Your company. Its new SMSF job. We prepare your replacement Constitution, shareholder minutes and our law firm's instructions from your answers.

Build this document here:
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08 Novembe

Michael James Lawson
Springwood Retirement Pty Ltd ACN 123 456 780
1 Macquarie Place
Sydney NSW 2000
Australia

Dear Chairperson,

Replacing the Company Constitution: Springwood Retirement Pty Ltd

Attached if the **Company Constitution Replacement**.

We have not provided legal advice or completed any form of identification of any of the persons. We have not looked at the veracity of the persons involved with the company, the directors or the shareholders.

How to print your document

After speaking with your accountant, your shareholders and directors, when you are all satisfied that the document is correct, please:

1. Download the PDF (Do not print directly from the browser.)
2. Print the PDF Printer settings: A4 paper
   100% scale (turn off 'fit to page')
3. Print single sided (NOT duplex).
4. Once signed keep this cover letter with the document.
   (However, do not staple the covering letter to the document)

Where do I store the documents?

The documents required to update your Company's Constitution under the Australian *Corporations Act 2001* (Cth) are attached. The documents include:

- the Constitution; and
- Member Minutes

Keep the document as part of your Company's statutory records.

ASIC requires nothing from you

Unless you are converting your company into a Special Purpose Company, you do not send a copy of the Constitution to the Australian Securities and Investments Commission (ASIC). ASIC does not require Proprietary Limited companies to lodge a copy of their updated Constitution. See section 136(5) of the Australian *Corporations Act*. There are also no ASIC fees.

Liability limited by a scheme approved under Professional Standards Legislation

Every Member must sign the Member Minutes

As we have drafted the update, every Member (also known as a shareholder) of the Company must sign to give his, her or its consent. If you cannot get every shareholder to sign please telephone us.

Every Director must sign the Member Minutes

This Company Replacement is on the basis there is 100% support for the change by all the Shareholders and all the Directors. Accordingly, all the Directors must sign the Minutes as well.

If there is any dispute of any nature between any of these persons, then you should not proceed with the Constitution update. This update is only on the basis that all such parties agree unanimously.

This is based on the 'doctrine of unanimous assent'.

What Is a Company Constitution?

The Constitution is a contract between the company, directors and shareholders (members). It is not mandatory to create a Constitution as your internal procedures are governed by statutory Replaceable Rules.[1] These are outlined at section 141 of the *Corporations Act*. However, it is rare that an accountant, lawyer or financial adviser would advise your company to rely on these statutory Replaceable Rules. This is because Replaceable Rules are not tailored to your specific needs. Relying on Replaceable Rules is not best practice.

Constitution vs Replaceable Rules

Your company must have a set of rules. The rules are either in:

1. **Constitution** – attached to this letter; or failing that;
2. **Replacement Rules** – which are set out in the *Corporations Act*.

We often review a company incorporated by a non-law firm. To 'save time' the non-law firm website adopts Replacement Rules for:

1. a sole director, sole member company; or
2. a Self-Managed Super Fund corporate trustee (special purpose company)

However, both companies must have a Constitution.

Further, the Replaceable Rules are the bare minimum. There are many additional powers that a company should have – your Constitution contains these additional powers and benefits.

Also, the Replaceable Rules change at the whim of the current government. While the changes may benefit 'society' they may not be in the best interests of the shareholders. In contrast, Constitutions can be amended at any time by the Members, just as you have done.

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[1] Section 135(1)(a)(b) *Corporations Act 2001* (Cth).

Your updated Company Constitution

Your Constitution is updated to reflect your company's internal rules and procedures. Changes in the *Corporations Act* are reflected in your updated Constitution.

(a) Technology

Technology has changed how a board can communicate with employees and shareholders. Your Constitution is updated to reflect how changes in technology affect your business operations. Traditionally board decisions are mailed out in physical form to shareholders. However, in today's modern world email is a faster form of communication that is used by many businesses to correspond with shareholders. Your updated Constitution takes into consideration how instantaneous communication affects your shareholders. Further, your Constitution outlines how technology can be used in meetings.

(b) Dividends

In 2010, the Australian government amended section 254 of the *Corporations Act*. This section governs how dividends are paid.
Before 2010 the *Corporations Act* stated that dividends could only be paid from company profits.[2] However, after 2010 a company is not allowed to declare a dividend unless:

(i) the company's assets exceed its liabilities; and
(ii) the payment is fair and reasonable; and
(iii) the payment does not materially prejudice the company's ability to pay its creditors.[3]

Under an old Constitution, you may not have been able to legally pay dividends. Insolvency specialists pursue this argument. They challenge all dividends that you have been paid since 2010.

(c) Direct voting

Shareholders can cast a vote regarding a meeting. This can now be either online or through personalised voting forms. Members do not need to attend the meeting and can appoint a proxy.[4] Your Constitution has been updated to improve the efficiency of how your meetings are conducted through direct voting.

(d) Share buy backs

Share buy backs allow companies to buy back its shares from the shareholders. The types of share buy backs that exist in Australia include: equal access, on-market, employee share scheme, selective buy-back and minimum holding.[5] Your Constitution has been updated to ensure that a share buyback is permitted.[6]

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[2] Section 254 *Corporations Act 2001* (Cth)
[3] Section 254T *Corporations Act 2001* (Cth).
[4] *Direct Voting Regulations 2011* Reg 4.1 < http://www.asx.com.au/documents/asx-news/direct_voting_regulations.PDF>
[5] Australian Securities & Investments Commission, *Share buy backs*< http://asic.gov.au/for-business/running-a-company/shares/share-buy-backs/>
[6] Australian Securities & Investments Commission, 'Share buy backs', *Australian Securities & Investments Commission* < http://asic.gov.au/for-business/running-a-company/shares/share-buy-backs/ >

(e) Preference shares

A company has the power to issue preference shares under Australian law.[7] However, rights attached with these preference shares should be outlined in the Constitution. Your new Constitution ensures that the preference shares are clear.

(f) Directors

The *Corporations Act* now permits sole director companies. You now only have to have one director for your company. Before this time, you had to have a minimum of 2 directors. This would often be a wife and husband.

Having two directors was a disaster for asset protection. Both directors would often go bankrupt along with the insolvent company. Similarly, if money was owed to the Australian Tax Office for PAYG or superannuation all the directors would be liable automatically for such unpaid debts.

Asset protection at a basic level is having no assets in a risky person's name and having it all in a safe person's name. This is often called the man of straw and the woman of substance.

Your new Constitution allows you to have a single director.

Division 7A Loan Agreement

Your updated Constitution contains a Division 7A Loan agreement. It works for each Member and for any new Member. It however does not protect non-members like a spouse, children or Family Trust that are not shareholders of the company.

This is because the Constitution is a contract between the shareholder and the company. If a person or a trust is not a shareholder (and the Company lends or may lend them money) then build a separate Division 7A Deed for that person.

Common faults in old Constitutions and Memo & Articles

Australian companies created before 1 July 1998 had a 'Memorandum & Articles of Association' (**M&A**). Like old Constitutions, your M&A still operates but not well. Much like many old Constitutions, faults with the M&A include:

1. requiring an Annual General Meeting (**AGM**). However, the law no longer requires an AGM for Pty Ltd companies. No one has AGMs anymore, but if you don't then your company is non-compliant for both taxation and insolvency laws. Your new Constitution ensures that you don't have to have AGMs.
2. stating a 'list of objects'. This is the purpose of the company. E.g. 'sell fishing tackle and retail'. If your company now does something else, such as acting like a trustee of a doctor surgery then you break the law. Your company is 'ultra vires'. It is acting outside its powers. Again, your company is non-compliant. Legal Consolidated's Constitution allows you to do anything a human can do – and more.

[7] Section 254A *Corporations Act 2001* (Cth).

3. requiring two directors. The laws have changed. You now only need one director. It is safer to only have one director in case the company goes insolvent. This is further discussed above.
4. setting up out of date and often illegal procedures. These include how to:
   (a) exercise corporate powers
   (b) issue and allot shares
   (c) not avoid liability (a very strange requirement)
   (d) transfer shares
   (e) vote and proxies
   (f) appoint directors and company secretary
   (g) conduct general and director meetings
   (h) sign bank documents, loans and mortgages (however this may be useful because banks often cannot enforce a loan made by a company that is still working under the old Constitution or M&A)

Your old Constitution may have unusual requirements. For example, the consent of your grandfather or the person that started the company may be required. Consent of a particular person is rare. If it is required get them to sign the Minutes as evidence of their consent.

Changing the company to be a Special Purpose Company

If you have changed the company to be a Special Purpose Company then:

The old company must have a balance sheet of zero

Your Special Purpose Company must not have any assets in it (other than the share capital for the shares). Its only job now is to be the trustee of the Self-Managed Superannuation Fund. It can't do anything else.

Every Member signs the Member Minutes

As we have drafted the update, each shareholder signs to give their consent.

Also, remember before you make the company the trustee of the SMSF:

1. all the directors must be members of the SMSF; and
2. all the members of the SMSF must be directors of the company

Example 1:

John, Jeff and Mary are the current directors of the company. But Jeff is not a member of the SMSF. Jeff must resign as a director of the company before the company can be the trustee of the SMSF.

Example 2:

Paul and Fiona are the only directors of the company. But their daughter Ainsley, together with Paul and Fiona, is a member of the SMSF. Therefore, before the company can be made the trustee of the SMSF, Ainsley will need to be made a director, as well.

Let ASIC know

You need to let ASIC know that your Company
entitled to get the lower annual ASIC fees.

If you need further help you are welcome to te
This now concludes the matter. Thank you for

Yours sincerely,

Legal Consolidated

Legal Consolidated Barristers & Solicitors

Keep your company's name and ACN. Replace its Constitution. Our cover letter explains the steps for special purpose status and the lower annual ASIC review fee.

Special purpose requirements: Corporations (Review Fees) Regulations 2003 (Cth) reg 3.

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General Meeting of Members
Under The *Corporations Act 2001* (Cth)
Springwood Retirement Pty Ltd
ACN 123 456 780
(the **Company**)

Regarding: General meeting of members

Membership: **Shareholder:**
Claire Elizabeth Lawson
111 Eagle Street, Brisbane QLD 4000, Australia

Directorship **Director:**
Michael James Lawson
8 Exhibition Street, Melbourne VIC 3000, Australia

Date: _____ 20 _____

WRITTEN RESOLUTION:

The requirements for notice of this resolution have been satisfied.

It was noted that all Members received notice of this meeting and that all consent to the meeting being held and waive any requirement for any specified period of the notice of the meeting. It was resolved unanimously that the meeting is validly constituted regardless of any failure to give notice as re
Corporations Act 2001 (Cth) (the **Corporati**

The minutes record your company's decision to adopt its replacement Constitution. Your company keeps its identity. These documents change its rules.

Adopting or changing a constitution: Corporations Act 2001 (Cth) s 136.

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SUPERANNUATION TRUSTEE:

The Directors noted that the Company has b
acting as the trustee for a complying self-ma
purpose has been notified to the Australian
time of incorporation.

The Directors noted that the Company is pr
distributions of income or other assets of the

CONSIDERED MATERIALS:

The following materials were reviewed and considered by the Members:

- The Register of Members for the Company;
- The existing rules (including Memorandum & Articles of Association and Constitution) of the Company (the **Existing Constitution**); and
- The attached replacement Constitution for the Company (the **New Constitution**).

The Members noted that the Existing Constitution is out of date and does not properly reflect the principles on which the affairs of the Company are to be administered.

AUTHORITY:

The Members have the authority under the Corporations Act to adopt a Constitution in the form that the Members see fit, subject to the Corporations Act.

RESOLUTION TO ADOPT NEW CONSTITUTION:

It is unanimously resolved, as a special resolution, to adopt the New Constitution as the Constitution of the Company as from the date of this resolution, and to update the records of the Company to reflect the adoption of the New Constitution.

It is noted that:

1. The New Constitution is interpreted to reduce taxes, imposts, duties and stamp duty (including State and federal) (**Taxes**) and avoid any illegality. If any clause nonetheless fails to reduce Taxes or is illegal, it is severed, read down or fettered, as required, from the New Constitution to the extent of the illegality or in the furtherance of the reduction of the Taxes.
2. The New Constitution is read down so that no mandatory taxation law or Taxes, from time to time, is contravened that would lead to an unfavourable taxation position.
3. Any class of shares will not be altered. There is no change of rights or beneficial interest in the shares. Further, no class of shares has been altered so as to trigger any Taxes including Capital Gains Tax or transfer duty (stamp duty).
4. Each director and the company itself confirm that the law firm preparing the New Constitution has provided no taxation, (stamp) duty and any other tax advice on the New Constitution.
5. The law firm preparing the New Constitution, it is acknowledged, only acts for the company, in its own capacity. To put the matter beyond doubt the law firm does not act for shareholders, members, directors or any other persons.

A copy of this resolution is to be included in the Minute Book of the Company.

NO LEGAL ADVICE PROVIDED

All the parties confirm that they have received no legal advice on the nature of the changes of the Constitution. And that the lawyer that prepared the Constitution only acts for the first named director and no other person. And that all other directors and members must seek their own legal, accounting and financial planning advice on the effect of this Constitution and related matters.

UNANIMOUS CONSENT BY ALL DIRECTORS AND ALL MEMBERS

The Directors consent to the above and the new Constitution.

The undersigned, being all the Members of the Company are in favour of the resolution set out above and consent to the new Constitution:

Shareholder:

SIGNED, SEALED AND DELIVERED by

Your shareholder and director details flow into the signing records. Read the instructions and keep the signed minutes with your company records.

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Claire Elizabeth Lawson

(Full Name of witness)

The undersigned, being the director(s) of the company also approve and accept the resolution set out above:

Director:
SIGNED, SEALED AND DELIVERED by
Michael James Lawson:

Michael James Lawson

(Signature of witness)

(Full Name of witness)

Constitution for Springwood Retirement Pty ACN 123 456 780

Same company. New Constitution. New SMSF purpose. Start for free and read the hints as you answer the questions. Save your answers and return later.

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PREAMBLE

The purpose of this Constitution is to:

A. Provide a point of reference for the due administration of the affairs of the Company;
B. Regulate the dealings between the Company and its Members; and
C. Regulate the dealings between the Members themselves with respect to their participation in the Company.

D. This Company has been formed as a Special Purpose Company in order to satisfy the requirements of Regulation 3, *Corporations (Review Fees) Regulations 2003* (Cth) for the sole purpose of acting as the company trustee for a regulated superannuation fund within the meaning of Section 19 of the *Superannuation Industry (Supervision) Act 1993* (Cth). Accordingly, this Company is prohibited from distributing income or other assets of the Company to its Members.

THIS CONSTITUTION provides as follows:

1. NAME AND LIMITATION OF LIABILITY

1.1 The name of the Company is **Springwood**
1.2 The liability of its members is limited to an
1.3 This Constitution is to be read down so tha
gains, duty and stamp duty implications. W
which conflict or differ to the current classe
the above. Further, there is no change of t
is to be read down accordingly.

Your SMSF needs a trustee. Your company makes the decisions through its directors. This Constitution sets out the company's rules for its SMSF role.

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2. REPLACEABLE RULES

2.1 The Replaceable Rules of the Law do not apply to the Company.
2.2 This Constitution sets out the basis for the administration and management of the Company.
2.3 Nothing in this Constitution is intended to derogate from the Law, and the mandatory provisions of the Law prevail over anything in this Constitution to the extent they are inconsistent.
2.4 Unless otherwise specifically stated, words used in this Constitution have the same meaning as those terms have under the Law.
2.5 The law firm preparing this Consitution has provided no taxation or other advice.
2.6 The law firm preparing this Constition only acts for the company. It does not act for any other person such as members, shareholders, directors, creditors, trustees or any other person.

3. SPECIAL PURPOSE COMPANY – SMSF TRUSTEE

3.1 The Company is a special purpose company as defined in paragraph (f) of the definition of 'special purpose company' in Regulation 3 of the *Corporations (Review Fees) Regulations 2003* (Cth).
3.2 Notwithstanding any other provision of this Constitution:

3.2.1 The Company may not distribute any of the Company's income or property to any of its Members;

3.2.2 The sole purpose of the Company is to act as the trustee of a regulated superannuation fund within the meaning of Section 19 of the *Superannuation Industry (Supervision) Act 1993* (Cth), and the Company may not carry on any activity that is inconsistent with this sole purpose; and

3.2.3 Any provision of this Constitution that would otherwise cause the Company to fail to qualify as a 'special purpose company' for the purpose of acting as the company trustee for a regulated superannuation fund as defined in paragraph (f) of the definition of 'special purpose company' in Regulation 3 of the *Corporations (Review Fees) Regulations 2003* (Cth) is hereby deemed to have no force or effect.

