

KEMP & DENNING LIMITED

Company Constitution

ACN 009 475 941

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Kemp & Denning Limited ACN 009 475 941

A Company Limited by Shares - Constitution

1. Definitions and Interpretation

1.1 Replaceable Rules

The replaceable rules contained in the Law are displaced pursuant to section 135(2) of the Law and do not apply to the Company.

1.2 Definitions

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

Business Day means a day other than a Saturday or a Sunday or a public holiday listed throughout Tasmania;

Company means Kemp & Denning Limited ACN 009 475 941;

Constitution means this constitution as altered or added to from time to time;

Director means a person appointed or elected to the office of Director of the Company in accordance with this Constitution and includes any alternate Director duly acting as a Director;

Dividend includes an interim dividend and a special dividend;

Law means the *Corporations Act 2001 (Cth)* and the Corporations Regulations;

Meeting in relation to meetings of members, includes all adjournments of a meeting and includes any meeting convened to be held by those entitled to be present, meeting simultaneously in different locations as determined by the Directors, but the business of such meetings will not be validly considered and any resolutions at such meeting will be of no effect whatsoever unless:

- (a) the Members Present at each such location can see, hear and participate in the business of the meeting as it is being conducted both at the venue at which the Chairman is present and at each other venue; and
- (b) satisfactory provision is made at each venue for the recording of all votes cast; and then
- (c) the meeting is taken to be held where the Chairman conducts the meeting; and
- (d) all proceedings conducted in that manner are as valid and effective as if conducted at a single gathering of a quorum of those entitled to be present;

Member Present means, in connection with a general meeting, the member being present in person or by proxy, by attorney and, where the member is a body corporate, by representative, and includes being present at a different venue from the venue at which other members are participating in the same meeting, providing the pre-requisites for a valid meeting at different venues are observed;

Notice means a notice in writing and includes a notice transmitted by electronic means;

Person and words importing persons include partnerships, associations and bodies corporate, unincorporated bodies and all other entities or associations recognised by law as well as individuals;

Prescribed Rate means the base lending rate offered by the Company's principal banker from time to time in respect of loans of \$100,000 and over calculated on a daily basis and a year of three hundred and sixty-five days;

Registered Office means the registered office of the Company unless the context otherwise provides;

Seal means any common seal, duplicate common seal or official seal of the Company; and

Signature includes the reproduction by mechanical electronic or other means of the handwritten signature of any person empowered or required to sign documents on behalf of the Company, and **Sign** has a corresponding meaning.

1.3 Interpretation

Headings are for convenience only and do not affect interpretation of this Constitution. The following rules of interpretation apply unless the context requires otherwise:

- (a) a gender includes all genders;
- (b) the singular includes the plural and conversely;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a numbered clause refers to the clause in this Constitution and a reference to an unnumbered clause is to be taken as a reference to the clause in which the reference appears;
- (e) a reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it; and
- (f) any expression in a provision of this Constitution which relates to a particular provision of the Law has the same meaning as in that provision of the Law.

1.4 Actions Authorised Under the Law and Compliance with the Law

Where the Law allows a company to do something authorised by its constitution, the Company is by this clause authorised or permitted to do that thing, despite any other provisions of this Constitution.

1.5 Transitional

Everything done under the previous constitution of the Company continues to have the same operation and effect after the adoption of this Constitution as if properly done under this Constitution.

2. Capital

2.1 Power of Directors to Issue Securities

- (a) The issue of shares, options and other securities of the Company is under the control of the Directors.
- (b) Any share, option or other security may be issued with preferred, deferred or other special rights or restrictions, whether with regard to dividends, voting, return of capital, payment of calls or otherwise, as the Directors decide.
- (c) Clause 2.1(a) has effect without prejudice to any special rights conferred on the holders of any issued shares, options or other securities.

2.2 Preference Shares

The Directors may issue preference shares that are liable to be redeemed.

2.3 Classes of Shares

- (a) This clause applies when the share capital is divided into different classes of shares.
- (b) The rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the Company is being wound up, be varied:
 - (i) with the consent in writing of the holders of three-fourths of the issued shares of that class; or
 - (ii) with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of the class;
- (c) The provisions of this Constitution relating to general meetings apply to every separate class except that any holder of shares of the class present may demand a poll.
- (d) The rights conferred on the holders of the shares of any class issued with special rights are not, unless otherwise provided by this Constitution, or by the terms of issue of the shares of that class, taken to be varied, abrogated or otherwise affected by the creation or issue of further shares ranking equally with those shares.
- (e) The issue of any securities ranking in priority, or any conversion of existing securities to securities ranking equally or in priority, to an existing class of preference share is a variation or abrogation of the rights attaching to those preference shares.

2.4 Brokerage

- (a) The Company may pay brokerage or commission in respect of shares or any other securities of the Company provided by the Law.
- (b) The brokerage or commission may be satisfied by:
 - (i) the payment of cash;
 - (ii) the allotment of securities of the Company; or
 - (iii) a mixture of the above.

2.5 Non-Recognition of Equitable or Other Interests

Except as otherwise provided in this Constitution, the Company will treat the registered holder of any share as the absolute owner of the share and will not, except as ordered by a court or as required by statute, recognise (even when having notice) any equitable or other claim to or interest in the share on the part of any other person.

2.6 Register of Debenture Holders: Suspension

The Company may close its register of debenture holders during a period or periods not exceeding in aggregate 30 days in any calendar year.

3. Certificates for Shares

3.1 Share Certificates

- (a) A registered member is entitled to receive without payment a share certificate in accordance with the Law.
- (b) The Company is not bound to issue more than one certificate in respect of a share or shares held jointly by several persons.
- (c) Delivery of a share certificate to one of several joint holders is sufficient delivery to all of the joint holders.

3.2 Form of Share Certificates

A certificate for shares is to be in a form that the Directors from time to time decide.

3.3 Worn out or Defaced Share Certificates

- (a) Subject to clause 3.3(b), the provisions of the Law with respect to certificates which are lost or destroyed apply to certificates which are worn out or defaced. The Directors may exercise all the powers in relation to certificates which are lost, destroyed, worn out or defaced as are exercisable by the Company or its Directors under the Law in relation to certificates that are lost or destroyed.
- (b) The Company:
 - (i) is to issue a certificate in replacement of a worn out or defaced certificate only if either the certificate to be replaced is received by

the Company and is cancelled, or if satisfactory evidence of loss or destruction of the original certificate is received; and

- (ii) may require the payment of any amount (not exceeding any maximum amount prescribed by the Law) as the Directors determine in connection with the issue of a replacement certificate.

4. Lien on Shares

4.1 Lien on Shares

- (a) The Company has an exclusive first lien on every share for:
 - (i) any amount due and unpaid in respect of the share which has been called or is payable at a fixed time;
 - (ii) any amounts which remain outstanding on loans made by the Company to acquire shares under an employee incentive scheme; and
 - (iii) all amounts that the Company has according to law paid in respect of the share, including reasonable expenses and interest incurred because the amount has not been paid.
- (b) The Directors may at any time exempt a share wholly or in part from the provisions of this Clause.
- (c) The Company's lien (if any) on a share extends to all dividends payable and entitlements in respect of the share. The Company may retain those dividends or entitlements and may apply them in or towards satisfaction of all amounts due to the Company in respect of which the lien exists.
- (d) No person is entitled to exercise any rights or privileges as a member until the member has paid all monies for the time being payable in respect of every share held by the member.

