



Victorian Government
Solicitor's Office

Constitution of SEC Victoria Pty Ltd

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This is the Constitution of SEC Victoria Pty Ltd

Agreed terms

1. Definitions and Interpretation

1.1 Definitions

The following definitions apply in this Constitution:

Act means the *Corporations Act 2001* (Cth)

Alternate means an alternate Director appointed under clause 4.6 of this Constitution

Appointment and Remuneration Guidelines means the guidelines published by the Department of Premier and Cabinet from time to time

Appointor in relation to an Alternate, means the Director who appointed the Alternate

Auditor-General means the Auditor-General of Victoria appointed under the *Constitution Act 1975* (Vic)

Board means the Directors acting collectively under this Constitution

Business Day means a day in Melbourne that is not:

- (a) a Saturday or Sunday; or
- (b) a public holiday for Melbourne pursuant to the *Public Holidays Act 1993* (Vic)

Business and Investment Plan means the business and investment plan prepared for the Company (and its subsidiaries) in accordance with clause 3.1

Called Amount in relation to a share means:

- (a) the amount of a call on that share that is due and unpaid; and
- (b) any amount the Board requires a Member to pay under clause 27.6

Chief Executive Officer means a Chief Executive Officer appointed under clause 8

Company means SEC Victoria Pty Ltd, as amended from time to time

Constitution means the constitution for the Company

Director means a person who is at any time, a director of the Company including, where appropriate, an Alternate

Draft Business and Investment Plan has the meaning given in clause 3.1

Financial Year means the period from 1 July to 30 June each year, unless otherwise determined by the Treasurer

First Peoples means Traditional Owners and Aboriginal and Torres Strait Islander persons who are living in the place now known as Victoria

Interest Rate means, in relation to each clause in which that term is used:

- (a) the rate for the time being prescribed by the Board in respect of that clause; or
- (b) if no rate is prescribed, the Bank Bill Swap rate (**BBSW**) as published by the Australian Securities Exchange

Liability means a liability or loss of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages, charges and expenses, including costs and expenses incurred in connection with any investigation or inquiry by the Australian Securities and Investments Commission or a liquidator

Member means a person whose name is entered for the time being on the Register or any branch register as the holder of one or more shares

Officer has the meaning given by section 9 of the Act

Ordinary Resolution means a resolution passed at a meeting of Members by a majority of the votes cast by Members entitled to vote on the resolution

Public Administration Act means the *Public Administration Act 2004 (Vic)*

Register means the register of Members kept as required by sections 168 and 169 of the Act

Related Body Corporate has the meaning given by section 50 of the Act

Relevant Minister means the Minister for the State Electricity Commission

Secretary means, during the term of that appointment, a person appointed as a secretary of the Company in accordance with this Constitution

State means the Crown in the right of the state of Victoria

Statement of Principles means any Statement of Principles in respect of the operation and management of the Company (and its wholly-owned subsidiaries) issued by the Relevant Minister and the Members, as amended or replaced from time to time

State Owned Company means a company declared to be a State Owned Company by a Governor in Council order made under section 66(1) of the State Owned Enterprises Act

State Owned Enterprises Act means the *State Owned Enterprises Act 1992 (Vic)*

Special Resolution has the meaning given by section 9 of the Act

Traditional Owners means a group of persons who are recognised as having traditional connection(s) to an identified geographical area of Country in Victoria. Traditional Owners lived on the land that makes up the territory of what is now

known as Victoria when it was established. Their authority comes from being part of and speaking for Country. This may include persons with established cultural rights and responsibilities under Victorian and Federal legislation or who may have been appointed to represent that Country and its use

Treasurer means the Treasurer of the State of Victoria

Voting Member in relation to a general meeting, or meeting of a class of Members, means a Member who has the right to be present and to vote on at least one item of business which is to be considered at that meeting

1.2 Application

Capitalised words and phrases used in this Constitution which are not defined in clause 1.1 have the same meaning as in the State Owned Enterprises Act and, unless inconsistent with that Act, the Act.