4. PROPRIETARY COMPANY

4.1 The Company is registered as a proprietary company limited by shares under the Law. As such, the Company must not:

4.1.1 Have a membership in excess of 50 persons (counting joint holders of Shares as one person, and not counting any person in the employment of the Company or of its subsidiary who was and has continued to be a Member of the Company); and

4.1.2 Engage in any activity that would require the lodgement of a regulated product disclosure statement or prospectus

4.2 The Company has all the powers of a na
Company may:

4.2.1 Issue and cancel shares, incl
redeemable preference shares, and

4.2.2 Issue debentures of the Com

4.2.3 Grant options over unissued

4.2.4 Distribute Company property

4.2.5 Borrow money;

4.2.6 Give security by charging un

4.2.7 Grant a fixed or floating charge over Company property;

4.2.8 Open and operate a bank account; and

4.2.9 Obtain the registration or recognition of the Company as a body corporate in any jurisdiction.

Lower annual ASIC fees start with the right structure. This Constitution includes the special purpose restrictions for a regulated superannuation trustee company.

Corporations (Review Fees) Regulations 2003 (Cth) reg 3.

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4.3 The Company may in the capacity as a trustee carry on any business if (and only if) the effect of doing so would not infringe any provision of the Law.

5. SHARE CAPITAL

5.1 Member Consents

5.1.1 Each Member consents to his or her name being entered in the Company's register of members in respect of the Shares held, acquired or subscribed by the Member, and agrees to take such Shares with the benefit of the rights and subject to the restrictions contained in this Constitution from time to time.

5.1.2 Each Member consents to the subscriptions for and transfers of the Shares that have taken place prior to the Effective Date. Each Member irrevocably waives

(and agrees to procure the waiver of) any rights or restrictions which may exist in this Constitution or otherwise which might prevent or invalidate any such subscriptions or transfers.

5.1.3 The Company acknowledges that each Member has consented to the subscriptions for and transfers of the Shares that have taken place prior to the Effective Date.

5.2 **Issue of Shares**

The Directors may issue Shares to whom and as they think fit, subject only to this Constitution and the Law.

5.3 **Unissued Shares**

Subject to this Constitution and to the Law, and to any special rights attached to any Shares for the time being on issue:

5.3.1 All unissued Shares are under the absolute control of the Directors;

5.3.2 The Directors may determine the price of any Shares they issue;

5.3.3 The Directors must preserve any special rights conferred on the holders of existing Shares;

5.3.4 The Directors may classify, allot or grant options over or otherwise dispose of or deal with unissued Shares:

(a) to the persons;
(b) on the terms and conditions;
(c) for the consideration, and subject or not to the payment of any part of the amount thereof in cash;
(d) with full power to give to any person the call of any Shares
(e) as the Directors may determine in their absolute discretion; and

5.3.5 Any Shares may be issued as a class with:

(a) preferential, deferred, qualified or special rights, privileges or conditions; or
(b) restrictions including (but not limited to) Dividends, voting or the return of capital

as the Directors may from time to time determine.

5.4 **Specified Share Rights and Classes**

5.4.1 Without limiting Article 5.3, Shares issued by the Directors may be of a class described in Schedule A, or as otherwise authorised by this Constitution.

5.4.2 The rights attaching to each class of Shares set out in the Schedule A are subject to the rights, privileges and conditions attached to each other class of Shares provided for in, or that may be validly issued pursuant to this Constitution.

5.4.3 Without limiting the authority conferred on the Directors to issue Shares of different classes, and subject to the Law, the Directors may issue preference shares that are:

(a) redeemable or non-redeemable; and
(b) liable to be redeemed, or preference shares that are liable to be redeemed at the option of the Company.

5.5 **Brokerage and Commissions**

The Company may, subject to the Law, pay brokerage or commissions to a person in respect of that person or another person agreeing to take up Shares in the Company.

5.6 **Re-Designation of Shares**

5.6.1 At any time, and with:

(a) the consent in writing of the holders of no less than 75% of the issued Shares of that class (unless a different percentage is specified in respect of that class); or
(b) the sanction of a Special Majority Vote passed at a separate meeting of the holders of the Shares of that class

the Directors may re-classify or re-designate all or some of the Shares of that class to be:

(c) a new class of Shares; or
(d) part of an existing class of Shares.

5.6.2 Shares subject to a re-classification or re-designation under Article 5.6.1 may (if re-classified or re-designated to be a new class of Shares) be issued with:

(a) preferential, deferred, qualified or special rights, privileges or conditions; or
(b) restrictions including (but not limited to) regarding Dividends, voting or the return of capital
(c) as the Directors may from time to time determine.

5.7 **Variation of Class Rights**

If at any time the Share capital is divided into different classes of Shares, the rights attached to any class may, whether or not the Company is being wound up, be varied with:

5.7.1 the consent in writing of the holders of no less than 75% of the issued Shares of that class (unless a different percentage is specified in respect of that class); or
5.7.2 the sanction of a Special Majority Vote passed at a separate meeting of the holders of the Shares of that class.

5.8 **Share Certificates**

5.8.1 A person whose name is entered as a Member in the register of Members is entitled to receive a certificate in respect of the Share in accordance with the Law, without payment.
5.8.2 In respect of jointly held Shares, the Company is not bound to issue more than one certificate, and only to the joint holder first named in the register of Members.
5.8.3 Delivery of a certificate for a Share to one of several joint holders is sufficient delivery to all joint holders.

5.9 **Shares Held On Trust**

5.9.1 Shares held by a Member as trustee of a trust estate may be marked in the register of Members of the Company in such a way as to identify them as being held in respect of that trust, but:

(a) no liability is created by that marking; and

(b) the Company is not affected with notice of any trust so recorded.

5.9.2 Notwithstanding the provisions of Article 5.9.1, the Company is not bound by or compelled in any way to recognise or to investigate:

(a) any equitable, contingent, future or partial interest in any Share;
(b) the holding of any Share on trust;
(c) any dealing by a trustee in respect of Shares; or
(d) (except as expressly provided by the Law or this Constitution), any other right in respect of a Share

except an absolute right of ownership in the registered holder.

5.10 Infants

Where any Shares are held in the name of an infant:

5.10.1 any acts done in relation to those Shares by any parent or legally constituted or appointed guardian of that infant acting or purporting to act or claiming to act for or on behalf of the infant, and accepted

(a) is valid against the Company; an
(b) the Company is not bound or cor

(i) the authority of the pare
(ii) the validity or propriety

5.10.2 the parent or guardian of the

(a) claim and receive from the Comp other moneys payable in the nan receipts and discharge in respect thereof;
(b) sign and execute transfer notices and transfers in respect of any Shares standing in the name of the infant;
(c) consent to any variation of the rights attached to the Shares or any of them standing in the name of the infant; and
(d) attend meetings of the Company (or of any class of members) in the place of the infant and vote thereat in respect of the Shares standing in the name of the infant in the same manner as the infant himself could do if of full age; and

5.10.3 an application for the allotment of Shares or the acceptance of a transfer of Shares to an infant may be signed by any parent or legally constituted guardian of the infant acting or purporting to or claiming to act on behalf of the infant, and that signature is valid and sufficient

This Article does not apply in the case where a parent or guardian of an infant or proposed member has served upon the Company written notice stating that the parent or guardian objects to the application of this Article, unless the person giving the notice withdraws that notice or dies or (if a guardian of the infant) ceases to act as that guardian.

5.11 Options

Who owns the company's shares? Your company register records that ownership. Share ownership and the SMSF's investments perform different jobs.

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5.11.1 Subject to this Constitution and the Law, the Directors may grant to any person an option to acquire or subscribe for Shares during such time and for such consideration as they think fit.

5.11.2 An Option must be granted on terms such that the issue of a Share pursuant to the exercise of the Option complies with this Constitution and the Law.

6. OFFERS OF SHARES

6.1 Pre-Emption On Issue of New Shares

6.1.1 Subject to any direction to the contrary given by the Members of the Company by way of a Special Majority Vote in a general meeting, before issuing new Shares (or options over Shares) to any person, all un-issued Shares of a particular class must, before being issued to a person who is not a Member, be offered to the existing Members in accordance with this Article 6.1.

6.1.2 The offer must be made by notice specifying the number and class of Shares being offered (the **Issue Shares**).

6.1.3 The notice must specify that the Member has a period of at least 10 Business Days from the date of such notice within which to apply for some or all of the Issue Shares.

6.1.4 It must be a term of the offer under this Article 6.1 that, if Members of more than one class apply for some or all of the Issue Shares, the Issue Shares are treated as having been offered:

(a) first, to all persons holding Shares of the same class as the Issue Shares, in priority to the remaining classes of Members; and

(b) thereafter, to the extent that all of the Issue Shares have not been applied for by such class of Members, the Issue Shares are to be treated as having been offered to all of the Members holding the remaining classes of Shares.

6.1.5 It must be a further term of the offer that, if there is competition within any class of Members for the Issue Shares treated as having been offered to that class, such Issue Shares are treated as offered among such class of Members in proportion (as nearly as may be, ignoring fractions of Shares) to their existing holdings of Shares of the class to which the offer is treated as having been made (the **Proportionate Allocation**). However, in their application for Issue Shares a Member may, if they so desire, indicate that they would be willing to purchase a particular number of Shares in excess of his Proportionate Allocation (**Extra Shares**).

6.1.6 In respect of each of the categories of offeree, the Company must allocate the Issue Shares as follows:

(a) If the total number of Issue Shares applied for is equal to or less than the available number of Issue Shares, each Member must be allocated the number applied for in accordance with his application; or

(b) If the total number of Issue Shares applied for is greater than the available number of Issue Shares, each Member must be allocated his Proportionate Allocation, or such lesser number of Issue Shares for which he has applied, and applications for Extra Shares must be allocated in accordance with such applications or, in the event of competition, among those Members applying for

Extra Shares in such proportions as equal (as nearly as may be) the proportions of all the Shares of the same class held by such Members.

6.1.7 Allocations of Issue Shares made by the Company pursuant to Article 6.1.6 constitutes the acceptance by the persons to whom they are allocated of the offer to subscribe for those Issue Shares on the terms offered to them, provided that no person is obliged to take more than the maximum number of Issue Shares that they have indicated to the Company they are willing to subscribe for.

6.1.8 The Company must give notice in writing (an **Allocation Notice**) to each person to whom Issue Shares have been so allocated of the number of Issue Shares so allocated and the aggregate subscription price payable. Completion of the issue of those Issue Shares in accordance with the Allocation Notice must take place within 20 Business Days after the date of the Allocation Notice, whereupon the Company must, upon payment by the offeree of the subscription price due in respect thereof, issue those Issue Shares specified in the Allocation Notice to the persons to whom they have been allocated and deliver the relevant Share certificates.

6.1.9 The Directors may issue any Issue Shares that are not otherwise subject to an Allocation Notice (**Residual Shares**) as they think fit, subject only to this Constitution and the Law.

PROVIDED THAT any Residual Shares must not be offered to any person on terms that are more favourable than those terms on which such Shares were first offered to Members pursuant to this Article 6.1. Without limiting the forgoing, the Directors may issue the Residual Shares to one or more third parties who are not existing Members of the Company.

6.1.10 All persons to whom new Shares are to be issued must sign a form of application as the Company may from time to time prescribe, including an undertaking to be bound by the terms of this Constitution.

6.2 Limited Application of Pre-Emption On Issue of New Shares

The provisions of Article 6.1 do not apply to:

6.2.1 An issue of Shares pursuant to the exercise of an option duly granted by the Company pursuant to this Constitution over one or more un-issued Share in the Company; or

6.2.2 Offers of unissued Shares where the Company has only one Member who is also the sole Director.

6.3 Waiver of Pre-Emption Right

The Members of the Company may by unanimous written agreement waive compliance with the pre-emption on issue procedures set out in Article 6.1, either in respect of one or more issues of Shares, or for one or more periods of time.

7. TRANSFER OF SHARES

7.1 Transfers and Encumbrances

7.1.1 No transfer of the beneficial interest in any Share may be made if this Constitution does not permit a transfer of the legal ownership of such Share.

7.1.2 Any dealing with any Share in violation of any of the provisions of this Constitution is void.

7.1.3 Each Member agrees with the Company and the other Members that, in addition to the requirements of this Constitution, he or she will not create or allow to be created any claim, charge, lien, encumbrance or equity on, or over or affecting any of his Shares unless:

(a) the Board gives its written consent; and
(b) the proposed holder of the encumbrance expressly agrees in writing that its security is subject to the rights of the other Members under this Constitution.

7.2 Permitted Transfers

7.2.1 The restriction on transfers o
apply to a *bona fide* transfer of Shar

(a) to the Spouse of a Member;
(b) to the Personal Representative o
(c) to any nominee who, immediatel
bare nominee for the Member;
(d) merely for the purpose of effectu
an existing trust on which the Sh
(e) if the Member is a company, to a
the shareholders of the Member in proportion to their shareholdings in the Member;
(f) to a beneficiary (or beneficiaries) of a superannuation fund (in respect of which the beneficiary is a trustee or a director of the trustee company);
(g) next of kin of a deceased Member; or
(h) where the transfer is approved by a Special Majority Vote of the Board.

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7.2.2 For the purposes of this Constitution:

(a) the recipient of the Shares pursuant to a transfer under Article 7.2.1 is a **Permitted Transferee**; and
(b) subject to Article 7.9 (Compliance), the Company is obliged to register any transfer made pursuant to a Permitted Transfer described in this Article 7.2.

7.3 Transmission of Shares

7.3.1 In the case of the death of a Member, the survivor (where he was a joint holder), or the Personal Representative (where he was a sole holder) is the only persons recognised by the Company as having any title or interest in the Share.

7.3.2 Notwithstanding Article 7.3.1, the estate of a deceased joint holder is not released from any liability in respect of a Share that had been jointly held by him with other persons.

7.3.3 Subject to this Constitution (and in particular the provisions of Article 7) and to the *Bankruptcy Act 1966* (Cth), a person becoming entitled to a Share in consequence of the death, bankruptcy or mental incapacity of a Member may upon giving evidence of this to the Directors' reasonable satisfaction, elect to register the

Share in his own name or that of a nominee. This election must be in writing and executed by the person taking transfer of the Share.

7.4 Pre-Emption Rights

7.4.1 Except in the case of a transfer pursuant to Article 7.2 (**Permitted Transfers**) or Article 7.6 (**Come Along**), a Member who wishes to transfer any Shares (the **Seller**) must give notice in writing of such wish to the Company (a **Transfer Notice**).

7.4.2 Each Transfer Notice must:

(a) Relate to one class of Shares only;

(b) Relate to a Minimum Parcel of Shares, unless the Transfer Notice is a "deemed" transfer notice under another Article of this Constitution

AND if the transfer would otherwise result in the Member holding less than a Minimum Parcel of Shares: the transfer must relate to the whole of the Member's shareholding in the Company;

(c) in each case, unless the Board consents in writing to a lower number of Shares;

(d) Specify the number and class of Shares which the Seller wishes to transfer (the **Sale Shares**);

(e) Specify the identity of any person to whom the Seller wishes to transfer the Sale Shares (the **Proposed Transferee**);

(f) Specify the price per Share (the **Proposed Sale Price**) at which the Seller wishes to transfer the Sale Shares;

(g) Be deemed to constitute the Company as the Seller's agent for the sale of the Sale Shares at the Sale Price in the manner prescribed by this Constitution; and

(h) Not be varied or cancelled until the expiry of 20 Business Days from the determination of the Sale price under Article 7.5.

7.4.3 The Seller may provide in the Transfer Notice that unless buyers are found for all and not less than a specified number of the Sale Shares, they are not bound to transfer any of such Shares (**Minimum Transfer Condition**), and any such provision is binding on the Company.