4.2 Exercise of Lien

- (a) Subject to clause 4.2(b), the Company may sell any shares on which the Company has a lien, in the manner that the Directors think fit.
- (b) A share on which the Company has a lien may not be sold unless:
 - (i) a sum in respect of which the lien exists is payable; and
 - (ii) at least seven days before the date of the sale, the Company has given to the member or the person entitled to the share by reason of the death, mental incapacity or bankruptcy of the member, a notice in writing demanding payment of the sum.

4.3 Completion of Sale

- (a) For the purpose of giving effect to a sale of shares to enforce a lien, the Directors may authorise a person to do everything necessary to effect a transfer of the shares in favour of the person to whom the shares are sold.

- (b) The Company must register the purchaser as the holder of the shares comprised in any transfer, after which the validity of the sale may not be disputed by any person and the purchaser is not concerned with the application of the purchase money.
- (c) The title of the purchaser to the shares is not affected by any irregularity or invalidity in connection with the sale.
- (d) The purchaser is discharged from liability for any calls which were in default before the purchase of those shares, unless otherwise expressly agreed.
- (e) The remedy of any person aggrieved by any sale is in damages only and against the Company exclusively.

4.4 Application of Proceeds of Sale

The proceeds of a sale made to enforce a lien are to be applied by the Company in the following order:

- (a) first, in payment of all costs of or in relation to the enforcement of the lien and of the sale;
- (b) next, in satisfaction of the amount in respect of which the lien exists as is then payable to the Company (including interest);
- (c) last, the residue (if any) to or at the direction of the person registered as the holder of the shares immediately prior to the sale on production of any evidence as to title required by the Directors.

5. Calls on Shares

5.1 Obligation to Pay Calls

- (a) Members will pay all monies payable on partly paid securities in accordance with the defined call program forming part of the terms of issue of those securities.
- (b) The Directors may postpone or may revoke a call.
- (c) A call may be payable by instalments.
- (d) A call is made at the time when the resolution of the Directors authorising the call is passed.
- (e) The Company must send notices of a call to members in accordance with the terms of the partly paid securities, but if not prescribed then within 5 Business Days of the Directors Resolution to make the call.
- (f) The Company must take reasonable efforts to ensure that all holders of the partly paid securities receive notice of each call, but the non-receipt of a notice or the accidental omission to give notice of a call does not invalidate the call.

5.2 Liability of Joint Holders for Calls

The joint holders of a share are jointly and severally liable to pay all calls in respect of the share.

5.3 Interest on Unpaid Amounts

- (a) If a sum called or otherwise payable to the Company in respect of a share is not paid before or on the day appointed for payment of the sum, the person from whom the sum is due must pay interest on the sum from the day appointed for payment of the sum to the time of actual payment at a rate determined by the Directors but not exceeding the Prescribed Rate together with expenses incurred by the Company by reason of non-payment.
- (b) The Directors may waive payment of that interest wholly or in part.

5.4 Fixed Sums Taken to be Called

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

5.5 Differentiation Between Members

The Directors may differentiate between members as to the amount of calls to be paid and the times of payment.

5.6 Prepayments of Calls

- (a) The Directors may accept from a member the whole or a part of the amount unpaid on a share even if that amount has not been called.
- (b) The Directors may authorise payment of interest on the whole or any part of an amount accepted under clause 5.6(a) until the amount becomes payable at a rate not exceeding the Prescribed Rate, which is agreed between the Directors and the member paying the sum.
- (c) The Directors may at any time repay the whole or any part of any amount paid in advance and any interest agreed will abate from the time of payment.

6. Transfer of Shares

6.1 Transferability of Certificated Shares

- (a) Subject to this Constitution and the Law, a member's shares may be transferred by instrument in writing in any form authorised by the Law or in any other form that the Directors approve.
- (b) No fee may be charged by the Company on the transfer of any shares.

- (c) A transferor of shares remains the holder of the shares until the transfer is registered.

6.2 Registration of Transfers

- (a) Where shares are transferred, the following documents must be lodged for registration at the registered office of the Company or the location of the relevant share register:
 - (i) the instrument of transfer;
 - (ii) the certificate (if any) for the shares; and
 - (iii) any other information that the Directors may require to establish the transferor's right to transfer the shares.
- (b) On compliance with clause 6.2(a), the Company must, subject to any powers of the Company to refuse registration, register the transferee as a member.
- (c) The Directors may waive compliance with clause 6.2(a)(ii) and 6.2(a)(iii) on receipt of satisfactory evidence of loss or destruction of the certificate.

6.3 Where Registration May be Refused

Where permitted or required to do so by the Law, the Company may refuse to register any transfer of shares including where:

- (a) the Company is required to do so in compliance with a law related to stamp duty;
- (b) the Company has a lien on any of the shares;
- (c) the Company is required to do so pursuant to a court order; or
- (d) the transfer was executed in breach of any contract or other legal obligation.

6.4 Notice of Non-Registration

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

6.5 Suspension of Transfers

The registration of transfers of securities may be suspended at any time and for any period as the Directors from time to time decide. The aggregate of those periods must not exceed 30 days in any calendar year.

6.6 Cases where Registration May be Refused

In any case where the Company is entitled to refuse registration of the transfer in accordance with the Law and this Constitution, the Company may do any or all things permitted by the Law.

7. Transmission of Shares

7.1 Entitlement to Shares on Death

- (a) Where a member dies:
 - (i) the surviving member where the deceased member was a joint holder; and
 - (ii) the legal personal representatives of the deceased, where the member was a sole holder,

are the only persons recognised by the Company as having any title to the member's interest in the shares.

- (b) The Directors may require such evidence of a member's death as they think fit.
- (c) This clause does not release the estate of a deceased joint holder from any liability in respect of a share that had been jointly held by the holder with other persons.

7.2 Registration of Persons Entitled

- (a) Subject to the production of any information that is properly required by the Directors, a person becoming entitled to a share in consequence of the death, mental incapacity or bankruptcy of a member may elect to:
 - (i) be registered personally as holder of the share; or
 - (ii) have another person registered as the transferee of the share.
- (b) All the limitations, restrictions and provisions of this Constitution relating to:
 - (i) the right to transfer;
 - (ii) the registration of a transfer; and
 - (iii) the issue of certificates,

are applicable to any transfer as if the death, mental incapacity or bankruptcy of the member had not occurred and the notice or transfer were a transfer signed by that member.

7.3 Dividends and Other Rights

- (a) Where a member dies, becomes mentally incapacitated or bankrupt, the member's legal personal representative or the trustee of the member's estate (as the case may be) is, on the production of all information as is properly required by the Directors, entitled to the same dividends, entitlements and other advantages and to the same rights (whether in relation to meetings of the Company or to voting or otherwise) as the member would have been entitled to if the member had not died, become mentally incapacitated or bankrupt.

- (b) Where two or more persons are entitled jointly to any share as a result of the death of a member, they are, for the purposes of this Constitution, taken to be joint holders of the share.

8. Forfeiture of Shares

8.1 Liability of Forfeiture

- (a) If a member fails to pay a call or instalment of a call when due, the Directors may, at any time afterwards while any part of the call or instalment remains unpaid, serve a notice on the member requiring payment of so much of the unpaid call or instalment, together with any accrued interest and all expenses incurred as a result of the non-payment.
- (b) The notice must:
 - (i) specify a day at least ten Business Days after the date of the notice by which and a place at which the payment is to be made; and
 - (ii) state that the shares in respect of which the call was made are liable to be forfeited if payment is not made by the time specified.