1.3 Interpretation

In this Constitution, unless the context otherwise requires:

- (a) Headings are for convenience only and do not affect interpretation. The following clauses also apply in interpreting this Constitution, except where the context makes it clear that a clause is not intended to apply.
- (b) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, modified in relation to the Company, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (iv) anything (including a right, obligation or concept) includes each part of it.
- (c) A singular word includes the plural and vice versa.
- (d) A word that suggests one gender includes the other genders.
- (e) If a word is defined, another part of speech has a corresponding meaning.
- (f) If an example is given of anything (including a right, obligation or concept) the example does not limit the scope of that thing (e.g., by use of the word "including").
- (g) The word "agreement" includes an undertaking or other binding arrangement or understanding whether or not in writing.
- (h) A reference to something being written or in writing includes that thing being represented or reproduced in any mode in a visible form.

- (i) A word (other than a word defined in clause 1.1) that is defined by the Act has the same meaning in this Constitution where it relates to the same matters as the matters for which it is defined in the Act.
- (j) A reference to a Chapter, Part, Division, or section is a reference to a Chapter, Part, Division or section of the Act.
- (k) A reference to a clause is a reference to a clause of this Constitution.

2. Objects of the Company

2.1 Establishment as State Owned Company

The Company is a State Owned Company for the purposes of the State Owned Enterprises Act.

2.2 Principal Objective

- (a) The principal objective of the Company is to support Victoria's transition to a net zero emissions electricity system, deliver renewable energy in Victoria and provide consumer energy solutions to the Victorian public.
- (b) In accordance with the State Owned Enterprises Act, the Company is to perform its functions and activities for the public benefit by:
 - (i) operating its business and pursuing its undertaking as efficiently as possible consistent with prudent commercial practice; and
 - (ii) maximising its contribution to the economy and wellbeing of the State.

2.3 Commitment to First Peoples

The Company recognises the unique knowledge, wisdom and established rights of Traditional Owners in caring and speaking for Country in Victoria. The Company commits to ensuring that First Peoples share in the benefits of Victoria's renewable energy transition. The Company will form relationships with Traditional Owners to support their self-determination aspirations, including upholding and strengthening the rights that have been secured to date by Traditional Owners. The Company will empower and respect the decision making of First Peoples to self-determine this relationship and embed governance principles supporting this.

2.4 Activities

- (a) Subject to having obtained applicable licences, authorisations and approvals, the Company may engage in the following activities:
 - (i) generating, purchasing, storing and selling electricity;
 - (ii) building, owning, financing and operating renewable or zero emission electricity generation assets or storage facilities;
 - (iii) trading electricity and green products;
 - (iv) facilitating the development and uptake of renewable and zero emission electricity generation and storage;

- (v) supporting the attraction, training and retention of a skilled renewable energy workforce in Victoria;
- (vi) delivering and supporting the uptake of consumer energy and electrification solutions for Victorian consumers and businesses;
- (vii) any non-commercial activities in accordance with clause 2.5;
- (viii) any incidental or ancillary activities considered by the Board to be necessary or desirable to achieve or support the principal objective in clause 2.2 or the activities in this clause 2.4(a)(i)-(vii), including but not limited to:
 - (A) investing in renewable energy and storage projects, including technology and research projects;
 - (B) entering into agreements including trading rights and power purchase agreements;
 - (C) trading in financial products and instruments and undertaking financial and environmental market activity;
 - (D) providing electrification products and services to the Victorian public including by buying and installing appliances and equipment in Victorian households;
 - (E) purchasing, selling, leasing, using or developing land associated with a current or potential asset for electricity generation, storage or selling, or workforce training.
- (b) The Company (and its wholly-owned subsidiaries) will undertake its functions and activities consistently with any Statement of Principles as issued from time to time.
- (c) The Company must not engage in any activities or incur any liabilities which do not further the achievement of the principal objective or come within the scope of the activities described in this clause 2.4.
- (d) The objects and activities of the Company may be undertaken or exercised by:
 - (i) the Company itself;
 - (ii) a subsidiary of the Company; or
 - (iii) by one or both of the Company or a subsidiary of the Company in partnership, joint venture or other association with any other person or body.