7.4.4 Notwithstanding Article 7.4.3, if the Transfer Notice contains a Minimum Transfer Condition, the Company may not make any allocation of Sale Shares unless and until it has found buyers for the minimum number specified in the Minimum Transfer Condition.

7.4.5 The Company may within 5 Business Days of determining the Sale Price under Article 7.5, give a notice to the Seller stating that the Company wishes to repurchase the Sale Shares, in which case the Seller will be bound on payment of the Sale Price, to transfer or redeem the Sale Shares to the Company, with settlement to occur within 30 Business Days of the determination of the Sale Price.

7.4.6 If the Company does not exercise the repurchase option under Article 7.4.5 then, subject to the application of Article 7.4.7, the Company must within 10 Business Days of determining the Sale Price under Article 7.5 give notice in writing to each of the Members (other than the Seller) offering for sale the Sale Shares at the Sale Price.

7.4.7 If the Board considers that the provisions of Article 7.4.6 could mean that the offer of the Sale Shares would require a prospectus, the Board must devise such other method of offering such Sale Shares which does not require a prospectus, (including, but without limitation, offering the Sale Shares to a limited number of Members selected by such method as the Board shall determine at its absolute discretion).

7.4.8 The notice provided under Article 7.4.6 must specify that the Member has a period of 15 Business Days from the date of such notice within which to apply for some or all of the Sale Shares. It must be a term of the offer that, if Members of more than one class apply for some or all of the Sale Shares, the Sale Shares are treated as having been offered:

(a) first, to all persons (other than the Seller) holding Shares of the same class as the Sale Shares, in priority to the remaining class of Members; and
(b) thereafter, to the extent that all of the Sale Shares have not been applied for by such class of Members, the Sale Shares are treated as having been offered to all of the Members holding the remaining classes of Shares.

7.4.9 It must be a further term of the offer that, if there is competition within any class of Members for the Sale Shares treated as having been offered to that class, such Sale Shares are treated as offered among such class of Members in proportion (as nearly as may be) to their existing holdings of Shares of the class to which the offer is treated as having been made (the **Proportionate Allocation**). However, in the application for Sale Shares a Member may, if the Member so desires, indicate they are willing to purchase a particular number of Shares in excess of their Proportionate Allocation (**Extra Shares**).

7.4.10 In respect of each of the categories of offeree, the Company must allocate the Sale Shares as follows:

(a) If the total number of Sale Shares applied for is equal to or less than the available number of Sale Shares, each Member must be allocated the number applied for in accordance with the Member's application; or
(b) If the total number of Sale Shares applied for is greater than the available number of Sale Shares:

    (i) each Member must be allocated their Proportionate Allocation, or such lesser number of Sale Shares for which the Member has applied; and
    (ii) applications for Extra Shares must be allocated in accordance with such applications or, in the event of competition, among those Members applying for Extra Shares in such proportions as equal to (as nearly as may be) the proportions of all the Shares of the same class held by such Members.

7.4.11 Allocations of Sale Shares made by the Company pursuant to Article 7.4.10 constitutes the acceptance by the persons to whom they are allocated of the offer to purchase those Sale Shares on the terms offered to them, provided that no person is obliged to take more than the maximum number of Sale Shares that the Member has indicated to the Company they are willing to purchase.

7.4.12 The Company must forthwith on allocating any Sale Shares give notice in writing (a **Sale Notice**) to the Seller and to each person to whom Sale Shares have been so allocated of:

(a) the number of Sale Shares so allocated; and
(b) the aggregate price payable therefore.

7.4.13 Completion of the sale and purchase of the Sale Shares in accordance with the Sale Notice must take place within 20 Business Days after the date of the Sale Notice, whereupon the Seller must, upon payment of the price due in respect thereof, transfer the Sale Shares specified in the Sale Notice to the persons to whom they have been allocated, and deliver the relevant Share certificates.

7.4.14 In the case of an acquisition of Sale Shares by the Company, if the Seller defaults in transferring any Sale Shares pursuant to Article 7.4.13:

(a) the Company may receive such purchase money and may nominate some person to execute an instrument of transfer of such Sale Shares in the name and on behalf of the Seller;
(b) when such instrument has been duly stamped, the Company must enter the name of proposed transferee into register of members as the holder of such Sale Shares and hold the purchase money on trust (without interest) for the Seller; and
(c) the receipt of the Company for the purchase money is a good discharge to the proposed transferee (who is not bound to see to the application thereof) and, after his name has been so entered in the register of members, the validity of the proceedings may not be questioned by any person.

7.4.15 In the case of an acquisition of Sale Shares by the Company, if the Seller defaults in transferring any Sale Sha

(a) the Company may nominate som
such Sale Shares in the name ar
authorised attorney);
(b) when such instrument has been
Share capital to be cancelled in
(c) the Company must hold the purc
interest) for the Seller.

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7.4.16 If all the Sale Shares are not
in these Articles 7.4.1 to 7.4.15 (inclusive), the Company shall (forthwith upon the exhaustion of such provisions):

(a) notify the Seller that the pre-emption provisions have been exhausted; and
(b) the Seller may at any time within 3 calendar months after receiving such notification, transfer to the Proposed Transferee any unsold Sale Shares at any price not less than the Sale Price, provided that:

(i) if the Seller stipulated in the Transfer Notice a Minimum Transfer Condition which has not been satisfied, the Seller shall not be entitled to sell any Sale Shares unless the Seller complies with such Minimum Transfer Condition; and

(ii) if the Seller stipulated any other conditions in the Transfer Notice, the Seller shall not be entitled to sell any Sale Shares unless the Seller imposes conditions on the sale to the third party which are at least as onerous as those conditions; and

(iii) any such sale shall be a sale in good faith; and

(iv) the Directors may as a transfer condition require the Seller to satisfy the Directors (in such manner as the Directors may reasonably think fit) that the Sale Shares are being sold for no less than the Sale Price (without any deduction, rebate or allowance whatsoever), and otherwise on no less favourable conditions, and if the Directors are not so satisfied, the Directors may refuse to register the transfer.

7.5 Sale Price

7.5.1 The Sale Price in respect of the Sale Shares is:

(a) the Proposed Sale Price specified by the Seller; or

(b) at the option of the Company:

(i) where the Board does not accept that the Proposed Sale Price represents a fair value for the Sale Shares; and

(ii) the Seller and the Company are not able to agree on a Sale Price by negotiation within 10 Business Days of receipt of the Transfer Notice

the fair value is to be fixed in accordance with Article 7.5.2.

7.5.2 For the purposes of this Article, the fair value of the Sale Shares must be determined as follows:

(a) The fair value of the Sale Shares must be determined as the relevant proportion of the fair value of the Company as a whole, and on the assumption of a going concern (unless the assumption of a going concern cannot reasonably be made);

(b) No allowance is to be made for any "minority discount" that would ordinarily attach to the Sale Shares (if any);

(c) The fair value of the Sale Shares must be determined by an independent valuer appointed jointly by the Seller and the Company, or in the absence of such agreed appointment within 5 Business Days, a valuer appointed by the President of the *Law Society* of the State on the application of either party (the **Valuer**);

(d) In determining the fair value of the Shares the Valuer may take into account any *bona fide* third party offer to purchase the Sale Shares that has been received by the Seller as a material but not determining factor;

(e) The Valuer must certify in writing the sum which, in the Valuer's opinion, is the fair value of the Sale Shares and give notice in writing to both parties of the sum so certified. In certifying as to the fair value of the Sale Shares, the Valuer acts as an expert and not an arbitrator; and

(f) The costs of the Valuer must be borne equally by the Seller and the Company.

7.5.3 The fair value fixed in accordance with this Article 7.5 will be binding and the Seller must complete the transfer of the Sale Shares at the fair value so fixed by the Valuer.

7.6 **Qualifying Offers (Come Along)**

7.6.1 In this Constitution a **Qualifying Offer** means a *bona fide* offer at arm's length in writing by or on behalf of any person (the **Outside Offeror**) to the holders of all Shares in the Company to acquire all their Shares.

7.6.2 For the purposes of Article 7.6.1, an offer from a party who is an Associate of a person holding no less than 50% of the ordinary Shares in the Company does not constitute a bona fide offer at arm's length.

7.6.3 If the holders of not less than 75% in nominal value of the fully-paid Ordinary Shares then on issue (the **Accepting Members**) wish to accept the Qualifying Offer, then the provisions of Articles 7.6.4 to 7.6.6 (inclusive) apply.

7.6.4 The Accepting Members must give written notice (the **Come Along Notice**) to the remaining Members (the **Other Members**) of their wish to accept the Qualifying Offer and the Other Members are, subject to the operation of Article 7.6.5, thereupon unconditionally bound to:

(a) accept the Qualifying Offer;

(b) provide to the Outside Offeror a warranty that they hold full title to their Shares; and

(c) transfer their Shares to the Outside Offeror (or his nominee) on the date specified by the Accepting Members.

7.6.5 The Other Members:

(a) have the right (between them in proportion to their respective holdings of Shares on the date of the relevant Come Along Notice, or in such other proportions as they agree between them and specify in that notice) to purchase all (and not only a proportion) of the Shares proposed to be sold by the Accepting Members pursuant to the relevant Qualifying Offer (the **Assented Shares**) for the same price and on the same terms (save that any counter-offer must be unconditional in all respects) as the said offer, and in priority to the rights of the Outside Offeror under such offer; and

(b) must between them:

(i) notify the Accepting Members of the exercise of that right by written notice (a Matching Notice) given within 15 Business Days of the giving of the Come Along Notice; and

(ii) complete the purchase within the earlier of the completion date contemplated in the Qualifying Offer and 40 Business Days of the serving of the Matching Notice.

(c) If a Matching Notice is served it obliges the Accepting Members and the Other Members who served the Matching Notice to complete the sale and purchase of the Assented Shares on the said terms, and Article 7.6.6 shall apply *mutatis mutandis* for that purpose.

7.6.6 If any Other Member does not, within 5 Business Days of being required to do so, execute and deliver transfers in respect of the Shares held by them and deliver the certificate(s) in respect of the same or a suitable indemnity in lieu thereof, then any Accepting Member is entitled to:

(a) execute, and are entitled to authorise and instruct such person as they think fit to execute the necessary transfer(s) and indemnities on the Other Members' behalf (as their duly appointed attorney);
(b) against receipt by the Company (on trust for those shareholders) of the consideration payable for the relevant Shares, deliver such transfer(s), certificate(s) or indemnities to the Outside Offeror (or his nominee); and
(c) register that Outside Offeror (or his nominee) as the holder thereof

AND after such registration, the validity of such proceedings may not be questioned by any person.

7.7 Qualifying Disposals (Tag Along)

7.7.1 If at any time one or more Members (the **Proposed Sellers**) propose to sell, in one or a series of related transactions (the **Proposed Transaction**), more than 50% in nominal value of the fully-paid Ordinary Shares (the **Majority Holding**) to any person, other than pursuant to Article 7.2 (**Permitted Transfers**) or Article 7.6 (**Come Along**), the Proposed Sellers may only sell the Majority Holding if they comply with the provisions of Articles 7.7.3 to 7.7.6 (inclusive).

7.7.2 For the avoidance of doubt, compliance with the provisions of Articles 7.7.3 to 7.7.6 (inclusive) may be included as a condition precedent to completion of the Proposed Transaction.

7.7.3 The Proposed Sellers must g
the other holders of the Ordinary Sh
Business Days prior to the date on w
unconditional or otherwise terminate

7.7.4 The Proposed Sale Notice m
accompanying documents:

(a) the identity of the proposed buye
(b) the purchase price and other ter
(c) the proposed date of sale (the **P**
(d) the number of Shares proposed to be purchased by the Proposed Buyer (the **Proposed Sale Shares**).

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7.7.5 Any other holder of fully-paid Ordinary Shares in the Company is entitled, by written notice given to the Proposed Sellers within 10 Business Days of receipt of the Proposed Sale Notice, to require the Proposed Sellers to procure the sale of all or some of their fully-paid Ordinary Shares to the Proposed Buyer on the same terms and conditions as those set out in the Proposed Sale Notice.

7.7.6 If any other holder of Shares is not given the rights accorded him by the provisions of this Article 7.7, the Proposed Seller is required not to complete the Proposed Transaction, and the Company is bound to refuse to register any transfer intended to carry the Proposed Transaction into effect.

7.8 Take-Over of Member

7.8.1 On the date when a Change-in-Control of a Member (the **Taken-Over Party**) occurs, the Taken-Over Party is deemed to have issued a notice in writing (the **Transfer Notice**) to the Company and to the other Members (the **Receiving Parties**)

offering to sell all of the Shares held by the Taken-Over Party (the **Offered Shares**) to the Receiving Parties (the **Offer**) at an open market value per Share determined by an Independent Valuer appointed by the Company:

(a) as at the date when the change in control took place;
(b) at the cost of the Taken-Over Party;
(c) on the instructions of the Company or one or more other Members; and
(d) within 10 Business Days of receiving those instructions.

7.8.2 Any of the Receiving Parties (the **Buying Parties**) may, within 20 Business Days of receiving the determination of the Independent Valuer under Clause 7.8.1, by notice in writing to the Taken-Over Party, accept the Offer.

7.8.3 Where there is more than one Buying Party, each may agree to accept all or any of the Offered Shares, but in total not less than all of the Offered Shares, and if on acceptance the demand by the Buying Parties exceeds the number of Offered Shares, the Offer is deemed to be accepted by the Buying Parties *pro-rata* to their existing shareholdings.

7.8.4 Completion of the sale of the Offered Shares accepted by a Buying Party must take place within 20 Business Days after the date that the notice under Clause 7.8.2 accepting the Offer is given to the Taken-Over Party at a time and place to be agreed by the Buying Party and the Taken-Over Party, or failing agreement, at 11.00am on the next Business Day after the 20 Business Day period at the registered office of the Company.

7.8.5 On completion of the sale of the Offered Shares:

(a) the Buying Parties must pay the purchase price to the Taken-Over Party for the Offered Shares accepted by the Buying Parties; and
(b) the Taken-Over Party must deliver to the Buying Parties the certificates for the Offered Shares and transfers of the Offered Shares executed by the Taken-Over Party.

7.8.6 If the Taken-Over Party defaults in complying with Clause 7.8.5, the Company is irrevocably authorised by the Taken-Over Party to receive the purchase money and to execute transfers of the Offered Shares to the Buying Parties on behalf of the Taken-Over Party. Following execution and stamping of the appropriate transfers, the Trustee must register the transfers of the Offered Shares and the Company must hold the purchase money on trust for the Taken-Over Party. The receipt of the Company for the purchase money is a good discharge to the Buying Parties and after their names have been entered in the register under the Clause 7.8.5(b) the validity of the actions of the Company hereunder may not be questioned by any person.

7.9 **Compliance**

For the purpose of ensuring compliance with the transfer provisions in Article 7, the Company may require any Member to procure that:

7.9.1 he or she; or
7.9.2 any Proposed Transferee; or
7.9.3 such other person as is reasonably believed to have information and/or evidence relevant to such purpose

provides to the Company any information and/or evidence relevant to such purpose and until such information and/or evidence is provided:

7.9.4 the Company must refuse to register any relevant transfer; and/or

7.9.5 the Company must refuse to recognise the bearer of any Shares, or permit such person to exercise any right as a member of the Company; and/or

7.9.6 if such Member is not a Defaulting Member, such Member must forthwith be treated as being a Defaulting Member under this Constitution.

7.10 **Procedures**

7.10.1 Subject to the provisions of this Constitution:

(a) a Member may transfer all or any of his Shares by instrument in writing in any usual or common form, or in any other form that the Directors may from time to time approve;

(b) an instrument of transfer referred to in this Article must be executed by both the transferor and the transferee;

(c) a transferor of a Share remains the holder thereof until the transfer is registered and the name of the transferee is entered in the Register of Members in respect of that Share;

(d) the instrument of transfer must be left for registration at the registered office of the Company, accompanied by the certificate (if any) of the Shares to which it relates, and such other information as the Directors reasonably require to show the right of the transferor to make the transfer;

(e) following satisfaction of the matters set out in Article 7.10.1(d), the Directors must, subject in each case to the powers and discretions vested in the Directors under this Constitution, register the transferee as a Member; and

(f) the registration of transfers may be suspended at such times and for such periods as the Directors from time to time determine, but not exceeding 60 whole Business Days in any calendar year.