8.2 Surrender of Shares

Subject to law, the Directors may accept the:

- (a) surrender of any fully paid share by way of compromise of any question as to the proper registration of the holder or in satisfaction of any payment due to the Company; and
- (b) gratuitous surrender of any fully paid share.

Any share so surrendered may be disposed of in the same manner as a forfeited share.

8.3 Power to Forfeit

- (a) If the requirements of a notice under clause 8.1 are not complied with any share in respect of which the notice has been given may, at any time afterwards but before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect.
- (b) Such a forfeiture includes all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.

8.4 Powers of Directors

- (a) A forfeited share may be sold or otherwise disposed of as the Directors think fit.
- (b) The forfeiture may be cancelled on the terms that the Directors think fit at any time before a sale or disposition.
- (c) The proceeds of sale of a forfeited share will be applied in the following order:

- (i) first, in payment of all costs of or in relation to the sale;
- (ii) next, in satisfaction of the amount in respect of the shares as is then payable to the Company (including interest);
- (iii) last, the residue (if any) to or at the direction of the person registered as the holder of the shares immediately prior to the sale or to the person's estate, on production of any evidence as to title required by the Directors.

8.5 Consequences of Forfeiture

A person whose shares have been forfeited:

- (a) ceases to be a member in respect of the forfeited shares at the time of the Directors' resolution approving the forfeiture;
- (b) has no claims or demands against the Company in respect of those shares;
- (c) has no other rights incident to the shares except any rights expressly provided by the Law or this Constitution; and
- (d) remains liable to pay to the Company all money that, at the date of forfeiture, was payable by the person to the Company in respect of the shares including, if the Directors think fit, interest from the date of forfeiture at the Prescribed Rate on the money for the time being unpaid. The Directors may as they think fit compel the payment of any part of the money for which the member is liable.

8.6 Notice of Forfeiture

- (a) Notice of the resolution of forfeiture must be given to the member in whose name the share was registered immediately before the forfeiture and an entry of the forfeiture and its date must be made immediately in the register.
- (b) The provisions of clause 8.6(a) are directory only and the validity of any forfeiture is not affected in any way by any omission to give the notice or to make the entry.

8.7 Evidentiary Matters

Without prejudice to clause 8.6, a statement in writing by a Director or a Secretary of the Company to the effect that:

- (a) a share in the Company has been duly forfeited on a date specified in the statement; or
- (b) a particular sum is payable by a member or former member to the Company at a particular date in respect of a call or instalment of a call (including interest),

is prima facie evidence of the facts set out in the statement as against all persons claiming to be entitled to the share and against the member or former member who remains liable to the Company under clause 8.9.

8.8 Transfers after Forfeiture and Sale

- (a) The Company may:
 - (i) receive the proceeds of sale or disposition of a forfeited share; and
 - (ii) transfer the share to the transferee.
- (b) On registration of the transfer, the transferee is not bound to see to the application of any money paid as consideration.
- (c) The title of the transferee to the share is not affected by any irregularity or invalidity in connection with the forfeiture, sale or disposal of the share.

8.9 Fixed amounts Taken to be Calls

The provisions of this Constitution relating to forfeiture apply to non-payment of any sum that becomes payable for a share at a defined time, as if that sum was payable as a call duly made.

9. Alteration of Capital

9.1 Power to Alter Capital

The Company may by resolution:

- (a) increase its share capital by the creation of new shares;
- (b) consolidate all or part of its share capital;
- (c) subdivide all or any of its share capital; and
- (d) cancel shares that at the time of the resolution have not been taken or agreed to be taken by any person or that have been forfeited and reduce its share capital by the amount of the shares so cancelled.

9.2 Power to Reduce Capital

Subject to the Law, the Company may by special resolution resolve to reduce its share capital.

10. General Meetings

10.1 Power of Directors to Convene

- (a) The Directors may convene a general meeting of members whenever they think fit.
- (b) The members are entitled to require the Directors to convene a general meeting under section 249D of the Law.
- (c) The Directors may by notice in writing to all members cancel any meeting convened by them, except that a meeting convened on the requisition of a member or members must not be cancelled without their consent.
- (d) The Directors may postpone or relocate the place of the meeting by giving notice (**Change Notice**) to all persons to whom the notice of meeting

(**First Notice**) was given, not later than 72 hours prior to the time of the meeting. The change notice must specify the place, date and time of the meeting. The meeting will be taken to be duly convened under the first notice.

10.2 Notice of General Meetings

- (a) Subject to the Law, the Company must give at least 21 days' notice of a general meeting and each notice convening a general meeting must specify:
 - (i) the place, date and hour of the meeting; and
 - (ii) the general nature of any special business to be transacted at the meeting.
- (b) A notice convening an annual general meeting need not state the general nature of business of the kind referred to in clause 10.3(a)(ii) but, if the business includes the election of Directors, the names of the candidates for election must be stated.
- (c) The non-receipt of a notice convening a general meeting by, or the accidental omission to give notice to, any person entitled to receive notice does not invalidate the proceedings at or any resolution passed at the meeting.

10.3 Business of General Meetings

- (a) The ordinary business of each annual general meeting is to:
 - (i) receive the Company's annual financial statements, the related Directors' statements and report and the auditors' report on those statements; and
 - (ii) elect Directors.
- (b) The business of an annual general meeting may also include any special business as set out in the notice of meeting which under the Law or this Constitution ought to be transacted at an annual general meeting.
- (c) No business may be transacted at any general meeting except:
 - (i) the ordinary business of the annual general meeting; and
 - (ii) any special business as set out in the notice of the meeting.

10.4 Quorum

- (a) No business may be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- (b) Except as otherwise provided in this Constitution, a quorum will constitute:
 - (i) three Members Present; or

- (ii) where the total number of Members is less than three, the total of those Members Present.

10.5 If a Quorum not Present

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

- (a) where the meeting is convened on the requisition of members, the meeting must be dissolved;
- (b) in any other case:
 - (i) the meeting stands adjourned to a day and at a time and place as the Directors decide or, if no decision is made by the Directors, to the same day in the next week at the same time and place; and
 - (ii) if at the adjourned meeting a quorum is not present within 15 minutes after the time appointed for the meeting, the meeting must be dissolved.

10.6 Chairman of Meetings

- (a) Subject to clause 10.6(b), the Chairman of Directors or, in the Chairman's absence, the Deputy Chairman, will preside as Chairman at every general meeting.
- (b) Where a general meeting is held and:
 - (i) there is no Chairman or Deputy Chairman; or
 - (ii) the Chairman or Deputy Chairman is not present within 15 minutes after the time appointed for the meeting or does not wish to act as Chairman of the meeting,

the Directors present must choose one of their number or, in the absence of all Directors or if none of the Directors present wish to act, the Members Present must elect one of their number to be Chairman of the meeting.