2.5 Non-commercial activities

The Company may perform, or cease to perform, activities which the Board considers are not or may not be in the commercial interests of the Company, provided:

- (a) the activities are consistent with the purposes and activities of the Company as described in clauses 2.2 and 2.4 of this Constitution;

- (b) the activities are documented in an agreement with the Relevant Minister (approved by the Treasurer); and
- (c) the Company will be reimbursed by the State for undertaking the activities.

2.6 No inconsistency with applicable laws

While the State Owned Enterprises Act applies to the Company, this Constitution may not be altered or added to in a manner inconsistent with the provisions of the State Owned Enterprises Act or any applicable law, including the *Constitution Act 1975* (Vic).

2.7 Status

The Company (and any subsidiary of the Company):

- (a) is not, and does not represent, the State;
- (b) is not exempt from any rate, tax, duty or other impost imposed by or under any law of the State, because it is a State Owned Company; and
- (c) cannot render the State liable for any debts, liabilities or obligations of the Company or a subsidiary of another State Owned Company,

unless the State Owned Enterprises Act or any other act or regulation expressly provides otherwise.

3. Investment

3.1 Preparation and Approval of the Business and Investment Plan

- (a) The Board must:
 - (i) by 1 May 2024 and each Financial Year thereafter, prepare a draft business and investment plan for the following Financial Year (**Draft Business and Investment Plan**);
 - (ii) ensure that the Draft Business and Investment Plan is consistent with this Constitution and any Statement of Principles in force at the time of the Draft Business and Investment Plan;
 - (iii) consult in good faith with the Members and the Relevant Minister (and/or their representatives) and provide all necessary information;
 - (iv) take into account the comments of the Members and the Relevant Minister on the Draft Business and Investment Plan and agree the Draft Business and Investment Plan with the Members and the Relevant Minister, in any form which they require, before the start of the Financial Year to which it relates, or as soon as practical thereafter; and
 - (v) subject to obtaining the agreement in writing of the Members and the Relevant Minister, adopt the Draft Business and Investment Plan (incorporating any comments and amendments as so approved) as the Business and Investment Plan of the Company.
- (b) Each Business and Investment Plan must include:

- (i) a non-exhaustive list of the proposed pipeline of projects and amount of funds proposed to be invested in those projects;
 - (ii) details of the Company's current investment projects including in relation to borrowing, returns and portfolio of risks; and
 - (iii) information outlining how the Company is upholding Traditional Owners' rights and empowering First Peoples' decision-making and self-determination aspirations, including any supporting partnership and engagement plans.
- (c) The Company may amend the Business and Investment Plan with the prior written approval of the Members and the Relevant Minister.
 - (d) The Company must act consistently with the Business and Investment Plan or obtain the prior written approval of the Members and the Relevant Minister to undertake any activities which are inconsistent with it.
 - (e) The Company will provide the Business and Investment Plan to the Treasurer in accordance with section 74(b) of the State Owned Enterprises Act, if required.

4. Directors

4.1 Number of Directors

- (a) The Company must have at least two Directors, but not more than nine Directors (not counting Alternates) unless the Company resolves otherwise by Ordinary Resolution.
- (b) The initial Director(s) of the Company are the persons who have consented to act as Directors and are set out in the Company's application for registration of the Company, and hold office subject to this Constitution.

4.2 Reservation of Director position for First Peoples

One Director position is reserved for the appointment of a First Peoples person.

4.3 Appointment of Directors

Provided the maximum number of Directors is not exceeded, the Members may appoint a person to be a Director (either to fill a casual vacancy or as an addition to the Board) by Ordinary Resolution, having obtained the prior written approval of the Relevant Minister.