7.10.2 The same terms and conditions as are set out in Article 7.10.1 apply in relation to the transfer of options to take up Shares.

7.11 **General Discretion Not to Register a Share Transfer**

7.11.1 Subject only to Article 7.2, the Directors may refuse to register a transfer of Shares for any reason they think fit.

7.11.2 The Company must give written notice to the person who lodged the transfer within 5 Business Days after a refusal to register a transfer.

7.11.3 Except in the case of suspected fraud, they must return the transfer to that person.

7.12 **Suspension of Share Transfers**

The Directors may suspend registration of transfers for a specified period at any time, provided the total period of suspension in a calendar year is no more than 20 Business Days.

8. MEMBER WARRANTIES

8.1 **General Member Warranties**

Each Member warrants and represents in respect of itself to each of the other Members and the Company, as a condition of holding Shares in the Company that:

8.1.1 the Company's register contains a complete list of the amounts paid (directly or indirectly in the form of an initial subscription of cash in a company that is now a subsidiary company) by that Member on the acquisition of the Shares held by that Member as at the Effective Date;

8.1.2 the acquisition and holding of Shares is properly authorised by all necessary corporate action;

8.1.3 it has full corporate power and lawful authority to acquire and hold Shares and to perform or cause to be performed all its obligations under this Constitution; and

8.1.4 the terms of this Constitution do not conflict with or result in the breach of or default under the provision of its Constitution or any material term or provision of any agreement, writ, order, injunction, judgment, law, rule or regulation to which it is a party, subject to or by which it is bound.

8.2 Corporate Member Warranties

Each Member that is a body corporate warr
the other Members and the Company, as a

8.2.1 it is a body corporate duly inc
incorporation;

8.2.2 it has power and authority to
this Constitution;

8.2.3 all necessary meetings have
passed and all consents obtained to
to perform in accordance with its ter

8.2.4 performance in accordance with the terms of this Constitution will not violate:

(a) the Member's Constitution or any other constituent documents; or
(b) any other agreement or document which is binding on it or its assets.

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8.3 Trustee Member Warranties

If any Member (a Trustee Member) acquires Shares in the capacity as trustee for a trust (a Trust), whether or not the other parties have notice of this fact, the Trustee Member agrees with the Company and each other Member that:

8.3.1 the Trustee Member is liable both personally and in his, her or its capacity as trustee of the Trust;

8.3.2 the Trustee Member will not retire or resign as trustee or appoint a new or additional trustee in respect of the Trust without the written consent of the Company. Such consent must not be unreasonably withheld, provided that the Trustee Member ensures that any new or additional trustee executes a document (in a form reasonably satisfactory to the Board) agreeing to be bound by the terms of this Constitution as though it were the original Trustee Member;

8.3.3 the Trustee Member has become bound by this Constitution as part of the due and proper administration of the Trust and for the benefit of the beneficiaries or Unitholders (as the case may be) of the Trust;

8.3.4 the Trustee Member has power under the document establishing the Trust to execute and perform the Trustee Partner's obligations under this Constitution, and all necessary action has been taken to authorise performance in accordance with this Constitution under that document;

8.3.5 the Trustee Member has an unrestricted and unlimited right to be fully indemnified out of the assets of the Trust; and

8.3.6 the Trustee Member will not in any way vary the terms of the Trust without the written consent of the Company.

9. MEMBERS' REPRESENTATIVES

9.1 A corporation that is a Member (whether as a trustee or otherwise) may appoint in writing to the Company a Member's Representative to attend Meetings and perform other tasks and obligations on behalf of the Member.

9.2 An appointment under this Article 9 is valid until such appointment is duly revoked and notice of its revocation is served upon the Company.

9.3 Each Member's Representative must:

9.3.1 be appointed as the agent and representative of their respective Member; and

9.3.2 perform the tasks and obligations of their respective Member (as agent) that must be performed by a natural person, including but not limited to attendance at Meetings.

10. DUTY OF GOOD FAITH & DISCLOSURE OF CONFLICT OF INTEREST

10.1 Each Member agrees to at all times to:

10.1.1 act in good faith towards each other Member and the Company, and give to each other full information and truthful explanation of all matters relating to the affairs of the Company;

10.1.2 act in the best interests of the Company;

10.1.3 allow the Company to conduct the Business as a commercial venture;

10.1.4 deal with the Company on open market and arm's length terms; and

10.1.5 otherwise perform and observe all of the obligations of the Member to be performed or observed under this Constitution.

10.2 Each Member must make a full and complete disclosure in writing to the other Members of the existence, nature and extent of any conflict of interest or any fact or circumstance likely to result in a conflict of interest that it may have with its duties and obligations under this Constitution or with the affairs and aspirations of the Company forthwith upon becoming aware of such conflict, fact or circumstance.

11. MEMBER DEFAULT

11.1 Defaulting Members

11.1.1 If a Member (the **Defaulting Member**) fails to comply with any material condition or obligation which must be complied with under this Constitution (an **Act of Default**), another Member or other Members (in each case holding Ordinary Shares) may give the Defaulting Member a notice (the **First Default Notice**) requiring that Act

of Default must be remedied within no less than 10 Business Days from the date of service of the First Default Notice.

11.1.2 If the Act of Default referred to in Article 11.1.1 is not remedied within the period specified in the First Default Notice, another Member or other Members (in each case holding Ordinary Shares) may give the Defaulting Member a further notice (the **Second Default Notice**) to remedy the Act of Default.

11.1.3 The Second Default Notice must be given within 60 Business Days of the service of the First Default Notice.

11.1.4 The Second Default Notice must give notice to the Defaulting Member that, if the Act of Default is not remedied within no less than 10 Business Days from the date of service of the Second Default Notice:

(a) The Defaulting Member is deemed to have served a Transfer Notice under and pursuant to Article 7.4.1;
(b) The Transfer Notice is deemed:

(i) to be complete in all respects;
(ii) not to impose any Minimum Transfer Conditions; and
(iii) to specify a Proposed Sale Price equal the fair Market Value of the relevant Shares as determined in accordance with Article 7.5.

11.1.5 If the Act of Default is not remedied within the period specified in the Second Default Notice then:

(a) The Defaulting Member is deemed to have served a Transfer Notice; and
(b) The deemed Transfer Notice is deemed:

(i) to be complete in all respects;
(ii) not to impose any Minimum Transfer Conditions; and
(iii) to specify a Proposed Sale Price equal to the fair value of the relevant Shares as determined in accordance with Article 7.5.

11.1.6 Each Member covenants with each other Member that a Proposed Sale Price equal to the fair value of the relevant Shares as determined in accordance with Article 7.5 is fair and reasonable, given the context in which the Proposed Sale Price would be set.

11.1.7 A transfer of Shares pursuant to a Transfer Notice given under Article 11.1.5 is without prejudice to any other remedies that may be available to a Member or the Company as a result of the Defaulting Member's Act of Default.

11.2 **Power of Attorney In Event of Default**

11.2.1 Each Defaulting Member under Article 11.1, upon failing to remedy an Act of Default within the time specified in that Article, irrevocably appoint each of the other Members, jointly and severally its attorney:

(a) To sign any instrument on its behalf;
(b) To pay any monies due to be paid by it under this Constitution, on its behalf ;
(c) To do any act on its behalf;
(d) To use its name; and
(e) To give effect to this Constitution.

11.2.2 A certificate signed by the other Member or Members that an instrument or act falls within this power of attorney is sufficient evidence of that matter unless proven incorrect.

11.2.3 The power of attorney is granted to secure the performance of the obligations of the Members owed under this Constitution.

11.2.4 A Member may exercise the power of attorney notwithstanding that the exercise of the power constitutes a conflict of interest or duty.

11.2.5 Each Member must ratify any exercise of a power by an attorney.

12. CALLS ON SHARES AND FORFEITURE

12.1 Calls on Shares

12.1.1 Subject to the terms on whic

(a) The Directors may from time to ti
money that remains unpaid of an
(b) Each Member must, within 10 Bu
the place and maximum time for
on that Member's Share or Share

12.1.2 The Directors may at any tim

(a) extend the time allowed to pay; c
(b) revoke a call

by issue of a notice in writing to the relevant Members.

12.1.3 No call is payable within 20 Business Days after the date fixed for payment under any preceding call in relation to the same Share.

12.1.4 Unless otherwise resolved by the Board, any return of capital made to a Member in respect of a partly-paid Share must first be applied (by way of setoff) in paying up any money that remains unpaid in respect of the issue of that Share.

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12.2 Forfeiture of Shares

In the event that a Member fails to pay any call within the time allowed under Article 12.1.1(b), or fails to pay any instalment towards the subscription price of any Share as agreed at the time of application and subscription:

12.2.1 The Directors may (until the call or instalment is paid in full) serve a notice on that Member requiring the Member to pay the call or instalment together with:

(a) any interest accrued thereon at the rate per annum (if any) agreed at the time of application and subscription (the **Call Rate**) (unless waived); and
(b) all reasonable expenses of the Company arising from the failure to pay and the process of extracting payment (collectively, the **Call Default Fees**)

12.2.2 The notice must set out:

(a) a time and place (at least 10 Business Days after the date of that notice) for payment;
(b) the amount of the call or instalment; and

(c) the amount of interest and expenses (if any) to be paid and state that a failure to pay that amount renders the Share subject to the unpaid call or instalment liable to be forfeited.

12.2.3 In the event of non-compliance by the Member with the terms of the notice:

(a) the relevant Share may be forfeited by a Simple Majority Vote of the Directors;
(b) the forfeiture includes any Dividends declared but remaining unpaid in respect of that Share at the time of the forfeiture; and
(c) an entry of the forfeiture and the date thereof must thereafter be entered into the register of Members.

12.2.4 A forfeited Share is deemed to be the property of the Company, and the Directors may deal with that Share as they think fit.

12.2.5 Any Member whose Share has been forfeited remains liable for the payment of all calls, instalments, interest and expenses owing in respect of that Share, and the outstanding amount accrues interest at a rate per annum agreed at the time of application and subscription (if any), and in the absence of such agreement, at the Standard Rate (the **Call Default Rate**) until payment in full of those amounts. The Directors may enforce the payment of this amount but are not under any obligation so to do.

12.2.6 Subject to the Law, the forfeiture of a Share results in the complete extinction of all interests, claims and demands against the Company in respect of that Share, and all other rights provided in respect of that Share.

13. LIEN OVER SHARES

13.1 Subject to Article 13.2 and the Law, the Company has a first lien on:

13.1.1 Every Share of a Member (not being a fully paid Share) for all money called or payable in respect of that Share, and any Dividends declared thereon; and

13.1.2 All Shares (other than a fully paid Share) registered in the name of a single person for all money presently payable by that person or that person's estate to the Company.

13.2 The Directors may at any time and from time to time declare any Share to be wholly or in part exempt from the provisions of Article 13.1.

14. GENERAL MEETINGS

14.1 Convening of General Meeting

14.1.1 The Directors:

(a) May, whenever they think fit, convene a **general meeting** of the Members of the Company; and
(b) Must call and arrange to hold a general meeting when required by the Law.

14.2 Cancellation of General Meetings

14.2.1 The Directors may cancel a general meeting convened by them.

14.2.2 The Directors may cancel a general meeting convened by a Member or Members in accordance with the Law if they have received from that Member or Members a signed notice withdrawing their request for the meeting.

14.3 Notice of General Meetings

14.3.1 In every notice calling a general meeting of the Company there must appear, with reasonable prominence, a statement that a Member entitled to attend and vote is entitled to:

(a) appoint one or more **proxies** to attend and vote instead of him and that a proxy need not also be a Member; or
(b) submit a Direct Vote.

14.3.2 All notices and other communications relating to a general meeting that any Member is entitled to receive must also be sent to the auditors of the Company for the time being (if there is one).

14.4 Proceedings At General Meetings

14.4.1 No business may be transacted at any meeting unless a **quorum** is present.

14.4.2 A quorum is constituted by Members holding no less than 50% of the total voting rights in the Company that may be cast at that meeting (whether in person, by proxy, by Direct Vote or by a duly authorised representative of a corporation).

14.5 Right of Non-Members To Attend General Meeting

The Chair may invite any person who is not a Member to attend and address a general meeting, including a Director, auditor or Secretary.

14.6 Technology

The Company may hold a meeting of members at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate in the meeting.

14.7 Chair of General Meetings

14.7.1 The Chair of meetings of Directors is also the Chair of a general meeting.

14.7.2 If:

(a) there is no Chair;
(b) the Chair is unwilling to act as chair; or
(c) the Chair is not present within 30 minutes after the time appointed for the general meeting to be held,

the Directors may choose another Director to be chair of the meeting. If the Directors fail to do so, or all Directors present decline to be Chair, the Members who are present may choose one of them to be Chair of the Meeting.

14.7.3 The Chair's rulings on any matter relating to the order of business, procedure and conduct of the general meeting are, if made in good faith, final. No motion of dissent from a ruling by the Chair will be accepted.

14.8 Business At General Meetings

14.8.1 All business must be considered and resolved by way of a Simple Majority Vote, unless required to be considered and resolved by way of either a Special Majority Vote or a Unanimous Decision under a term of this Constitution or by the Law.

14.8.2 Subject to this Constitution and the requirements of the Law, a resolution is taken to be carried if the requisite number of qualifying votes is passed in favour of it.

14.9 Voting At General Meetings

14.9.1 Subject to the rights attaching to any particular class of Shares, the voting rights attached to each Share are as set out in this Article:

(a) **On a show of hands**, every Member holding one or more Shares, who (being an individual) is present in person, by proxy or by Direct Vote, or (being a corporation) is present by a duly authorised representative, by proxy or by Direct Vote, has 1 vote; and

(b) **On a poll**, every Member holding one or more Shares or who (being an individual) is present in person, by proxy or by Direct Vote or (being a corporation) is present by a duly authorised representative, by proxy or by Direct Vote, has 1 vote for each such Share of which he is the holder.

14.9.2 Unless a poll is demanded by the Chair, or by a Member entitled to vote at the meeting (before or on the declaration of the result of a show of hands):

(a) A resolution put to vote is decided on a show of hands;

(b) The Chair must make a declaration that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority; and

(c) An entry to that effect in the reco
evidence of the fact, without proc
recorded in favour of or against t

14.9.3 In the case of joint holders:

(a) The vote of the senior holder wh
Vote or by proxy, must be accep
holders. For this purpose, senior
names stand in the register of M

(b) Several executors or administrat
Share stands are, for the purpose of this Article, deemed joint holders thereof.

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14.9.4 Before taking a vote on a resolution at a general meeting, the Chair must inform the meeting whether any proxy votes or Direct Votes have been received and how any proxy votes or Direct Votes are to be cast.

14.9.5 A Member who is of unsound mind or whose person or estate is dealt with under any law relating to mental health or insolvency may vote whether on a show of hands or on a poll by his committee or by the Public Trustee or by the person (if any) who properly has the management of his affairs or estate. Any committee trustee or other person may vote by proxy or attorney.

14.9.6 A Member is not entitled to be present or to vote at a general meeting unless all calls and other amounts payable at the time of the meeting in respect of Shares held by the Member have been paid in full.

14.9.7 A challenge to a person's entitlement to vote at a general meeting or to the validity of a vote made at that meeting may only be raised at that meeting. The Chair must determine any dispute as to the admission or rejection of a vote and if made in good faith that determination is final and conclusive.

14.9.8 In the event of an equality of votes cast for and against a question the Chair does not have a second or casting vote.

14.10 The Taking of Polls

14.10.1 A demand of a poll:

(a) Does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded;
(b) May be withdrawn before the poll is taken; and
(c) On a question of adjournment must be taken at the meeting without adjournment.

14.10.2 A poll properly demanded must be taken:

(a) In the manner and at the time and place that the Chair of the meeting directs; and
(b) Either at once or after an interval or adjournment.

14.10.3 The result of the poll is deemed to be the resolution of the meeting at which the poll was demanded.

14.11 Adjournment of Meetings

14.11.1 If a quorum is not present within 30 minutes after the time appointed for the meeting:

(a) If the meeting has been called upon a requisition of Members – the meeting must be dissolved; or
(b) In any other case – the meeting must stand adjourned to:

(i) the same day in the next week at the same time and place; or
(ii) the other day and time and place (if any) that the Directors decide and notify the Members of at that adjourned meeting

(as the case may be) and a quorum of any 2 Members present at the adjourned meeting (in person or by proxy) constitutes a quorum and may transact the business for which the meeting was called.