10.7 Adjournments

- (a) The Chairman may and must if so directed by the meeting adjourn the meeting from time to time and from place to place.
- (b) No business may be transacted at any continuation of an adjourned meeting other than the business left unfinished at the meeting which has been adjourned.
- (c) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (d) Except as provided by clause 10.7(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

10.8 Voting at General Meetings

- (a) Any resolution to be considered at a meeting will be decided on a show of hands unless a poll is demanded at or before the declaration of the result of the show of hands. Before a vote is taken, the Chairman is obliged to inform the meeting as to how proxy votes are to be cast.
- (b) A declaration by the Chairman that a resolution has on a show of hands been carried or lost and an entry to that effect in the minutes of the meeting is conclusive evidence of the fact without the need to show the number or proportion of the votes recorded in favour of or against the resolution.
- (c) A poll may be demanded:
 - (i) by the Chairman;
 - (ii) by at least five Members Present and having the right to vote at the meeting;
 - (iii) by a Member or Members Present and who together are entitled to not less than 1/10th of the total number of votes that may be cast by all the members (whether present or not) having the right to vote at the meeting; or
 - (iv) by a Member or Members Present holding shares in the Company conferring a right to vote at the meeting on which an aggregate sum has been paid up equal to not less than 1/10th of the total sum paid up on all the shares conferring that right.
- (d) The demand for a poll may be withdrawn.
- (e) A poll may not be demanded on the election of a Chairman or on a resolution for adjournment.

10.9 Procedure for Polls

- (a) A poll, when demanded, is to be taken in the manner and at the time the Chairman directs.
- (b) The result of the poll is a resolution of the meeting at which the poll was demanded.
- (c) The demand for a poll does not prevent a meeting from continuing for the transaction of any other business.

10.10 Chairman's Casting Vote

In the case of an equality of votes on a show of hands or on a poll the Chairman of the meeting has a casting vote in addition to any vote to which the Chairman may otherwise be entitled.

10.11 Representation and Voting of Members

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

- (a) at meetings of members or classes of members each member entitled to attend and vote may attend and vote in person or by proxy, or attorney and (where the member is a body corporate) by representative;
- (b) on a show of hands, every Member Present having the right to vote at the meeting has one vote.
- (c) on a poll, every Member Present has:
 - (i) one vote for each fully paid share; and
 - (ii) in the case of partly paid shares, that proportion of a vote as is equal to the proportion which the amount paid up on that member's share bears to the total issue price for the share, excluding calls paid in advance of the due date for payment.

10.12 Joint Holders

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

10.13 Members of Unsound Mind and Minors

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

the member's committee or trustee or any other person as has properly the management or guardianship of the member's estate or affairs may, subject to clause 10.13(b), exercise any rights of the member in relation to a general meeting as if the committee, trustee or other person were the member.
- (b) Any person with powers of management or guardianship cannot exercise any rights under clause 10.13(a) unless the person has provided the Directors with satisfactory evidence of the person's appointment and status.

10.14 Restriction on Voting Rights - Unpaid Amounts

A member is not entitled to vote in respect of a security giving the holder the right to vote unless all calls and other sums presently payable by the member in respect of that security have been paid.

10.15 Objections to Qualification to Vote

- (a) An objection to the qualification of a person to vote may be raised only at the meeting or adjourned meeting at which the vote objected to is tendered.

- (b) Any objection must be referred to the Chairman of the meeting, whose decision is final.
- (c) A vote allowed after an objection is valid for all purposes.

10.16 Number of Proxies

- (a) A member may appoint not more than two proxies. A proxy need not be a member.
- (b) An appointment of two proxies is taken to represent one half of voting rights each unless each proxy is appointed to represent a specified proportion of the member's voting rights.
- (c) If a member appoints two proxies, neither proxy is entitled to vote on a show of hands.

10.17 Form of Proxy

- (a) An instrument appointing a proxy must:
 - (i) be in writing signed by or on behalf of the member; or
 - (ii) if the member is a corporation, be either under seal or under the hand of an authorised officer or attorney.
- (b) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution. Where it does so, the proxy is not entitled to vote on the resolution except as specified in the instrument. A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated.
- (c) An instrument appointing a proxy confers authority to demand or join in demanding a poll.
- (d) An instrument appointing a proxy may be in any form that the Directors accept or stipulate.
- (e) Despite clause 10.12, where an instrument of proxy is signed by all of the joint holders of any shares, the votes of the proxy so appointed must be accepted in respect of those shares to the exclusion of any votes tendered by a proxy for any one of those joint holders.

10.18 Lodgment of Proxies

- (a) An instrument appointing a proxy is not treated as valid unless:
 - (i) the instrument; and
 - (A) the power of attorney or other authority (if any) under which the instrument is signed; or
 - (B) a copy of that power or authority certified in a manner acceptable to the Directors,

- (ii) are lodged not less than 24 hours before the time for holding the Meeting at the place specified for that purpose in the notice of the Meeting or, if none, at the registered office of the Company.
- (b) An instrument appointing a representative to act for a member at all meetings of the Company or at all meetings for a specified period is not treated as valid unless:
 - (i) the instrument of appointment or a certified copy of it; and
 - (ii) any evidence as to the validity and non-revocation of that authority or may be required by the Directors,

are lodged not less than 24 hours before the time for holding the meeting at the place specified for that purpose in the notice of the meeting or, if none, at the registered office.
- (c) For the purposes of this clause, any document a legible facsimile of which is received at a place is duly lodged at that place at the time when the facsimile is received.

10.19 Validity of Proxies

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

if no notice in writing of the death, unsoundness of mind, revocation or transfer has been received by the Company at its registered office before the commencement of the meeting at which the instrument or power is used.
- (b) A proxy is not revoked by the principal attending and taking part in the meeting, unless the principal actually votes on the resolution for which the proxy is proposed to be used.

10.20 Where Proxy is Incomplete

- (a) No instrument appointing a proxy is treated as invalid merely because:
 - (i) it does not contain the address of the appointor or of a proxy;
 - (ii) it is not dated;
 - (iii) it does not contain in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.
- (b) Where the instrument does not specify the name of a proxy, the instrument is treated as given in favour of the Chairman of the meeting.

11. Appointment, Removal and Remuneration of Directors

11.1 Appointment and Removal

- (a) Unless otherwise resolved by the Company in general meeting, there must be at least three and no more than seven Directors in office at all times.
- (b) Subject to the Law, the Company may at any time by resolution passed in general meeting:
 - (i) appoint any person to be a Director; or
 - (ii) remove any Director from office.

11.2 Share Qualification

- (a) Subject to clause 11.2(b), no person is eligible for appointment as a Director unless that person at the time of his or her appointment holds at least 200 shares in the Company and no person may remain as a Director unless he or she continues to hold at least 200 shares in the Company.
- (b) The Company in general meeting may resolve to amend or remove the requirement that a Director must hold a minimum number of shares in the Company.

11.3 Retirement by Rotation

At each annual general meeting of the Company, at least two Directors must retire from office, provided that:

- (a) a Managing Director is not subject to retirement by rotation and is not to be taken into account in determining the retirement by rotation of Directors;
- (b) subject to the Corporations Act, a retiring Director will be eligible for re-election;
- (c) the Directors who must retire at an annual general meeting will be those who have been longest in office since their last election but, as between Directors who were last elected as Directors on the same day, those to retire must be determined by agreement among themselves or, in the absence of agreement, by lot;
- (d) if the places of the Directors retiring by rotation are not filled, the Directors retiring by rotation or any of them who have not had their places filled will be deemed to be re-elected and, if willing, will continue in office until the next annual general meeting and so on from year to year until their vacancies are filled unless:
 - (i) it is resolved at the meeting to reduce the number of Directors;
 - (ii) it is resolved at the meeting not to fill the vacated office;

- (iii) the resolution for re-election of a Director is put to the meeting and lost; or
 - (iv) the Director has given notice in writing in accordance with clause 11.5(b) to the Company that they are not willing to be re-elected; and
- (e) the retirement of a Director from office in accordance with this clause 11.3, and the re-election of that Director or the election of a new Director to office, takes effect at the conclusion of the annual general meeting at which the retirement and re-election or election occur.

