asset, the Company may provide administrative and secretarial services to that separate legal entity at arms-length commercial rates, and such amounts received by the Company will not be Linked Asset Profit; or
  - ii. the Linked Asset is held by the Company, the Company may determine an amount of the income or profits derived from the Linked Asset as being attributable to any administrative or secretarial services performed by the Company in relation to the Linked Asset on an arms-length and commercial basis, and such amount will not comprise the Linked Asset Profit (and, for the avoidance of doubt, will be deemed to be income or profits of the Company not received in relation to, or derived from, the Linked Asset).
- (h) For the purposes of paragraph (g) above:
- i. the Company may enter into written agreements with any separate legal entity for administrative or secretarial services provided in relation to the Linked Asset; and
  - ii. the rates payable in relation to such administrative or secretarial services may be as the Company determines, provided that it acts reasonably and in good faith.
- (i) The Company must keep separate accounts and records for income and expenses of the Company in relation to the Linked Asset and Linked Asset Profit.
- (j) The Company will only use income, proceeds and other resources derived from the Linked Asset in payment of the debts and liabilities of the Company with respect to that Linked Asset, and will not use other funds or assets of the Company for that purpose, unless agreed by the Board, and subject to paragraphs (k) and (p) below.



- (k) To the extent that the Company uses funds or assets of the Company that are not derived from the Linked Asset, the future income or proceeds or other resources derived from the Linked Asset must first be applied towards the repayment of such funds or assets (i.e. the Company is treated to loan such amounts from one part of the Company to that part of the Company that holds the Linked Asset), and such amounts will not comprise part of the Linked Asset Profit.
- (l) The Company will not use income or other proceeds derived from the Linked Asset in payment of any debts and liabilities of the Company that are not in relation to the Linked Asset, subject to paragraph (p) below.
- (m) Subject to paragraphs (j) and (k) above:
- i. a reference in the preceding paragraphs to debts and liabilities of the Company includes a reference to debts and liabilities of the separate legal entity in which the Company has an interest which holds the Linked Asset (if any); and
  - ii. the Company may (but is not required to) contribute towards such debts and liabilities of the separate legal entity by contributing funds to that entity by loan, capital, or in any other manner, and on the terms, as the Board sees fit (and such loan, capital or other asset or of the Company arising out of such contribution of funds will form part of the Linked Asset).
- (n) References to debts and liabilities of the Company with respect to a Linked Asset includes
- (o) In reporting to Members of the Company, especially those holding Asset Specific Shares, the Company should specifically inform such Members as to:
- i. the performance, progress, and financial performance of the relevant Linked Asset;
  - ii. any fees charged by the Company, or deemed by the Company to not be Linked Asset Profit, pursuant to paragraph (g) above;
  - iii. any amounts paid in relation to the Company's debts or liabilities (in relation to the Linked Asset) out of income, proceeds or resources of the Company, not derived from the Linked Asset; and
  - iv. any other matter that the directors of the Company determine as being appropriate, having regard for the terms and conditions of the Asset Specific Shares.
- (p) On the winding-up or liquidation of the Company, to the extent that:
- i. the Linked Asset, and any proceeds or income derived from the Linked Asset is insufficient to meet the outstanding debts and liabilities of the Company in relation to the Linked Asset in full; or
  - ii. the other assets and funds of the Company are insufficient to meet the outstanding debts and liabilities of the Company not in relation to the Linked Asset in full;
- then
- iii. the Company may use the Linked Asset, or any income or revenue derived from it, or any proceeds on disposal, in payment of the Company's outstanding debts and liabilities, generally (together with the other assets of the Company);
  - iv. to the extent that there are any surplus assets remaining after payment of the Company's outstanding debts and liabilities, the holders of Asset Specific Shares will be entitled to participate in the distribution of the surplus assets in accordance with the Constitution, ranking equally with all other shareholders so entitled.