14.11.2 The Chair of a general meeting may, with the sanction of the meeting, adjourn the meeting from time to time and from place to place. However, no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

14.12 Failure To Send Notice of Meeting

An accidental omission to send a notice of a general meeting (including a proxy appointment form), the postponement of a general meeting to any Member, or the non-receipt of a notice

(or form) by any Member, does not invalidate the proceedings or any resolution passed at the general meeting.

14.13 Chair May Refuse Admission

The Chair of a general meeting may refuse admission to a person, or require a person to leave and not return to a meeting if the person causes, or is likely to cause (in the reasonable opinion of the Chair) any disruption to the meeting.

14.14 Written Resolutions

14.14.1 The Company may pass a resolution without a general meeting being called or held if the resolution is set out in a document

14.14.2 If the Company has:

(a) only 1 member, signed in the manner set out in Section 249B of the Law; or
(b) more than 1 member, signed in the manner set out in Section 249A of the Law.

14.14.3 The Company may treat a document on which a facsimile or electronic signature appears or which is otherwise acknowledged by a member in a manner satisfactory to the Board as being signed by that member.

15. MEMBER PROXIES

15.1 Appointment of Proxy

15.1.1 A Member may appoint a proxy or attorney.

15.1.2 The Member, the Member's attorney or the corporation Member's representative must sign the appointment of a proxy.

15.1.3 The appointment of a proxy is valid if it contains the information which the Law requires it to contain. This may include:

(a) the name and address of the Member;
(b) the name of the Company;
(c) the proxy's name or the name of the proxy's office; and
(d) the meetings (or meetings) at which the proxy is to be used.

15.1.4 A Member who is entitled to cast 2 or more votes may appoint no more than 2 proxies. A proxy does not have to be a Member of the Company. If a Member appoints 2 proxies, neither can vote on a show of hands. If the appointment does not specify what proportion of votes each is to be proxy for, each may exercise one half of the Member's voting rights. A fraction of a vote is to be disregarded.

15.1.5 An appointment is not invalid merely because it does not specify all this information.

15.1.6 An appointment may be a standing appointment.

15.1.7 An appointment for a meeting is valid for an adjournment of that meeting.

15.2 Revocation of Appointment

15.2.1 A Member who has appointed a proxy may revoke the appointment at any time by giving the Company written notice.

15.2.2 An appointment is not revoked by the Member attending and taking part in a general meeting. However, if the Member votes on a resolution, the proxy or other person appointed to exercise a Member's voting rights is unable to vote.

15.3 Form of Proxy

Schedule B contains a valid form of proxy as at the Effective Date.

15.4 Lodgement of Proxies

15.4.1 Unless otherwise approved by the Chair of Directors, a proxy, power of attorney or other authority to exercise a Member's voting rights at a general meeting is not to be treated as valid unless notice of it is received by the Company at its registered office (or another place specified in the notice of meeting) at least 24 hours before the time the meeting (or adjourned meeting) at which it is to be exercised is due to commence.

15.4.2 The proxy or power of attorney must be accompanied by the authority under which the proxy was signed or a certified copy of the power of attorney. Faxed documents are acceptable.

15.5 Rights of Proxies, Power pof Attorneys or other authority

15.5.1 A proxy or other person appointed to exercise a Member's voting rights has the same rights as the Member to sp
are suspended while the Member is

15.5.2 The proxy or other person m
direction in the appointment.

15.5.3 If there is no direction, and th
resolution, the person may vote on it

15.5.4 If there is no direction, and th
resolution, he or she must abstain fr

15.5.5 A proxy or other person appo
demand or join in a demand for a po

Shareholders do not always attend in person. The Constitution includes rules for appointing proxies and recording who votes.

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15.6 Votes By Proxy, Power of Attorney or Other Authority Remain Valid

15.6.1 A vote by proxy, power of attorney or other authority is valid despite any of the following:

(a) the death of the Member or the Member ceasing to have mental capacity;
(b) the bankruptcy or liquidation of the Member;
(c) the revocation of the proxy, power of attorney or other authority;
(d) the transfer of the Share in respect of which the vote was cast.

15.6.2 This does not apply if the Company receives notice of the relevant fact at its registered office at least 24 hours before the commencement of the meeting (or adjourned meeting) at which the vote is to be cast.

15.7 Proxy of Joint Holders

The vote of a proxy appointed by all the joint holders of a Share is to be counted to the exclusion of a vote by any other proxy of any of the joint holders.

15.8 Chair May Require Evidence

The Chair of a general meeting may require a person acting as a proxy for a Member to establish that he or she is the person named in the lodged proxy. If the person cannot do so, he or she may be excluded from voting as proxy for the Member.

16. MEMBER DIRECT VOTING

16.1 One Vote

If a Member casts a Direct Vote on a particular resolution they are taken to have revoked the authority of a previously authorised proxy to vote on their behalf on that resolution.

16.2 Priority of Votes

If a Member attempts to cast more than one vote on a particular resolution in respect of the same share, only the last vote received by the Company is to be taken to have been cast, irrespective of whether the vote is by way of Direct Vote or proxy.

16.3 Direct Votes

16.3.1 Pursuant to Article 14.9 a Member is entitled to cast a Direct Vote prior to a general meeting.

16.3.2 Every Member who is entitled to attend a general meeting is entitled to cast a Direct Vote.

16.4 Direct Voting Instrument

16.4.1 The Member, the Member's attorney or the corporation Member's representative must sign the Direct Vote.

16.4.2 A Direct Vote includes any form of vote that the Directors may prescribe or accept including by any electronic means.

16.5 Lodgement of Direct Vote

Unless otherwise approved by the Chair of Directors, a Direct Vote is not treated as valid unless the following is received by the Company at its registered office (or another place specified in the notice of meeting) at least 24 hours before the time of the meeting (or adjourned meeting) at which it is to be utilised:

16.5.1 notice of the Member's voting intention, and

16.5.2 any authority or power under which the Direct Vote was signed or a certified copy of that power or authority.

16.6 Form of The Direct Vote

A notice of a voting intention is valid if it contains the following information:

16.6.1 the Member's name and address or any applicable identifying notations such as the holder identification number or similar approved by the Directors or specified in the notice of meeting; and

16.6.2 the Member's voting intention on any or all of the resolutions to be put before the meeting.

16.7 Validity

16.7.1 A vote cast by Direct Vote is valid despite any of the following:

(a) the death of the Member or the Member ceasing to have mental capacity;
(b) the bankruptcy or liquidation of the Member;
(c) the revocation of the Direct Vote; or
(d) the transfer of the Share in respect of which the Direct Vote was cast.

16.7.2 This does not apply if the Company receives notice of the relevant fact at its registered office at least 24 hours before the commencement of the meeting (or adjourned meeting) at which the Direct Vote was to have been cast.

16.8 Chairman's Decision

The Chair's decision as to whether a Direct Vote is valid is conclusive.

16.9 Attendance By Member Who Has Cast Direct Vote

A person who has cast a Direct Vote is entitled to attend the meeting. The Member's attendance cancels the Direct Vote, unless the Member instructs the Company or at its instruction the Company's share registry otherwise.

16.10 Count

If a vote is taken at a meeting on a resolution on which a Direct Vote was cast, the Chair of the meeting must:

16.10.1 on a vote by show of hands, count each Member who has submitted a Direct Vote for or against the resolution in accordance with their Direct Vote, and

16.10.2 on a poll, count the votes cast by each Member who has submitted a Direct Vote directly for or against the resolution, by the number of shares held by each Member.

16.11 Certificate of Direct Votes Cast

The Chair of a meeting must ensure that a certificate of Direct Votes received is signed by the Company Secretary and is available at the meeting ahead of any vote being taken.

17. MEETINGS OF A CLASS OF SHARES

The provisions of this Constitution relating to general meetings shall apply mutatis mutandis to a meeting of a distinct class of shareholders.

18. APPOINTMENT AND REMOVAL OF DIRECTORS

18.1 The Board of Directors

18.1.1 The Board will consist of:

(a) A minimum of 1 Director; and
(b) A maximum of 5 Directors
(c) unless otherwise varied by a Special Majority Vote of Members.

18.1.2 The Directors may act notwithstanding any vacancy in their body. However, if and so long as the number of Directors is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum of Directors, the continuing Directors or Director may act for no other purposes other than to:

(a) Increase the number of Directors to the minimum in accordance with this Constitution and the Law; or
(b) Call a general meeting of the Company's Members.

18.2 Appointment of Directors

Subject to this Constitution and the Law, the Company in general meeting may by a Simple Majority Vote:

18.2.1 Appoint any person to be a Director of the Company;
18.2.2 Fix his qualifications and remuneration;
18.2.3 Fix the maximum and minimum number of Directors that must retire by rotation and (if retirement by rotation is required) the order of that rotation; and
18.2.4 Provide for the filling up of casual vacancies and fix the quorum of Directors.

18.3 Casual Vacancies

18.3.1 Subject to the other provisions of this Constitution, the Directors holding office from time to time pursuant to anothe
Director to fill a casual vacancy (an I
18.3.2 An Interim Director ceases to
of his or her appointment, unless the
accordance with the other provisions

Directors act for the company. The Constitution sets out their appointment and powers. Keep ASIC records up to date when directors change.

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18.4 Board Appointed Directors

18.4.1 The Directors holding office f
Decision, appoint any one or more o
Board Appointed Director).
18.4.2 A Board Appointed Director (duly appointed pursuant to Article 18.4.1) holds office only until the earlier of:

(a) the date specified in the Unanimous Decision appointing the Board Appointed Director; or
(b) the expiry of 18 calendar months from the date of appointment

at which time the Directors may, at their election, reappoint the Board Appointed Director under Article 18.4.1.

18.5 Director Qualifications

Each Director is not:

18.5.1 required to hold any Share qualification;
18.5.2 subject to retirement by rotation; or
18.5.3 subject to removal except under the provisions of this Constitution headed 'Removal of Directors by Members' or as required by the Law.

18.6 Directors' Undertakings

Each Director must, and each Member must procure that each Director:

18.6.1 conduct the Business in accordance with sound and good management practice and the highest ethical standards;

18.6.2 not use any Confidential Information in any way that is reasonably likely to damage the Company, its Business or the Members; and

18.6.3 take all reasonable precautions to protect the Confidential Information.

18.7 Directors' Fees and Expenses

18.7.1 The Company must pay in respect of the services of the Directors:

(a) to each of the Directors a **Director's fee** as determined by a Simple Majority Vote of the Members each year. If any Director does not occupy his position as a director for a full year, he may only receive that proportion of his annual fee which corresponds with the proportion of the year for which he actually occupied his position; and

(b) to each Director, monthly in arrears, **all out-of-pocket expenses** properly incurred by him in connection with the performance of his duties as a director (together with GST thereon where appropriate).

18.7.2 If a Director at the request of the Directors performs special duties for the Company which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, the Company may remunerate that Director as determined by the Directors in addition to that Director's remuneration under Article 18.7.1.

18.8 Director's Interests and Conflicts

18.8.1 A Director must give the Board notice of any material personal interest in a matter that relates to the affairs of the Company (a **Conflict Notice**).

18.8.2 A Director may give a general Conflict Notice to the Company that he or she is an officer or member of a specified corporation or firm, or has an interest in it in some other form or way, and:

(a) The Conflict Notice must set out the nature and extent of the Director's interest; and

(b) The Conflict Notice is effective on all subsequent occasions as a disclosure of the Director's interest in a matter involving the Company and that corporation or firm, but only if the Director's interest at the time of first consideration of the matter is no greater than as stated in the general Conflict Notice.

18.8.3 Subject to a contrary Simple Majority Vote of the Members of the Company or any provision of the Law or this Constitution, a Director may:

(a) hold any office or place of profit in the Company, except that of auditor;

(b) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;

(c) enter into any contract or arrangement with the Company;

(d) participate in any association, institution, fund, trust or scheme for past or present employees of the Company or Directors or persons dependent on or connected with them;

(e) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;

(f) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors and may be present at any meeting where any matter is being considered by the Directors;
(g) sign or participate in the execution of a document by or on behalf of the Company; and
(h) do any of the above despite the fiduciary relationship of the Director's office:

(i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
(ii) without affecting the validity of any contract or arrangement.

18.8.4 A reference to the Company in this Article 18.8 is also a reference to each Related Body Corporate of the Company.

18.8.5 If a Director complies with the Law and this Constitution in relation to disclosing an interest:

(a) the Director may vote on whether the Company enters into the contract or arrangement;
(b) the contract or arrangement may be entered into by the Company;
(c) the Director may participate in the execution of the contract; and
(d) the Director may vote on matters involving the contract.

18.9 Retirement and Vacancy of Office

18.9.1 A Director may retire from office by giving written notice to the Company at its registered office. The resignation is effective at the time stated in the notice, provided it is after the time the notice was given. If not, the notice is effective immediately when it is given.

18.9.2 The office of a Director is automatically vacated if the Director:

(a) ceases to be a Director by virtue of the provision of this Constitution or the Law;
(b) becomes bankrupt or makes any arrangement or composition with his creditors generally;
(c) becomes prohibited from being a Director by reason of any order made under the Law;
(d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
(e) is absent from meetings of the Directors for more than 6 calendar months without the permission of the Directors; or
(f) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of his interest in the manner required by this Constitution or the Law.

18.10 Removal of Directors by Members

18.10.1 Subject to the Law, the Company in general meeting has power, by a Simple Majority Vote, to:

(a) remove a Director from office; and
(b) appoint another person as a Director instead.

18.10.2 A resolution to remove a Director is void if, at the end of the day on which the resolution takes effect, the Company would not have at least one Director.

18.10.3 Removal from office does not affect any right of the Director to compensation or damages under a contract with the Company.

19. POWERS AND DUTIES OF DIRECTORS

19.1 Directors To Manage Company

The Business of the Company is to be managed by the Directors acting as a Board, who may exercise all powers of the Company that are not, by the Law or by this Constitution, required to be exercised by the Company in general meeting.

19.2 Management Principles

The business of the Company is to be mana
management principles adopted by the Dire

A director leaves. Your company continues. Follow its appointment and removal rules to keep the decision-making machinery working.

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19.3 Specific Powers of Directors

Without limiting the generality of Article 19.1
exercise all the powers of the Company to:

19.3.1 Borrow or raise money;

19.3.2 Charge any property or busir
capital; and

19.3.3 To issue debentures or give any other security for any debt, liability or obligation of the Company, or of any other person.

19.4 Appointment of Attorney

19.4.1 The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the purposes and with the powers, authorities and discretions vested in or exercisable by the Directors for such period and subject to such conditions as they think fit.

19.4.2 The entrusting of a power to a person does not exclude the exercise of that power by the Directors themselves.

19.5 Provisions In Power of Attorney

A power of attorney granted under Article 19.4.1 may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney.

19.6 Appointment of Managing Director (Or Chief Executive Office) and Other Officers

19.6.1 The Directors may appoint one or more of themselves to the office of managing director or chief executive officer (or **Managing Director**) or to any other office (except auditor), or any position of employment within the Company for the period and on the terms they think fit.

19.6.2 If more than one Managing Director has been appointed at a particular time, they hold office jointly.

19.6.3 The Articles in this Constitution that apply in relation to the resignation, disqualification and removal of a Director apply to the Managing Director with any necessary qualifications.

19.6.4 The Directors may remove the Managing Director from office, but only in accordance with the Company's contract of employment with that person.

19.7 Conferral of Powers On Managing Director and Executive Directors

The Directors may:

19.7.1 Confer on a Managing Director or an Executive Director such of the powers exercisable by them, on such terms and conditions and with such restrictions, as they think fit; and

19.7.2 Withdraw or vary any of the powers conferred on a Managing Director or an Executive Director.

19.8 Powers of Delegation

The powers of delegation expressly or impliedly conferred by this Constitution on the Directors are conferred in substitution for, and to the exclusion of, the power conferred by Section 198D of the Law.

20. POWERS AND DUTIES OF MANAGING DIRECTOR

20.1 Overriding Responsibility of Managing Director

Subject to the other provisions of this Constitution, the Managing Director appointed from time to time is responsible for the day-to-day management of the Business in accordance with and subject to any contract entered into between the Managing Director and the Company in connection with the Business.