11.4 Remuneration

- (a) Subject to clause 11.4(b), the Directors (other than the Managing Director) are paid for their services as Directors such fees as the Directors determine not exceeding in aggregate a maximum amount that is from time to time approved by the members in general meeting. The notice convening a general meeting at which it is proposed to seek approval to increase that maximum aggregate sum must specify the proposed new maximum aggregate sum and the amount of the proposed increase.
- (b) Any Director who is remunerated as an executive Director must not be paid fees under clause 11.4(a).
- (c) The Directors may agree not to pay the maximum amount of fees approved by the members under clause 11.4(a). The fees agreed to be paid by the Directors will be:
 - (i) divided among the Directors in the proportions and on the basis as the Directors may agree or, if they cannot agree, equally among them; and
 - (ii) exclusive of any benefits which the Company may provide to Directors in satisfaction of legislative schemes including, without limitation, benefits provided under superannuation guarantee or similar schemes or any other benefit permitted by the Law or this Constitution.
- (d) The Directors are also entitled to be paid or reimbursed for all travelling and other expenses properly incurred by them in attending and returning from any meeting of the Directors, committee of the Directors, general meeting of the Company or otherwise in connection with the business or affairs of the Company.
- (e) If, with the approval of the Directors, any Director performs extra services or makes any special exertions for the benefit of the Company, the Directors may approve the payment to that Director of special and additional remuneration as the Directors think fit having regard to the value to the Company of the extra services or special exertions. Any special or additional remuneration shall not include commission on, or a percentage of profits or operating revenue.
- (f) A Director may be engaged by the Company in any other capacity (other than as auditor) and may be appointed on such terms as to remuneration, tenure of office and otherwise as may be agreed by the Directors.

- (g) Fees payable by the Company and any entity under its control to non-executive Directors are to be by fixed sum, and not by commission on, or percentage of, profits or operating revenue.
- (h) Remuneration payable by the Company and any entity with which it is associated to any executive Director must not include a commission on, or percentage of, operating revenue.

11.5 Vacation of Office

In addition to the circumstances in which the office of a Director becomes vacant under law and because of a resolution under clause 11.1(b)(ii) or under clause 14.2(a), the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (b) resigns by notice in writing to the Company, such resignation being effective from the time of its acceptance by the Directors;
- (c) dies;
- (d) is absent (and not represented by an alternate Director) from three consecutive meetings of the Directors without special leave of absence from the Directors and the Board resolves that his office be vacated; or
- (e) ceases to satisfy the share qualification set out in clause 11.2(a).

12. Powers and Duties of Directors

12.1 Powers of Directors

- (a) Subject to the Law and this Constitution, the business of the Company is managed by the Directors, who may exercise all powers of the Company which are not, by the Law or this Constitution, required to be exercised by the Company in general meeting.
- (b) Without limiting the generality of clause 12.1(a), the Directors may exercise all the powers of the Company:
 - (i) to borrow money, to charge any property or business of the Company or all or any of its uncalled capital.
 - (ii) to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
 - (iii) in relation to any Seal and any branch register.

12.2 Appointment of Attorney/s

- (a) The Directors may, by power of attorney, appoint such person or persons to be an attorney of the Company for the purposes, with the powers, authorities and discretions vested in or exercisable by the Directors for any period and subject to any conditions as they think fit.
- (b) Any appointment under clause 12.2(a) may be made on terms for the protection and convenience of persons dealing with any such attorney as

the Directors think fit and may also authorise an attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

12.3 Negotiable Instruments

All negotiable instruments of the Company are to be executed by the persons and in the manner determined by the Directors from time to time.

13. Proceedings of Directors

13.1 Proceedings

- (a) The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) A Director may at any time, and the Secretary must on the request of a Director, convene a meeting of the Directors.
- (c) Reasonable notice must be given to every Director for the place, date and hour of every meeting of the Directors using any technology consented to by the Directors. Where any Director is for the time being outside Australia, notice need only be given to that Director if contact details have been given, but notice must always be given to any alternate Director in Australia whose appointment by that Director is for the time being in force.

13.2 Meetings by Telecommunications

The Directors may hold a valid meeting using any medium whereby each of the Directors can simultaneously hear all the other participants, and then -

- (a) the participating Directors are taken to be present at the meeting for the purposes of this Constitution concerning meetings of Directors;
- (b) the meeting is taken to be held where the Chairman of the meeting is situate for that meeting; and
- (c) all proceedings of the Directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were present.

13.3 Quorum at Meetings

At a meeting of Directors, the number of Directors whose presence is necessary to constitute a quorum is the number determined by the Directors and, if not so determined, is two Directors entitled to vote.

13.4 Chairman of Directors

- (a) The Directors may elect one of their number as their Chairman and may decide the period during which the Chairman is to hold that office.
- (b) The Directors may elect one of their number as their Deputy Chairman and may decide the period during which the Deputy Chairman is to hold that office.
- (c) Where a meeting of Directors is held and:
 - (i) a Chairman has not been elected as provided by clause 13.4(a); or

- (ii) the Chairman or the Deputy Chairman (if a Deputy Chairman has been elected under clause 13.4(b)) is not present within fifteen minutes of the time appointed for the holding of the meeting or does not wish to chair the meeting,

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

- (d) Failure to elect a Chairman will not invalidate the proceedings at or any resolution passed at the meeting.

13.5 Proceedings at Meetings

- (a) Subject to this Constitution, questions arising at a meeting of Directors are decided by a majority of votes of Directors present in person or by their alternate director (if any) and voting and for all purposes any such decision is taken to be a decision of the Directors.
- (b) In the case of an equality of votes, the Chairman of the meeting has a second or casting vote in addition to the Chairman's deliberative vote.

13.6 Disclosure of Interests

- (a) A Director is not disqualified by the Director's office from contracting with the Company in any capacity.
- (b) A contract or arrangement made by the Company with a Director or in which a Director is in any way directly or indirectly interested may not be avoided merely because the Director is a party to or interested in it.
- (c) A Director is liable to account to the Company for any profits derived in respect of a matter in which the Director has a material interest, merely because of the Director's office or the fiduciary relationship it entails, unless the Director:
 - (i) declares the Director's interest in the matter as soon as practicable after the relevant facts come to the Director's knowledge; and
 - (ii) does not contravene this Constitution or the Law in relation to the matter.
- (d) A general notice stating:
 - (i) that the Director is an officer or member of a specified body corporate or firm; and
 - (ii) the nature and extent of the Director's interest in that body corporate or firm in a matter involving the Company and that body corporate or firm,

is sufficient declaration of the Director's interest, provided the extent of that interest is at the time of first consideration of the matter by the Directors no greater than was stated in the notice.

- (e) Except as permitted by the Law, a Director must not:
 - (i) vote; or

(ii) be present while the matter is being considered,

at a meeting of the Directors at which there is considered any contract or proposed contract or arrangement in which the Director has a direct or indirect material personal interest or any lesser interest.

(f) If the provisions of this clause and the Law are observed by a Director with regard to any contract or arrangement in which the Director is in any way interested, the fact that the Director signs, affixes or witnesses the affixing of a Seal to the document evidencing the contract or arrangement does not in any way affect its validity.

13.7 Alternate Directors and Attendance by Proxy

(a) A Director may, with the approval of a majority of the other Directors, appoint a person (whether a member of the Company or not) to be an alternate Director in the Director's place during any period that the Director thinks fit or generally.

(b) An appointment of an alternate Director is effected by service on the Company of a notice in writing signed by the Director making the appointment in the form or to the following effect:

KEMP AND DENNING LIMITED

I, _____ a Director of Kemp & Denning Limited, pursuant to the powers granted in the Constitution of the Company nominate _____ of _____ to act as alternate Director in my place, and to exercise and discharge all my duties as a Director of the Company during my inability to act as a Director.

Dated:

Signed:

(c) An alternate Director is entitled to notice of meetings of the Directors and, if the appointor is not present at such a meeting, is entitled to attend and vote in the Director's stead.

(d) An alternate Director may exercise any powers which the appointor may exercise. The exercise of any power by the alternate Director (including, without limitation, executing a document) is taken to be the exercise of the power by the appointor. The exercise of any power by the alternate Director is as agent of the Company and not as agent of the appointor. Where the alternate is another Director, that Director is entitled to cast a deliberative vote on the Director's own account and on account of each person by whom the Director has been appointed as an alternate Director.

(e) The appointment of an alternate Director:

(i) may be terminated at any time by the appointor serving on the Company a notice in writing, even if the period of the appointment of the alternate Director has not expired; and

(ii) terminates automatically if the appointor vacates office as a Director.

- (f) Other than:
 - (i) for reimbursement of expenses under clause 11.4(d); or
 - (ii) as authorised by the Directors,

an alternate Director is not entitled to any additional remuneration from the Company.
- (g) Any additional remuneration that is paid to an alternate Director may be deducted from the remuneration of the appointor.
- (h) An alternate Director is not taken into account in determining the number of Directors or rotation of Directors.
- (i) A Director may attend and vote by proxy at any meeting of the Directors provided that such proxy is a Director of the Company and has been appointed in writing signed by the appointing Director. Such appointment may be general or for any particular meeting or meetings.

13.8 Appointment to fill casual vacancy

- (a) Subject to the Law, the Directors may at any time appoint a person who meets the share qualification under clause 11.2 to be a Director to fill a casual vacancy.
- (b) For so long as their number is sufficient to comply with the minimum under clause 11.1(a), the Directors may expressly resolve not to fill a casual vacancy.
- (c) Any Director appointed to fill a casual vacancy will hold office only until the next general meeting of the Company but will be eligible to stand for re-election to hold office until the end of the term of the vacating Director if applicable.

13.9 Vacancies

If the number of Directors is reduced below the minimum set by the Law:

- (a) for so long as their number is sufficient to constitute a quorum, the remaining Directors may act; and
- (b) if the number of remaining Directors is not sufficient to constitute a quorum, the remaining Director or Directors may act only for the purpose of increasing the number of Directors to the minimum number required under this Constitution to constitute a quorum or for calling a general meeting, but for no other purpose.

13.10 Committees

- (a) The Directors may delegate any of their powers to a committee or committees consisting of any number of them and such other persons as the Directors from time to time think fit .
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors. A power so exercised is taken to be exercised by the Directors.

- (c) Clauses 13.1, 13.2, 13.4 and 13.5 apply to any committee as if each reference in those Clauses to the Directors was a reference to the members of the committee and each reference to a meeting of Directors were to a meeting of the committee.
- (d) Except in the case of a committee which consists of one Director only, the number of members whose presence at a meeting of the committee is necessary to constitute a quorum is the number determined by the Directors and, if not so determined, is two.
- (e) Subject to clause 13.11(c), minutes of all the proceedings and decisions of every committee must be made, entered and signed in the same manner in all respects as minutes of proceedings of the Directors are required by the Law to be made, entered and signed.

13.11 Circular Resolutions

- (a) If a document:
 - (i) states that the signatories to it are in favour of a resolution;
 - (ii) sufficiently identifies the terms of the resolution; and
 - (iii) is signed by all the Directors entitled to vote on that resolution,

a resolution in those terms is taken to be passed at a meeting of the Directors held at the time when the document was signed by the last Director to do so.
- (b) For the purposes of clause 13.11(a):
 - (i) two or more separate documents containing statements in identical terms each being signed by one or more Directors together are taken to constitute one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents;
 - (ii) a reference to all the Directors does not include a reference to an alternate Director whose appointor has signed the document, but an alternate Director may sign the document in the place of the appointor; and
 - (iii) a facsimile which is received by the Company and is expressed to be sent by or on behalf of a Director or alternate Director is taken to be signed by that Director or alternate Director at the time of receipt of the facsimile by the Company in legible form.
- (c) Where a committee consists of one Director only, a document signed by that Director and recording a decision of the committee is valid and effective as if it were a decision made at a meeting of that committee and that document constitutes a minute of that decision.

13.12 Defects in Appointments

- (a) All acts done by any meeting of the Directors, committee of Directors, or person acting as a Director are as valid as if each person was duly appointed and qualified to be a Director or a member of the committee.

- (b) Clause 13.12(a) applies even if it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a member of a committee or to act as a Director or that a person so appointed was disqualified.

14. Managing Director

14.1 Power to Appoint Managing Director

- (a) The Directors may appoint a person to the office of Managing Director for the period and on the terms as they think fit, including the grant of power for the Managing Director to delegate all or part of his or her authorities to another Director during any temporary absence. Subject to the terms of any agreement entered into in a particular case, the Directors may at any time revoke any appointment.
- (b) The Managing Director's employment automatically terminates if the Managing Director ceases for any reason to be a Director.

14.2 Tenure of Managing Director

- (a) If a Managing Director's position as Managing Director is terminated, the Managing Director will cease to be a Director.
- (b) If a Managing Director is suspended from his or her position as Managing Director, his or her duties and obligations as a Director are suspended for the same period.

14.3 Remuneration

Subject to the terms of any agreement between the Managing Director and the Company, a Managing Director may receive such remuneration (whether by way of salary, commission or participation in profits or partly in one way and partly in another, other than a commission on, or percentage of, operating revenue), as the Directors decide.

14.4 Delegation of Powers to Managing Director

- (a) The Directors may, on the terms and conditions and with any restrictions as they think fit, confer on a Managing Director any of the powers exercisable by them.
- (b) Any powers so conferred may be concurrent with the powers of the Directors.
- (c) The Directors may at any time withdraw or vary any of powers conferred on a Managing Director pursuant to clause 14.4(a).

15. Secretaries and other Officers

15.1 Secretaries

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

15.2 Other Officers

- (a) The Directors may from time to time:
 - (i) create any other position or positions in the Company with the powers and responsibilities as the Directors may from time to time confer; and
 - (ii) appoint any person, whether or not a Director, to any position or positions created under clause 15.2(a)(i).
- (b) The Directors at any time may terminate the appointment of a person holding a position created under clause 15.2(a)(i) and may abolish the position.