20.2 Specific Responsibilities of Managing Directors

Subject to, and without limiting the terms on which the Managing Director is appointed from time to time, the Managing Director must:

20.2.1 see to the proper execution and administration of the day-to-day management of the Business in accordance with the directions of the Board;

20.2.2 provide the Board with reports and results of operations in respect of the Business with such frequency as the Board shall determine from time to time;

20.2.3 keep true and correct books and records in respect of the Company and its dealings;

20.2.4 only incur expenditures and obligations pursuant to the programs, guidelines and budgets approved by the Board from time to time;

20.2.5 maintain possession and control of all property, assets and rights of the Company;

20.2.6 maintain appropriate insurances in respect of the property, assets and rights of the Company and the activities conducted or carried out by the Company;

20.2.7 promptly carry out instructions and directions given by the Board from time to time; and

20.2.8 otherwise do all such things as may from time to time be necessary or advisable for the orderly and efficient conduct of the Business of the Company.

21. PROCEEDINGS OF DIRECTORS

21.1 Directors' Meetings

The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.

21.2 Director May Convene A Meeting

A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors.

21.3 Quorum For Directors' Meeting

A quorum of the Board is no less than 50% of the Directors appointed at any time and from time to time present in person or by their alternates.

21.4 Remaining Directors May Act

The continuing Directors may act despite a vacancy in their number. If their number is reduced below the minimum fixed by Article 18.1.1, the continuing Directors may, except in an emergency, act only for the purpose of:

21.4.1 filling vacancies to the extent necessary to bring their number up to that minimum; or

21.4.2 to convene a general meeting.

21.5 Questions At Board Meetings

21.5.1 All questions arising at a meeting of Directors must be considered and resolved by way of a Simple Majority Vote, unless required to be considered and resolved by way of either a Special Majority Vote or a Unanimous Decision under a term of this Constitution or by the Law.

21.5.2 Subject to this Constitution and the requirements of the Law, a resolution is taken to be carried if the requisite number of qualifying votes is passed in favour of it.

21.6 Alternate Director Or Proxy and Voting

A person who is present at a meeting of Directors as an Alternate Director or as a proxy for another Director has one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is an Alternate Director or proxy and, if that person is also a Director, has one vote as a Director in that capacity.

21.7 Chair of Directors

21.7.1 The Directors may elect one of their number as Chair of their meetings and may also determine the period for which the person elected as Chair is to hold office.

21.7.2 The Chair may invite any person who is not a Director to attend and address a meeting of Directors, including the auditor.

21.8 Absence of Chair At Directors' Meeting

If a Directors' meeting is held and:

21.8.1 a Chair has not been elected under Article 21.7.1; or

21.8.2 the Chair is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be a Chair of the meeting.

21.9 Chair Does Not Have Casting Vote At Directors' Meetings

In the event of an equality of votes cast for and against a question the Chair does not have a second or casting vote.

21.10 Director Attending and Voting By Proxy

21.10.1 A Director may participate in and vote by proxy at a meeting of the Directors if the proxy:

(a) is another Director; and
(b) has been appointed in writing signed by the appointor.

21.10.2 The appointment may be general or for one or more particular meetings. A Director present as a proxy for another Director who would be entitled to vote if present at the meeting has one vote for the appointor and one vote in his or her own capacity as a Director.

21.11 Circulating Resolutions

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

21.12 Validity of Acts of Directors

21.12.1 All acts done at a meeting of
acting as a Director are, even if it is

(a) there was a defect in the appoint
Director or of the person so actin
(b) a person acting as a Director wa

as valid as if the relevar
continued in office and wa

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21.12.2 The resolutions passed at a meeting of Directors for which notice was not given to all Directors, and actions taken to implement those resolutions, are nonetheless valid if each Director who was not given notice later agrees to waive the receipt of that notice.

21.13 Minutes of Meetings

21.13.1 The Directors must keep minutes of any meetings in accordance with the Law. They must record each of the following:

(a) the names of Directors and Alternate Directors present at each meeting of Directors;
(b) all orders, resolutions and proceedings of meetings of Directors; and

(c) any matter that the Law requires to be recorded in the books of the Company. This includes declarations and notices of interest made and given by a Director.

21.13.2 The Chair of the meeting, or of the next meeting, must sign the minutes as a true and correct record of the meeting. The Chair's signing of the minutes is sufficient evidence of anything recorded and of the regularity of what was done at the meeting.

21.13.3 If there is only 1 director of the Company, he or she must record:

(a) all orders and resolutions made; and
(b) any matter that the Law requires to be recorded in the books of the Company. This includes declarations and notices of interest made and given by the Director.

22. COMMITTEES OF THE BOARD

22.1 Delegation To Committees

The Directors may delegate any of their powers, other than powers required by law to be dealt with by Directors as a board, to a Committee or Committees consisting of one or more of their number as they think fit.

22.2 Powers Delegated To Committees

A Committee to which any powers have been delegated under Article 22.1 must exercise those powers in accordance with any directions of the Directors.

22.3 Audit and Remuneration Committees

Without limiting Article 22.1, the Board may constitute:

22.3.1 an Audit Committee to:

(a) appoint and administer an independent auditor and
(b) to review reports from management and the auditors on accounting and internal control matters; and

22.3.2 a Remuneration Committee to determine the emoluments from time to time of the Company's employees.

22.4 Chair of Committee

The members of a Committee may elect one of their number as Chair of their meetings. If a meeting of a Committee is held and:

22.4.1 a Chair has not been elected; or
22.4.2 the Chair is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the members involved may elect one of their number to be Chair of the meeting.

22.5 Meetings of Committee

22.5.1 A Committee may meet and adjourn as it thinks proper.
22.5.2 Questions arising at a meeting of a Committee are to be determined by a majority of votes of the members of the Committee present and voting.

22.5.3 In the event of an equality of votes the Chair of the meeting has a casting vote, unless only 2 members of the Committee are present and entitled to vote at the meeting on the question.

22.5.4 The rules applying to the minutes of meetings of Directors and their signing apply, with any necessary changes, to the minutes of meetings of a Committee. If a Committee consists of only one Director, a minute signed by that Director recording a decision by him or her as that Committee is a minute of that Committee.

23. ALTERNATE DIRECTORS

23.1 Appointment of Alternate Director

Subject to the Law, a Director may appoint a person approved by a majority of the other Directors to be an Alternate Director in the Director's place during such period as the Director thinks fit.

23.2 Alternate Director and Meetings

An Alternate Director is entitled to notice of all meetings of the Directors and, if the appointor does not participate in a meeting, the Alternate Director is entitled to participate and vote in the appointer's place.

23.3 Alternate Director's Powers

An Alternate Director may exercise all the powers of the appointor except the power to appoint an Alternate Director and, subject to the Law, may perform all the duties of the appointor except to the extent that the appointor has exercised or performed them.

23.4 Alternate Director Responsible For Own Acts and Defaults

Whilst acting as a Director, an Alternate Director:

23.4.1 is an officer of the Company and not the agent of the appointor; and

23.4.2 is responsible to the exclusion of the appointor for the Alternate Director's own acts and defaults.

23.5 Alternate Director and Remuneration

An Alternate Director is not entitled to receive from the Company any remuneration or benefit.

23.6 Termination of Appointment of Alternate Director

23.6.1 The appointment of an Alternate Director may be terminated at any time by the appointor even if the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor ceases to be a Director.

23.6.2 The other Directors may immediately terminate the appointment of an Alternate Director, or suspend their appointment, by a Simple Majority Vote of Directors, after giving the appointor reasonable written notice.

23.6.3 An Alternate Director may resign by giving the Company written notice at its registered office. The resignation takes effect immediately when the notice is given.

23.7 Appointment Or Termination In Writing

An appointment, or the termination of an appointment, of an Alternate Director must be effected by a notice in writing signed by the Director who makes or made the appointment and delivered to the Company.

23.8 Alternate Director and Number of Directors

An Alternate Director is not to be taken into account separately from the appointor in determining the number of Directors.

24. ASSOCIATE DIRECTORS

24.1 Appointment

The Board may from time to time appoint any person to be an Associate Director and may from time to time terminate such appointment.

24.2 Powers and Duties

The Board may from time to time determine the powers, duties, responsibilities and remuneration (if any) of any person appointed to the role of Associate Director.

24.3 Qualifications and Rights

A person appointed as an Associate Director is not required to hold any shares to qualify him for the appointment, but except by the invitation and with the consent of the Board, does not have any right to attend or vote at any meet

25. SECRETARY

25.1 Appointment of Secretary

The Company must have at least 1 Secreta

25.2 Suspension and Removal of Secr

The Directors may suspend or remove a Se

25.3 Powers, Duties and Authorities of

25.3.1 A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors. The exercise of those powers and authorities and the performance of those duties by a Secretary is subject at all times to the control of the Directors.

25.3.2 Unless the Directors decide otherwise, the Secretary is also to act as the Company's Public Officer.

26. DEALINGS BETWEEN COMPANY AND OFFICERS

26.1 Indemnity

The Company may indemnify any current or former Director, Secretary or executive officer of the Company or of a subsidiary of the Company out of the property of the Company against:

26.1.1 every liability incurred by the person in that capacity (except a liability for legal costs); and

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26.1.2 all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

except to the extent that:

26.1.3 the Company is forbidden by statute to indemnify the person against the liability or legal costs; or

26.1.4 an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

26.2 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director or Secretary or executive officer of the Company or of a subsidiary of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:

26.2.1 the Company is forbidden by statute to pay or agree to pay the premium; or

26.2.2 the contract would, if the Company paid the premium, be made void by statute.

26.3 Agreements

The Company may enter into an agreement with a person referred to in this Article 26 with respect to the matters covered by those Articles. An agreement entered into pursuant to this Article may include provisions relating to rights of access to the books of the Company conferred by the Law.

27. BUSINESS PLAN

27.1 Adoption of Business Plan

Unless otherwise resolved by the Board, as soon as is practical after the date hereof the Board must consider and adopt a business plan setting out how the Company is to conduct the Business with a view to achieving the short, medium and longer term objectives of the Company and its Members (the Business Plan).

27.2 Preparation of Business Plan

Unless otherwise resolved by the Board, at least 3 calendar months prior to the beginning of each financial year, the Managing Director must prepare and distribute to the Board for its approval an up-date to the Business Plan.

27.3 Conduct of Business In Accordance With Business Plan

The Board (and the Managing Director) must, so far as is practical, conduct the Business in accordance with the Business Plan, (as adopted or approved by the Board from time to time).

28. ANNUAL BUDGET

28.1 Adoption of Budget

Unless otherwise resolved by the Board, at least 1 calendar month prior to the beginning of each financial year, the Managing Director must prepare and distribute to the Board for its

approval an annual budget setting out, in respect of the coming financial year, all matters necessary or appropriate to give the Members and Board a true and fair view of the current and anticipated future financial position of the Company.

28.2 Position Pending Approval of Annual Budget

If the Board does not approve the annual budget prepared in accordance with Article 28.1 at least 5 Business Days prior to the commencement of the financial year to which the annual budget relates, the annual budget for the previous financial year (excluding any extraordinary and non-recurring items) will be the annual budget for the forthcoming financial year until an annual budget for the forthcoming financial year is approved by the Board.

29. OPERATION OF COMPANY BANK ACCOUNTS

29.1 Bank Account

The bank account or accounts of the Company must be that or those from time to time established by the Managing Director and nominated and approved by resolution of the Directors (the Bank Account).

29.2 Receipt of Company Monies

All monies of the Company:

29.2.1 Received by a Director or member of staff must be paid forthwith into the Bank Account; and

29.2.2 Must be receipted in the Company name and on the Company form of receipt bearing the Company's name

unless the Directors resolve otherwise at a Board meeting.

29.3 Signing of Cheques

The Directors may determine the manner in which and persons by whom cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and receipts for money paid to the Company, may be signed, drawn, accepted, endorsed or otherwise executed.

29.4 Operation of Bank Account

Unless otherwise resolved by the Board in a meeting of the Board, the Bank Account of the Company must be operated jointly by the Board.

30. DIVIDENDS

30.1 Payment of Dividend

30.1.1 Subject to the Law and any special rights or restrictions applicable to any Shares, the Directors may declare and pay Dividends on:

(a) Shares; or
(b) any individual class of Shares

that appear to them to be justified.

30.1.2 Without limiting Clause 30.1.1, the Directors may declare and pay Dividends if:

(a) the Company's assets exceed its liabilities immediately before the Dividend is declared, and the excess is sufficient to pay the Dividend;
(b) the payment of the Dividend is fair and reasonable to the Company's shareholders as a whole; and
(c) the payment of the Dividend does not materially prejudice the Company's ability to pay its creditors.

30.1.3 If there is more than one class of Shares on issue, the Directors may, subject to the rights of any particular class of Shares on issue:

(a) declare and pay a Dividend on one class of Shares to the exclusion of another class of Shares; or
(b) declare and pay a Dividend on one class of Shares at a different rate from that on another class of Shares.

30.2 Apportioning Dividends

30.2.1 Subject to any special rights or restrictions applicable to any Shares
Dividends are to be credited or paid
amounts paid or credited on the Sha

30.2.2 Amounts paid before a call h

30.2.3 If the amount paid or credited
the Dividend on that Share will be cr
or credited on the Share for the relev

30.2.4 If a Share is issued on the ba
particular date, it will rank from that

Your SMSF owns the fund's investments. The trustee company has its own records and rules. Keep those roles clear when you deal with company money.

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30.3 Reserves and Profits Carried Forv

30.3.1 The Directors may:

(a) set aside out of the profits of the Company such sums as they think proper as a reserve, to be applied, at the discretion of the Directors, for any purpose for which the profits of the Company may be properly applied; and
(b) carry forward so much of the profits remaining as they consider ought not to be distributed without transferring those profits to a reserve.

30.3.2 Pending application, any sum set aside as a reserve may, at the discretion of the Directors, be used in the business of the Company or be invested as the Directors think fit.

30.4 Deductions From Dividends

The Directors may deduct from any Dividend payable to, or at the direction of, a Member all sums of money (if any) presently payable by that Member to the Company on account of calls or otherwise in relation to Shares in the Company.

30.5 Distribution of Specific Assets

When resolving to pay a Dividend, the Directors may:

30.5.1 resolve that the Dividend be satisfied either wholly or partly by the distribution of specific assets to some or all of the persons entitled to the Dividend, (including fully

paid Shares in or debentures of the Company, or fully paid Shares in or debentures of any other body corporate); and

30.5.2 direct that the Dividend payable in respect of any particular Shares be satisfied wholly or partly by such a distribution and that the Dividend payable in respect of other Shares be paid in cash.

30.6 **Resolution of Distribution Difficulties**

30.6.1 If a difficulty arises in regards to a distribution under Article 30.5, the Directors may:

(a) settle the matter as they consider expedient;
(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 such specific assets in trustees as the Directors consider expedient.

30.6.2 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 instead of the distribution of specific assets.

30.7 **Payments In Respect of Shares**

A Dividend, interest or other money payable in cash in respect of Shares may be paid using any payment method chosen by the Company, including:

30.7.1 by cheque sent through the post directed to the address in the Register of the holder or, in the case of joint holders, to the address of the joint holder first named in the Register;

30.7.2 by cheque sent through the post directed to such other address as the holder or joint holder in writing directs; or

30.7.3 by some other method of direct credit determined by the Directors to the holder or holders shown on the Register or to such person or place directed by them.

30.8 **Effectual Receipt From One Joint Holder**

Any one of 2 or more joint holders may give an effectual receipt for any Dividend, interest or other money payable in respect of the Shares held by them as joint holders.

30.9 **Election To Reinvest Dividend**

The Directors may grant to Members or any class of Members the right to elect to reinvest cash Dividends paid by the Company by subscribing for Shares in the Company on such terms and conditions as the Directors think fit.

30.10 **Election To Accept Shares In Lieu of Dividend**

The Directors may determine in respect of any Dividend which it is proposed to pay on any Shares of the Company that holders of the Shares may elect:

30.10.1 to forego the right to share in the proposed Dividend or part of such proposed Dividend; and

30.10.2 to receive instead an issue of Shares credited as fully paid on such terms as the Directors think fit.

30.11 No Interest On Dividends

Interest is not payable by the Company on any unpaid Dividend.

30.12 Unclaimed Dividends

Unclaimed Dividends may be invested by the Directors as they think fit for the benefit of the Company until claimed or until required to be dealt with in accordance with any law relating to unclaimed moneys.

31. CAPITALISATION OF PROFITS

31.1 Capitalisation of Reserves and Profits

The Directors may:

31.1.1 resolve to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to Members; and

31.1.2 but need not, resolve to apply the sum in any of the ways mentioned in Article 31.2, 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.

31.2 Applying A Sum For The Benefit of Members

The ways in which a sum may be applied for the benefit of Members under Article 31.1 are:

31.2.1 in paying up any amounts unpaid on Shares held by Members;

31.2.2 in paying up in full unissued Shares or debentures to be issued to Members as fully paid; or

31.2.3 partly as mentioned in Article 31.2.1 and partly as mentioned in Article 31.2.2.

31.3 Implementing The Resolution

The Directors may do all things necessary to give effect to the resolution under Article 31.1, and in particular, to the extent necessary to adjust the rights of the Members among themselves, may:

31.3.1 make cash payments in cases where Shares or debentures become issuable in fractions;

31.3.2 authorise any person to make, on behalf of all or any of the Members entitled to any further Shares or debentures on the capitalisation, an agreement with the Company providing for:

(a) the issue to them, credited as fully paid up, of any further Shares or debentures; or

(b) the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing Shares by the application of their respective proportions of the sum resolved to be capitalised,

and any agreement so made is effective and binding on all the Members concerned;

31.3.3 fix the value of specified assets; or

31.3.4 vest property in trustees.

32. ALTERATIONS TO CAPITAL

32.1 Alteration of Share Structure

32.1.1 Subject to this Constitution and the Law, the Company may alter its capital by passing a resolution to that effect in general meeting.

32.1.2 Without limiting the generality of the authority conferred by Article 32.1.1, the Company may alter its capital in any of the following ways:

(a) by converting any of its Shares into larger or smaller numbers, in which case, any amount unpaid on them is to be

(b) by cancelling any Shares which

(c) by converting a class of Shares

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32.2 Power To Reduce Capital

The Company may reduce its Share capital

32.3 Power To Buy Back Shares

The Company may buy-back or purchase S

32.4 Distribution of Capital

If there is more than one class of Shares on issue, the Directors may distribute capital to one class of Shares to the exclusion of another class, or to one class of Shares at a different rate from that to another class of Shares.

33. LOANS TO MEMBERS UNDER DIVISION 7A

33.1 The Company may make one or more loans to a Member.

33.2 Any loan by the Company to a Member will be governed by the Shareholder Loan Terms (as a contract between the Member and the Company), except loans to which the Company and the Member agree in writing that the Shareholder Loan Terms are not to apply.

33.3 If the Member ceases to be a Member of the Company, the Member continues to be bound by the Shareholder Loan Terms.

33.4 If a person or an associate borrows money from the Company and then becomes a Member of the Company, the Shareholder Loan Terms will apply as an agreement between the Company and that Member from the date the Member is registered as a Member, except where the Company and that person have agreed in writing that the Shareholder Loan Terms are not to apply.

33.5 For the purposes of these Articles 33.1 to 33.4 (inclusive), the terms "associate" and "loan" have the same meaning as in the Shareholder Loan Terms.

34. CONTROL OVER SUBSIDIARIES

The Company must take such action as may be necessary to ensure that each subsidiary or other Related Body Corporate of the Company acts in accordance with the terms, conditions and restrictions set out in this Constitution.

35. INSPECTION OF RECORDS

Subject to this Constitution and the Law:

35.1 a Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting; and

35.2 the Directors may determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of Members (other than Directors).

36. CONFIDENTIALITY

Neither a Director nor Member may disclose the provisions of this Constitution or any other Confidential Information about the Company, its business or another Member, except:

36.1 with the written consent of the Board;

36.2 on a confidential basis to an officer, employee or professional adviser for the purposes of obtaining professional advice in relation to the Company; or

36.3 as required by an applicable law after first consulting with the Company about the form and content of the disclosure

and must use its best endeavours to ensure all permitted disclosures are kept confidential by the party to whom the disclosure was made.

37. COMMON SEAL

37.1 Documents may, but need not, be executed by the Company under Seal.

37.2 If the Company has a Seal:

37.2.1 It must be kept by the person and in the place and the manner that the Directors think fit; and

37.2.2 It must not be used except with the authority of the Directors or a Directors' committee authorised to permit use of the Seal who have power to use the seal in the execution of all or any of the powers hereby vested in them or otherwise in relation to the affairs or business of the Company; and

37.2.3 The Directors may determine by resolution either generally or in any particular case that the signature of any Director or the Secretary to a document to which the Seal or a duplicate seal or certificate seal is affixed may be a facsimile applied to the document by specified mechanical means.

38. WINDING UP

38.1 If the Company is wound up, the liquidator may, with the sanction of a Special Majority Vote of Members, divide among the Members in kind the whole or part of the property of the Company, and may for that purpose set such value as he considers fair on any property to be so divided and may determine how the division is to be carried out as between the Members or different classes of the Members subject to the rights and restrictions attached to those classes of Shares.

38.2 The liquidator may, with the sanction of a Special Majority Vote, vest the whole or any part of such property in trustees upon the trusts and for the benefit of the

contributories as the liquidator thinks fit, but so that no Member is compelled to accept any Shares or other securities in respect of which there is any liability.

39. GENERAL OPERATIVE PROVISIONS

39.1 Notices

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

(a) in writing signed on behalf of the Company (by original or printed signature);
(b) addressed to the person to whom it is to be given; and
(c) either:

(i) delivered personally;
(ii) sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address;
(iii) sent by fax to the fax number (if any) nominated by that person; or
(iv) sent by electronic message to the electronic address (if any) nominated by that person.

39.1.2 A Member whose registered address is not in Australia must notify the Company in writing of an address in Australia to which notices may be sent.

39.1.3 A notice to a person by the Company is regarded as given and received:

(a) if it is delivered personally or sent by fax or electronic message:

(i) by 5.00 pm (local time in the place of receipt) on a Business Day - on that day; or
(ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day - on the next Business Day; and

(b) if it is sent by mail:

(i) within Australia: 3 Business Days after posting; or
(ii) to a place outside Australia: 7 Business Days after posting.

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

39.1.5 A day that is not a Saturday, Sunday or public holiday in the place to which the notice is sent, is a Business Day.

39.1.6 Notice to joint holders of Shares must be given to the joint member named first in the register. Every person who becomes entitled to a Share is bound by every notice in respect of that Share which was properly given to the person from whom title derived before the transfer or transmission of the Share was entered in the register.

39.1.7 If a specified period must pass after a notice is given before an action may be taken, neither the day on which the notice is given nor the day on which the action is to be taken may be counted in reckoning the period.

39.1.8 A notice may be given by the Company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name or by the title of the representatives of the deceased or assignee of the bankrupt or by any like description at the address (if any) supplied for the purpose by the person claiming to be so entitled or (until an

address has been supplied) by giving the notice in any manner in which the same would have been given if the death or bankruptcy had not occurred.

39.1.9 Subject to the Law the signature to a written notice given by the Company may be written or printed.

39.1.10 Notice of every general meeting shall be given in any manner hereinbefore authorised to:

(a) Every member, except a member who has not supplied to the Company an address within Australia for the giving of notices;
(b) Every Director and Alternate Director;
(c) Every person entitled to a Share in consequence of the death or bankruptcy of a member who (but for his death or bankruptcy) would be entitled to receive notice of the meeting;
(d) The Auditor for the time being of the Company; and
(e) Any other person required by law.

39.2 Exclusion of Partnership

Nothing in this Constitution is to be treated as creating a partnership between the Members and/or the Company under the laws of any applicable jurisdiction and, except as specifically provided for in this Constitution, no party may act or has any authority to act as agent of or in any way bind or commit any other party to any obligation.

39.3 Compliance

39.3.1 Each Member covenants that it has read and has made itself fully aware of the content and legal effect of this Constitution.

39.3.2 Each Member hereby irrevoc
the power to appoint any Director as
or any powers hereby conferred, oth
been originally appointed by this pov
these Articles.

39.3.3 Each Member hereby acknov

(a) The solicitor who prepared this C
to the Company and not to any o
(b) The parties have each been advi
parties are opposed to each othe
Company and, accordingly, the Solicitor's representation of the Company may not be in the best interests of the parties; and
(c) Notwithstanding the foregoing, the parties:

(i) desire the Solicitor to represent the Company for the purposes of preparing this Constitution; and
(ii) jointly and severally forever waive any claim that the Solicitor's representation of the Company for the purposes of preparing this Constitution constitutes a conflict of interest.

A notice needs to reach the right person. Keep shareholder and director contact details current with your company records.

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39.4 Goods and Services Tax

39.4.1 If a goods and services tax or any similar tax (**GST**) imposed in Australia or elsewhere has application to any supply made under or in connection with this Constitution, the supplier may, in addition to any moneys payable under this Constitution, recover from the recipient of the supply an additional amount on account of GST, such amount to be calculated by multiplying the amount or consideration payable by the recipient for the relevant supply by the prevailing GST rate.

39.4.2 Any additional amount on account of GST recoverable from the recipient under this clause shall be calculated without any deduction or set-off of any other amount and is payable by the recipient upon demand by the supplier whether such demand is by means of invoice or otherwise.

39.5 **Dispute Resolution**

39.5.1 All disputes or differences which at any time arise between one or more Members and/or the Company (the **Disputants**) in respect of the construction or effect of this Constitution or the rights, duties and liabilities of the Disputants hereunder or any matter or event connected with or arising out of this Constitution must be initially referred on notice to each other party.

39.5.2 Each Disputant may give notice to the other that the provisions of this Article 39.5 are to apply to any dispute arising between the Disputants as to any matter arising out of or in connection with this Constitution.

39.5.3 The notice referred to in Article 39.5.2 must include a summary of the issues in dispute and notification of a time within a period of 10 Business Days beginning 4 Business Days after the service of the notice, and a place in the Capital of the State at which the representatives of the Disputants (which may include a Disputant) are to meet to try to resolve the dispute.

39.5.4 The representatives of the Disputants must meet at the time and place specified in the notice to try to resolve the dispute and must, if necessary, continue to negotiate for 2 consecutive Business Days unless they otherwise agree to reconvene.

39.5.5 If the dispute has not been resolved by the representatives of the Disputants representatives by the end of the meeting then either party may within 10 Business Days thereafter apply to the President of the Law Society of the State to appoint a neutral adviser to assist in a further attempt by the parties in good faith to resolve the dispute by structured negotiations. Such person will act as an expert not as an arbitrator and will be entitled to appoint such technical expert or experts as he considers necessary to assist him in seeking to resolve the matter referred to him.

39.5.6 If the Parties fail to appoint a neutral adviser within the 10 Business Day period referred to in Article 39.5.5 above or the parties fail to reach agreement in the structured negotiations within 20 Business Days of the neutral adviser being appointed, then any dispute may be referred to a court of competent jurisdiction. Neither party is precluded from taking such interim formal steps as may be considered necessary to protect such party's position while the mediation or other procedure is pending or continuing.

39.5.7 The costs of the neutral adviser must be borne equally by the parties in dispute.

39.6 **Waiver**

39.6.1 Any waiver or forbearance in regard to the performance of this Constitution operates only if in writing and applies only to the specified instance, and does not affect the existence and continued applicability of the terms of it thereunder.

39.6.2 No failure or delay by any party in exercising any right, power or privilege hereunder (and no course of dealing between or among any of the parties) operates as a waiver of any such right, power or privilege.

39.6.3 No waiver of any default on any one occasion constitutes a waiver of any subsequent or other default. No single or partial exercise or any such right, power or privilege precludes the further or full exercise thereof.

39.7 Severance

If any provision of this Constitution should be held to be invalid in any way or unenforceable it is severed and the remaining provisions are not in any way affected or impaired.

39.8 Parties

39.8.1 If a party consists of more than 1 person, this Constitution binds each of them separately and any 2 or more of them jointly.

39.8.2 An obligation, representation or warranty in favour of more than 1 person is for the benefit of them separately and jointly.

39.8.3 A party which is a trustee is bound both personally and in its capacity as a trustee.

40. DEFINITIONS AND INTERPRETATION

40.1 Interpretation

In this Constitution, unless the context otherwise requires or permits:

40.1.1 (gender) words importing any gender include all other genders;

40.1.2 (person) a reference to a person includes a reference to:

(a) an individual;
(b) a body corporate (wherever incorporated);
(c) a body politic;
(d) an association of persons (whether incorporated or unincorporated);
(e) a partnership;
(f) a trust;
(g) a person in the capacity as a trustee;
(h) a person in the capacity as the Personal Representative of a deceased estate; and
(i) a superannuation fund;

40.1.3 (singular includes plural) the singular includes the plural and vice versa;

40.1.4 (regulations) a reference to a law includes regulations and instruments made under the law;

40.1.5 (amendments to statutes) reference to any statute, or any subordinate legislation or instrument includes all statutes, subordinate legislation or instruments amending, modifying, consolidating, re-writing, re-enacting or replacing them and a

reference to a statute includes all subordinate legislation and instruments made under that statute;

40.1.6 (conduct) a reference to conduct includes, an omission, statement or undertaking, whether or not in writing;

40.1.7 (from time to time) a power, an authority or a discretion reposed in a Director, the Directors, the Company in general meeting or a Member may be exercised at any time and from time to time;

40.1.8 (amount paid) a reference to an amount paid on a Share includes an amount credited as paid on that Share;

40.1.9 (currency) a reference to dollars and $ is to Australian currency;

40.1.10 (signed) where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Directors;

40.1.11 (writing) "writing" and "written" includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise;

40.1.12 an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Law, the same meaning as in that provision of the Law;

40.1.13 headings are inserted for cor
of this Constitution; and

40.1.14 the Directors may:

(a) differentiate between Members a
a Member is paid (whether by wa
capital, participation in surplus pr

(b) determine to pay a distribution in
payable will be converted from A
at any exchange rate as the Directors think fit; and

(c) in deciding the currency in which a payment is to be made to a Member, have regard to the registered address of the Member, the register on which a Member's Shares are registered and any other matters as the Directors consider appropriate.

Defined terms connect the Constitution's provisions. Read the rules together rather than treating one sentence as the whole answer.