16. Execution of Documents

16.1 Affix Seal

If the Company has a Seal, it may execute documents by affixing the Seal to the document and the affixing of the Seal is witnessed by:

- (a) two Directors of the Company; or
- (b) at least one Director and a Secretary or a person authorised by the Directors to witness the affixing of the Seal.

16.2 Execution without Seal

The Company may execute documents by the document being signed by:

- (a) two Directors of the Company; or
- (b) at least one Director and a Secretary or a person authorised by the Directors to do so.

16.3 Multiple Seals

The Company may have a Common Seal, a duplicate Common Seal and one or more other Seals for specific purposes, each appropriately identified on its face.

16.4 Authority to Affix Seal

A Common Seal may be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal. Every document to which a Seal is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a clause of documents in which that document is included.

16.5 Certificates

Subject to the Law, certificates in respect of shares or other securities may be issued either:

- (a) under a Seal; or

- (b) under the signature of an attorney of the Company appointed under Clause 12.2.

16.6 Use of Impressions

For the purposes of this clause any impression of any Seal or any signature may be a facsimile impression or signature which has been printed, stamped or impressed on the relevant certificate.

17. Inspection of Records

17.1 Directors to Decide

The Directors may decide whether and to what extent, at which time and places and under what conditions, the accounting and other records of the Company will be open to the inspection of members.

17.2 Members Not Entitled to Inspect

A member other than a Director has no right to inspect any document of the Company except as provided by law or as authorised by the Directors.

18. Dividends, Interest and Reserves

18.1 Powers to Declare Dividends and Pay Interest

- (a) Subject to the Law and to any special rights or restrictions attached to any shares, the Directors may from time to time declare dividends which appear to the Directors to be justified by the profits of the Company.
- (b) The Company will not pay interest on unpaid dividends.

18.2 Crediting of Dividends

- (a) Subject to any special rights or restrictions attached to any shares, every dividend is:
 - (i) payable according to the amounts credited as paid on the fully paid (not partly paid) shares in respect of which the dividend is paid; and
 - (ii) apportionable and paid proportionately to the amounts paid for the shares during any part or parts of the period in respect of which the dividend is paid.
- (b) An amount paid on a share in advance of a call is not taken for the purposes of clause 18.2(a) to be paid on the shares.
- (c) Subject to any special rights or restrictions attached to any shares, the Directors may from time to time resolve that dividends are to be paid out of a particular source or particular sources, and where the Directors so resolve, they may, in their absolute discretion:
 - (i) allow any member to elect from which specified sources that particular member's dividend may be paid by the Company; and

- (ii) where such elections are permitted and a member fails to make such an election, the Directors may, in their absolute discretion, identify the particular source from which dividends are payable.

18.3 Reserves

- (a) The Directors at their discretion may at any time set aside out of the profits of the Company as reserves any sums as they think proper which sums may be applied for any proper purpose.
- (b) Pending any application under clause 18.3(a), the reserves may either be employed in the business of the Company or be placed in any investments as the Directors decide.
- (c) The Directors may, without placing them to any reserve, carry forward any profits which they may think prudent not to distribute by way of dividend.

18.4 Deduction of Unpaid Amounts

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

18.5 Distribution in Kind

- (a) When declaring a dividend the Directors may by resolution, direct payment of the dividend wholly or partly by the distribution of specific assets, including, without limitation, paid up shares in or debentures of the Company or any other body corporate.
- (b) Where a difficulty arises in regard to a distribution under clause 18.5(a) the Directors may:
 - (i) settle the matter as they think fit and fix the value for distribution of the specific assets or any part of those assets;
 - (ii) decide that cash payments are to be made to any member or members on the basis of the value so fixed in order to adjust the rights of all parties; or
 - (iii) vest any specific assets in trustees.

18.6 Payment of Distributions

- (a) Any dividend, interest or other money payable in cash in respect of shares may be paid, at the sole risk of the intended recipient:
 - (i) by cheque sent through the post directed to:
 - (A) the address of the member as shown in the register or, in the case of joint holders, to the address shown in the register as the address of the joint holder first named in that register; or
 - (B) to any other address as the member or joint holders in writing directs or direct; or

- (ii) by electronic funds transfer to an account with a bank or other financial institution nominated by the member and acceptable to the Company; or
 - (iii) by any other means determined by the Directors or otherwise disposed of according to law.
- (b) Subject to law, all unclaimed dividends may be invested or otherwise used by the Directors for the benefit of the Company until claimed.

19. Capitalisation of Profits

19.1 Capitalisation of Profits

- (a) The Directors may resolve:
- (i) to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account, profit and loss account or otherwise available for distribution to members; and
 - (ii) that the sum be applied, in any of the ways mentioned in clause 19.1(b), for the benefit of members in full satisfaction of their interest in the capitalised sum, in the proportions to which those members would have been entitled in a distribution of that sum by way of dividend or, if there is no such proportional entitlement, as the Directors determine.
- (b) The ways in which a sum may be applied for the benefit of members under clause 19.1(a)(ii) are:
- (i) in paying up any amounts unpaid on the shares held by the members;
 - (ii) in paying up in full unissued shares or debentures or debenture stock to be issued to members as fully paid;
 - (iii) partly as mentioned in clause 19.1(b)(i) and partly as mentioned in clause 19.1(b)(ii);
 - (iv) in accordance with any bonus share plan adopted by the Company; or
 - (v) any other application permitted by the Law.
- (c) Where the conditions of issue of a partly paid share so provide, the holder is entitled to participate in any application of a sum under clause 19.1(b) to a greater extent than would have been the case had those funds been distributed by dividend but not to any greater extent than permitted by the terms of issue.
- (d) The Directors must do all things necessary to give effect to the resolution and, in particular, to the extent necessary to adjust the rights of the members amongst themselves, may:
- (i) fix the value for distribution of the specific assets or any part of those assets;

- (ii) make cash payments in cases where shares or debentures or debenture stock become issuable in fractions or determine that fractions may be disregarded;
- (iii) vest any cash or specific assets in trustees on trust for the persons entitled as they think fit; or
- (iv) on behalf of all the members entitled to any further shares or debentures or debenture stock on the capitalisation, authorise any person to make an agreement with the Company providing for the issue to such members, credited as fully paid up, of any further shares or debentures or debenture stock or for the payment by the Company on their behalf of all or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised and any agreement made under that authority is effective and binding on all the members concerned.

20. Dividend Reinvestment and Bonus Share Plans

20.1 Dividend Reinvestment and Bonus Share Plans

The Directors may establish one or more plans under which each participating member may elect, as provided in the plan:

- (a) that dividends to be paid in respect of some or all of the shares from time to time held by the member may be satisfied by the issue of fully paid ordinary shares;
- (b) that dividends are not to be declared or paid in respect of some or all of the shares from time to time held by the member, but that the member is to receive fully paid ordinary shares; or
- (c) such other options as the Directors consider appropriate; and

the Directors may vary, suspend or terminate any such plan.

20.2 Directors to Implement Plan

Any such plan has effect in accordance with its terms and the Directors must do all things necessary and convenient for the purpose of implementing the plan, including, without limitation, the making of each necessary allotment of shares and of each necessary appropriation, capitalisation, application, payment and distribution of funds which lawfully may be appropriated, capitalised, applied, paid or distributed for the purpose of the allotment.