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40.2 Definitions

In this Constitution, unless the context otherwise requires or admits:

40.2.1 **Alternate Director** means a person appointed as an alternate director under Article 23;

40.2.2 **Annual Budget** means the budget prepared and adopted in accordance with Article 28;

40.2.3 **Assessment Act** means:

(a) the *Income Tax Assessment Act 1936* (Cth) (the **Assessment Act 1936**); and

(b) the *Income Tax Assessment Act 1997* (Cth) (the **Assessment Act 1997**)

as amended or substituted from time to time and the expression extends to and includes any regulations made thereunder;

40.2.4 **Associate** in relation to a person means a person who is an Associate of that person within the meaning of either:

(a) the Law; or
(b) Section 318 of the Assessment Act 1936;

40.2.5 **Associate Director** means a person appointed as an Associate Director under Article 24;

40.2.6 **Auditor** means the duly appointed auditor of the Company (if any);

40.2.7 **Board** means the Directors acting collectively in accordance with this Constitution;

40.2.8 **Board Appointed Director** means a Director appointed under Article 18.4;

40.2.9 **Business** means the activities carried on by the Company from time to time;

40.2.10 **Business Day** means any day that banks are open for business in the capital of the State excluding weekends and public holidays;

40.2.11 **Change-in-Control** means an event where a person who did not (directly or indirectly) effectively control a Member at the date when that Member first acquired Shares, either alone or together with others, acquires effective control of the issued voting capital of that Member without the prior written consent of the other parties;

40.2.12 **Company** means the company governed by the terms of this Constitution the name of which is set out above;

40.2.13 **Confidential Information** means all information relating to the Company, that:

(a) is by its nature confidential;
(b) is designated by the Company as confidential; and
(c) a person knows or ought to know is confidential;

40.2.14 **Direct Vote** includes a vote delivered to the Company by post, fax or other electronic means approved by the Directors and the Directors may specify the form, method and timing of giving a direct vote at a meeting in order for the vote to be valid;

40.2.15 **Director** means a person holding office as a director of the Company, and where appropriate includes an Alternate Director;

40.2.16 **Directors** means all or some of the Directors acting as the Board;

40.2.17 **Dividend** includes interim Dividends and bonus issues;

40.2.18 **Effective Date** means the date at which the Constitution is duly adopted by the Company;

40.2.19 **Encumbrance** means any mortgage, lien, charge, pledge, assignment by way of security, security interest, title retention, preferential right or trust arrangement, claim, covenant, profit a prendre, easement or any other security arrangement or any other arrangement having the same effect;

40.2.20 **GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended or substituted from time to time and the expression extends, to and includes the regulations made thereunder;

40.2.21 **Goods and Services Tax** (and **GST**) has the same definition as in the GST Act;

40.2.22 **Insolvent** in respect of a Member means if:

(a) the Member assigns any of the Member's property for the benefit of creditors or any class of them;
(b) a mortgagee or person with a similar legal interest in any of the Member's assets takes possession of them or takes a step in that direction, or exercises a power of sale over them;
(c) the Member, being a company, disposes of its assets, or threatens to do so, except for the purpose of a solvent reconstruction or amalgamation that has been approved by the Company;
(d) a security interest becomes enforceable or is enforced against the Member;
(e) a distress, attachment or other form of execution is levied or enforced against the Member for more than $5,000;
(f) the Member takes any step to obtain protection under legislation against the Member's creditors, or is granted that protection;
(g) the Member commits an act of bankruptcy or becomes insolvent;
(h) the Member passes a resolution to appoint an administrator or an administrator of the member is appointed;
(i) an order is made that the Member be wound-up;
(j) an order is made appointing a liquidator or a provisional liquidator of the Member;
(k) an order is made or a resolution is passed for the Member to enter into any arrangement, compromise or composition with or assignment for the benefit of its creditors or any class of them, except for the purposes of a solvent reconstruction or amalgamation previously approved by the Company;
(l) the Member is, or states that it is, or under applicable legislation is taken to be, unable to pay its debts (except as a result of a failure to pay a debt or claim that is the subject of a dispute in good faith) or stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
(m) a receiver, receiver and manager, administrator, controller or similar officer of any of the assets or the whole or any part of the undertaking of the Member is appointed; or
(n) the Member is or makes a statement from which it may be reasonably deduced by the Company that the party is the subject of an event described in section 459C(2) of the Law;

40.2.23 **Law** means the *Corporations Act 2001* (Cth) as amended or substituted from time to time, and the expression extends to and includes any regulations made thereunder;

40.2.24 **Market Value** means the reasonable arm's length open market value of the Company on the basis of a going concern and in accordance with the definition of market value adopted by member organisations of the International Asset Valuation Standards;

40.2.25 **Member** means a person who holds Shares;

40.2.26 **Member's Representative** means in respect of a Member the person nominated by the Member as their Member's Representative in accordance with the terms of this Constitution;

40.2.27 **Minimum Parcel** means the lower of:

(a) a parcel of Shares with a Market Value of no less than $10,000 (or such other minimum Market Value as may be adopted by the Board from time to time); and
(b) 100% of a Member's Shares in the Company;

40.2.28 **Officer** means what it means in the Law;

40.2.29 **Personal Representative** in respect of a person means:

(a) in the case of a deceased person the executor or administrator to whom probate or letters of administration has been granted or any other person duly authorised to administer the estate of such deceased person; and
(b) in other cases any person who is duly authorised pursuant to any statutory enactment to administer or manager the affairs of any other person where such other person is incapable of managing his own affairs by reason of his age mental or physical illness, disability or incapacity or for any other reason whatsoever;

40.2.30 **Property** includes any estate and any interest in any real, personal, movable or immovable property of any description and in any location, whether in possession or not, including (without limiting the
endowment, cash and choses in acti

40.2.31 **Register** means the register
if appropriate includes a branch regi

40.2.32 **Related Body Corporate** ha
has in the Law;

40.2.33 **Seal** means the common sea
official seal of the Company;

40.2.34 **Secretary** means the secreta

40.2.35 **Share** means a share in the

40.2.36 **Shareholder Loan Terms** means the terms set out in Schedule C;

40.2.37 **Simple Majority Vote** means a resolution passed at a properly constituted meeting by persons who together hold more than **50%** of the total voting rights that may be exercised in respect of that resolution;

40.2.38 **Special Majority Vote** means a vote passed at a properly constituted meeting by persons who together hold **75%** or more of the total voting rights that may be exercised in respect of that resolution;

40.2.39 **Spouse** includes:

(a) a putative spouse, a widow or widower;
(b) a de-facto spouse, being a woman living with a man as his wife or a man living with a woman as her husband (as the case may be) on a bona fide domestic basis, although not legally married to each other; and
(c) a person who is living with another person on a bona fide domestic basis in a marriage-like relationship, including a marriage-like relationship between persons of the same gender;

40.2.40 **Standard Rate** from time to time means the rate of 4% per annum above the Reserve Bank of Australia's indicated cash target rate at that time;

40.2.41 **State** means unless the director(s) declare otherwise the state or territory in which the company was registered.

Your company's rules cover more than its annual ASIC fee. They also address ownership, control and decisions throughout the company's life.

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40.2.42 **Unanimous Decision** means a vote passed at a properly constituted meeting by persons who together hold 100% of the total voting rights that may be exercised in respect of that resolution.

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Adoption of Constitution

The adoption page records acceptance of the new Constitution. Complete the signing steps in our cover letter and keep the signed records together.

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: this Constitution as the Company's
_____ 20 _____

_____
Claire Elizabeth Lawson

(Signature of witness)

_____
(Name of witness)

Director:
SIGNED, SEALED AND DELIVERED by
Michael James Lawson:

_____
Michael James Lawson

_____
(Signature of witness)

_____
(Name of witness)

Schedule A - Share Classes

Ordinary Shares	Right to receive notice of any general meeting of the Company. Right to attend and vote at all general meetings of the Company. Right to receive Dividends, distributions, bonuses and other profits declared on or accrued in respect of Ordinary Shares (in common with the holders of other Shares so entitled). On a winding-up, and on a return of capital, the right to a return of capital *pari passu* with the holders of Ordinary Shares in the capital of the Company (in common with the holders of other Shares so entitled). Right to participate in the distribution of surplus assets on a winding up of the Company (in common with the holders of other Shares so entitled).

A, B, C & D Class Shares	Right to receive notice of any general meeting of the Company. Right to attend and vote at all general meetings of the Company. Right to receive Dividends, distributions, bonuses and other profits declared on or accrued in respect of the particular class of Shares (in common with the holders of that same class of Shares so entitled). On a winding-up, and on a return of capital, the right to a return of capital pari passu with the holders of Ordinary Shares in the capital of the Company (in common with the holders of other Shares so entitled). Right to participate in the distribution of surplus assets on a winding up of the Company (in common with the holders of other Shares so entitled).

E, F & G Class Shares	No right to receive notice of any general meeting of the Company. No right to attend and vote at all general meetings of the Company. Right to receive Dividends, distributions, bonuses and other profits declared on or accrued in respect of the particular class of Shares (in common with the holders of that same class of Shares so entitled). On a winding-up, and on a return of capital, the right to a return of capital pari passu with the holders of Ordinary Shares in the capital of the Company (in common with the holders of other Shares so entitled). No right to participate in the distribution of surplus assets on a winding up of the Company.

H Class Shares	No right to receive notice of any general meeting of the Company. No right to vote at any general meeting of the Company. No right to receive Dividends. No right to participate in a distribution of surplus assets on the winding up of the Company. The issue of Shares of any class does not constitute a variation of the

	rights of the holders of H Class Shares. The Company is authorised at any time to do all or any of the following: To appoint a person to execute on behalf of any holder of the H Class Shares a transfer of all or any thereof and/or an agreement to transfer the same (without making any payment therefore) to such person as the directors of the Company may from time to time determine as the custodian thereof. Save as aforesaid, the H Class Shares shall not be transferable. To cancel all or any of the H Class Shares in accordance with the Act without making any payment therefor or obtaining the consent of the holder thereof. To purchase all or any of the H Class Shares in accordance with the Act without obtaining the sanction of the holders thereof and in consideration of the payment to each of the holders whose Shares are purchased at the sum of 1c in respect of all the H Class Shares then being purchased from such holder. For the purposes of any such behalf of any holder of H Clas Company of any such Shares Pending any such transfer, ca certificates for all or any of th
Non Cumulative Redeemable Preference Shares	To receive notices and to vot they were holders of Ordinary following circumstances: • During a period in which a the Shares is in arrears; • On a proposal for a reduction in capital; • On a proposal that affects rights attached to the Shares; • On a proposal to wind up the Company; and • On a proposal for the disposal of all the Company's business, property and undertaking. Right to a fixed non-cumulative Dividend at a rate per annum determined by the Directors at the date of issue, the non-cumulative Dividend to rank in priority to Dividends to be paid on all other Shares of the Company on issue. On a winding up, and on a return of capital, right to a return of capital, but not to participate in any distribution of surplus assets, in priority to all other Shares of the Company on issue. Subject to section 254J and 254K of the Law, the Company has the right to redeem preference Shares by paying the holders their aggregate issue price on or before 40 years from the date of incorporation of the Company. The right is to be exercised by notice in writing to holders at their addresses in the Share Register, accompanied by the Company's cheque for the amount payable.

Share classes describe company ownership rights. The special purpose restrictions still govern the SMSF trustee company.

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Cumulative Redeemable Preference Shares	To receive notices and to vote at general meetings of the Company as if they were holders of Ordinary Shares, but only in one or more of the following circumstances: • During a period in which a Dividend or part of a Dividend in respect of the Shares is in arrears; • On a proposal for a reduction in capital; • On a proposal that affects rights attached to the Shares; • On a proposal to wind up the Company; and • On a proposal for the disposal of all the Company's business, property and undertaking. Right to a fixed cumulative Dividend at a rate per annum determined by the Directors at the date of issue, the cumulative Dividend (plus arrears and interest) to rank in priority to Dividends to be paid on all other Shares of the Company on issue. On a winding up, and on a return of capital, right to a return of capital (plus Dividends which have not been paid) but not to participate in any distribution of surplus assets, in priority to all other Shares of the Company on issue. Subject to section 254J and 254K of the Law, the Company has the right to redeem preference Shares by paying the holders their aggregate issue price plus any accrued unpaid Dividends on or before 40 years from the date of incorporation of the Company. The right is to be exercised by notice in writing to holders at their addresses in the Share Register, accompanied by the Company's cheque for the amount payable.

All other classes	With the rights and obligations as adopted by the Board at the time of issue.

Schedule B - Pro-forma Proxy Form

Details of the Meeting

Place	
Date	
Time	

I/We, the current Members of Springwood Retirement Pty Ltd ACN 123 456 780
I appoint the following person/persons as my proxy/proxies to vote on my/our behalf at the specified meeting and any adjournment.

Name or office of proxy	Address of proxy

I/We appoint the following alternate person/persons to vote on my/our behalf at that meeting and any adjournment if a person I/we have appointed proxy is/are unable to act.

Name of proxy	Name of alternate	Address of alternate

A proxy form lets a shareholder appoint someone to vote at a meeting. Complete the meeting and appointment details before using it.

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Signature/signatures of Member/Members:

.....

.....

.....

....

Schedule C - Shareholder Loan Terms

1. The loan facility

1.1 Interest on loans

As from 1 July after a loan is made by the Company to a Member, the Member must pay interest on the outstanding amount of that loan at the Benchmark Interest Rate as defined in the *Income Tax Assessment Act 1936* (Cth).

1.2 Minimum annual repayment

In relation to each Amalgamated Loan, the Member must make annual repayments by 30 June each year that are at least the minimum yearly repayments as defined in section 109E(5) of the *Income Tax Assessment Act 1936* (Cth).

1.3 Repayment of loan and interest

The Member must repay each loan to the Company, plus all interest that remains unpaid on it, no later than 7 years from the date the loan is made or is deemed by the *Income Tax Assessment Act 1936* (Cth) to have been made. The Member may repay any part of a loan, and any interest on a loan, before that date.

1.4 Company may require security

The Company may at any time require the Member to provide reasonable security for the performance of the Member's obligations under this agreement.

1.5 Costs

The Member must pay the Company the costs it reasonably incurs in connection with a loan under this Schedule C, and any security the member offers or provides under it. This includes stamp duty.

2. Default

2.1 Acceleration of amounts owing under this agreement

The Company may elect to treat all loans made to the member under this Schedule C, and any interest that has accrued but remains unpaid, as payable automatically and immediately if any one or more of the following happens:

2.1.1. The Member fails to pay an amount in accordance with this agreement; or

2.1.2. The Member is Insolvent.

3. General provisions

3.1 Method of payment

The Company may inform the Member in writing that it requires payment under this Schedule C to be made in a specified way.

3.2 Joint and individual liability

Where a member is comprised of more than one person, the obligations imposed on a borrower by this Schedule C are imposed on those persons individually as well as jointly. A breach by any of them is a breach by all of them.

3.3 Waiver

The Company only waives the exercise of a right or the performance of a duty under this Schedule C by specifically waiving it in writing, and then only to the extent it is specifically waived. Nothing else suffices.

3.4 Severability

Each provision in this Schedule C is to be interpreted in a way that makes it enforceable. If anything in this Schedule C is unenforceable, it is to be disregarded to that extent. All other provisions remain unaffected.

3.5 Jurisdiction

A loan made under this Schedule C is governed by the law of the jurisdiction in which the Company was incorporated. Each party submits to the jurisdiction of the courts of that jurisdiction. No party may argue, on the basis of the doctrine of *forum non conveniens* or any other basis, that the courts of that jurisdiction should not exercise jurisdiction.

3.6 In this Schedule C:

3.6.1. **Amalgamated Loan** means the tot
that are made in a particular year o
year;

3.6.2. **Associate** means what it means in
Act 1936 (Cth);

3.6.3. **Company** means the company of v
part;

3.6.4. **Loan** means any of the following:

(a) an advance of money;

(b) a provision of credit or of some other financial accommodation;

(c) a payment of an amount for or on behalf of or at the request of the borrower where there is an express or implied obligation to repay the amount; or

(d) a transaction which in substance effects a loan of money;

and it includes any of these that is deemed to have been made under the *Income Tax Assessment Act 1936* (Cth); and

3.7 **Member** means any person who is a Member of the Company at the relevant time.

The Constitution includes supporting schedules as well as its main rules. Read them with the special purpose restrictions and your company's actual arrangements.

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DECLARATION

SPECIAL PURPOSE COMPANY

Trustee of Regulated Superannuation Fund

(Regulation 3, *Corporations (Review Fees) Regulations 2003* (Cth)

Your special purpose declaration supports the lower annual ASIC review fee. Our cover letter explains how to tell ASIC about the company's status.

Corporations (Review Fees) Regulations 2003 (Cth) reg 3.

Convert your company for its SMSF job: legalconsolidated.com.au/replace-special-purpose-company-constitution/

Company Name: **Springwood Retireme**
ACN 123 456 780

The following declaration is made to supp
company' as defined in paragraph (f) of th
Regulation 3 of the *Corporations (Review*

- The Constitution of this Company pro
  property to its Members; and
- The sole purpose of the Company is to act as the trustee of a regulated superannuation fund within the meaning of Section 19 of the *Superannuation Industry (Supervision) Act 1993* (Cth).

This company became a special purpose company on incorporation on.

DATED this _____ day of _____ 2026

_____
Signature

_____
Name

_____
Capacity (Director or Secretary)

SHARE CE

SPRINGWOOD RE

A.C.N. 1

Keep share certificates with the company's ownership records. They concern shares in the company, not the investments that the company holds for your SMSF.

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THIS IS TO CERTIFY that

..... of

.....

is the registered holder of the Shares shown in the following Schedule subject to and with the benefit of the terms and conditions of the Constitution described hereunder.

SCHEDULE

DATE OF ISSUE	NUMBER OF SHARES	CLASS	PRICE PER SHARE	AMOUNT PAID PER SHARE

This certificate is issued by the Company pursuant to its Constitution.

Payment for the Shares as set out in the Schedule is hereby acknowledged.

SIGNED for or on behalf of the Company) .....

Signature

Per : Name of Director/Secretary signing above:.....

This certificate must be delivered to the Company on application to transfer any of the Shares.