20.3 Partial Participation of Members

For the purpose of giving effect to any such plan the appropriations, capitalisation, applications, payments and distributions authorised by clause 19.1 may be made and the powers of the Directors under clause 19.1(d) may be exercised (with such adjustments as may be required) even if only some of the members or holders of shares of any class participate.

20.4 Directors to Provide Information to Members

In offering opportunities to members to participate in any such plan, the Directors may give such information as in their opinion may be useful to assist members in assessing the opportunity and making requests to their best advantage. The Directors, the Company and its officers are not responsible for, nor are they obliged to provide, any legal, taxation or financial advice in respect of the choices available to members.

20.5 Obligation of Directors

The Directors are under no obligation:

- (a) to admit any member as a participant in any such plan; nor
- (b) to comply with any request made by a member who is not admitted as a participant in any such plan.

20.6 Comply with Constitution and Law

In establishing and maintaining any such plan, the Directors must act in accordance with the provisions of this Constitution and may exercise all or any of the powers conferred upon them by the terms of any such plan, by this Constitution or by the Law.

21. Notices

21.1 Notices Generally

- (a) Any member who has not left at or sent to the registered office, a place of address (for registration in the register) at or to which all notices, documents of the Company and share certificates may be served or sent is not entitled to receive any notice.
- (b) A notice may be given by the Company to any member by:
 - (i) serving it on the member personally;
 - (ii) sending it by post to the member or leaving it at the member's address as shown in the register or the address supplied by the member to the Company for the giving of notices;
 - (iii) serving it in any manner contemplated in this clause 21.1(b) on a member's representative as specified by the member in a notice given under clause 21.1(c);
 - (iv) facsimile to the facsimile number supplied by the member to the Company for the giving of notices; or
 - (v) email to the email address supplied by the member to the Company for the giving of notices.
- (c) A member may, by written notice to the Secretary left at or sent to the registered office, require that all notices to be given by the Company or the Directors be served on the member's representative at an address specified in the notice.

- (d) Where a notice is sent by post, service of the notice is taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected:
 - (i) in the case of a notice of a meeting on the Business Day after the date of its posting; and
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (e) Where a notice is sent by facsimile, service of the notice is taken to be effected by properly addressing and sending the notice and to have been effected on the day when transmission confirmation is received.
- (f) Where a notice is sent by email, service of the notice is taken to be effected by properly addressing and sending the notice and to have been effected on the date and time at which it enters the addressee's information system (as shown in a confirmation of delivery report from the sender's information system, which indicates that the email was sent to the email address of the addressee notified for the purposes of this clause).
- (g) Where a notice is given by newspaper advertisement, service of the notice is taken to be effected on the date of publication of the newspaper in the relevant capital city.
- (h) Proof of service of any notice is established by proving that the envelope or wrapper containing the notice and bearing the necessary stamps was properly addressed and posted. A certificate in writing signed by an officer of the Company that the envelope or wrapper was so addressed and posted is conclusive evidence of service.
- (i) A notice may be given by the Company to a person entitled to a share in consequence of the death, mental incapacity or bankruptcy of a member by:
 - (i) serving it on the member personally;
 - (ii) by sending it by post addressed to the member by name or by the title of representative of the deceased or assignee of the bankruptcy or by any like description at the address (if any) within Australia supplied for the purpose by the person;
 - (iii) if such an address has not been supplied, at the address to which the notice might have been sent if the death or bankruptcy had not occurred;
 - (iv) by sending a facsimile to the facsimile number supplied by the member to the Company; or
 - (v) if such a facsimile number has not been supplied, to the facsimile number to which the notice might have been sent if the death or bankruptcy had not occurred.

21.2 Notice of General Meeting

- (a) Notice of every general meeting must be given in the manner authorised by clause 21.1:
 - (i) subject to clause 22, to every member and Director;
 - (ii) to every person entitled to a share in consequence of the death or bankruptcy of a member who, but for the death or bankruptcy, would be entitled to receive notice of the meeting; and
 - (iii) to any auditor of the Company.
- (b) No other person is entitled to receive notice of general meeting.

22. Joint Holders

22.1 Joint Holders

- (a) Joint holders of a share must give to the Company notice of:
 - (i) a single address for the purpose of all notices to be given by the Company under clause 21.1, and for the payment of dividends and the making of distributions in accordance with this Constitution; and
 - (ii) a single account for the payment of monies by electronic funds transfer in accordance with clause 18.6(a)(ii), if so desired, in respect of that share.
- (b) Where the Company receives notice under clause 22.1(a), the giving of notice, the payment of dividends or the making of distributions, to the address or account so notified is deemed given, paid or made to all joint holders of the relevant share.
- (c) Where joint holders of a share fail to give notice to the Company in accordance with clause 22.1(a), the Company may give notice, pay dividends and make distributions to the address of the joint holder whose name first appears in the register.
- (d) Any of the joint holders of a share may give effective receipt for all dividends and payments in respect of the share.

23. Winding Up

23.1 Insufficient Assets

If the Company is wound up and the assets available for distribution among the members are insufficient to repay the whole of the paid up capital, the assets must be distributed so that, as nearly as may be, the losses are borne by the members in proportion to the capital paid up, or which ought to have been paid up, at the commencement of the winding up, on the shares held by them respectively.

23.2 Surplus Assets

If, in a winding up, the assets available for distribution among the members are more than sufficient to repay the whole of the capital paid up at the commencement of the winding up, the excess will be distributed among the members in proportion to the capital at the commencement of the winding up paid up, or which ought to have been paid up, on the shares held by them respectively.

23.3 Division of Property Between Members

If the Company is wound up, the liquidator may:

- (a) with the sanction of a special resolution, divide among the members in kind the whole or any part of the property of the Company;
- (b) for that purpose set a value as the liquidator considers fair on any property to be so divided; and
- (c) decide how the division is to be carried out as between the members or different classes of members.

23.4 Trustees

The liquidator may, with the sanction of a special resolution, vest the whole or any part of any property in trustees on any trusts for the benefit of the contributories as the liquidator thinks fit, but so that no member is compelled to accept any shares or other securities in respect of which there is any liability.

24. Indemnity

24.1 Indemnity and Insurance

To the extent permitted by law and without limiting the powers of the Company, the Company will indemnify any person being or having been an Officer of the Company against any liability which results directly or indirectly from facts or circumstances relating to the person serving or having served in that capacity:

- (a) incurred, on or after the date this clause is adopted, by any person (other than the Company or a related body corporate), which does not arise out of conduct involving a lack of good faith or conduct known to the person to be wrongful; and
- (b) for costs and expenses incurred by the person in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted, or in connection with any application in relation to such proceedings in which the court grants relief to the person under the Law.

24.2 Officers of the Company

To the extent permitted by law and without limiting the powers of the Company, the Directors may authorise the Company to, and the Company may enter into any:

- (a) documentary indemnity in favour of; or

(b) insurance policy for the benefit of,

a person who is, or has been, an Officer of the Company or of a subsidiary of the Company, which indemnity or insurance policy may be in such terms as the Directors approve and, in particular, may apply to acts or omissions prior to or after the time of entering into the indemnity or policy.

24.3 Continuing Indemnity

The benefits of each indemnity given under this clause continues, even after its terms or the terms of this Clause are modified or deleted, in respect of a liability arising out of acts or omissions occurring prior to the modification or deletion.

24.4 Officer

In this clause **Officer** has the meaning in section 9 of the Law.