4.4 Ceasing to be a Director

A person automatically ceases to be a Director if the person:

- (a) is not permitted by the Act (or by an order made under the Act) to be a director;
- (b) becomes disqualified from managing corporations under Part 2D.6 of the Act and is not given permission or leave to manage the Company under section 206F or 206G of the Act;

- (c) is, or becomes, of unsound mind, or whose estate is liable to be dealt with in any way under the law relating to mental health, or who is or becomes physically or mentally incapable of performing the functions of that office;
- (d) fails to attend (either personally or by an Alternate) 3 consecutive Board meetings (not including meetings of a committee of the Board) without leave of absence from the Board;
- (e) resigns by notice in writing to the Company;
- (f) is removed from office under clause 4.5;
- (g) is a Chief Executive Officer and ceases to hold that office; or
- (h) was appointed to the office for a specified period and that period expires.

4.5 Removal of Directors

Whether or not a Director's appointment was expressed to be for a specified period, a Director may be removed from office:

- (a) by the Members, by Ordinary Resolution, with the approval of the Relevant Minister; and/or
- (b) under section 89 of the Public Administration Act.

4.6 Appointment of Alternate

A Director (other than an Alternate) may appoint a person who is approved by the Board and the Relevant Minister to act as Alternate for a specified period.

5. Power of the Board

5.1 Powers generally

Except for:

- (a) those matters reserved for the approval of the Relevant Minister, the Members or the Treasurer, as set out in clauses 11, 12 and 13; or
- (b) as otherwise required by the Act, the State Owned Enterprises Act, the Public Administration Act, any other applicable law, or this Constitution,

the business of the Company is managed by the Board and the Board may exercise all the powers of the Company that this Constitution or the Act do not require be exercised by the Members.

5.2 Exercise of powers

A power of the Board can be exercised only:

- (a) by resolution passed at a meeting of the Board or otherwise in accordance with clause 10; or
- (b) in accordance with a delegation of the power under clause 5.3.

5.3 Power to delegate

- (a) The Board may delegate any of its powers as permitted by section 198D of the Act, including to any committee of Directors.
- (b) A committee or person to which any powers have been delegated may be authorised to sub-delegate all or any of the powers for the time being vested in it.

5.4 Power to revoke delegation

The Board may revoke a delegation previously made, whether or not the delegation is expressed to be for a specified period.

5.5 Terms of delegation

A delegation of powers under clause 5.3 may be made:

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

5.6 Proceedings of Director committees

Meetings of any committee of Directors will be governed by the provisions of this Constitution which deal with Director's meetings so far as they are applicable and are not inconsistent with any directions of the Directors.

6. Director's duties and interests

6.1 Compliance with duties under legislation

Each Director must comply with sections 180 to 183 of the Act and sections 79 and 81 of the Public Administration Act.

6.2 Director can hold other offices

A Director may:

- (a) hold any office or place of profit or employment other than that of the Company's auditor or any director or employee of the auditor;
- (b) be a Member of any corporation (including any Related Body Corporate);
- (c) hold any office or otherwise be interested in any body corporate (including a Related Body Corporate) promoted by the Company or in which the Company may be interested; and
- (d) enter into any agreement with the Company (but not any agreement for the Company to provide a loan to the Director or their relative).

6.3 Disclosure of interests

Each Director must comply with section 191 of the Act and disclose any material personal interest in the affairs of the Company.

6.4 Director interested in a matter

- (a) If a Director has an interest in a matter that relates to the affairs of the Company which is disclosed under section 191 of the Act:
 - (i) the Board must assess whether the interest is material;
 - (ii) if the Board assesses that the interest is material, the Director must not be present and is not entitled to vote at a Board meeting that considers any matter that relates to the interest;
 - (iii) the Company may proceed with any transaction that relates to the interest and the Director may participate in the execution of any relevant document by or on behalf of the Company;
 - (iv) the Director may retain benefits under the transaction even though the Director has the interest; and
 - (v) the Company cannot avoid the transaction merely because of the existence of the interest.
- (b) If the interest is required to be disclosed under section 191 of the Act, clause 6.4(a)(iv) applies only if the interest is disclosed before the transaction is entered into.

6.5 Agreements with third parties

The Company cannot avoid an agreement with a third party merely because a Director:

- (a) fails to make a disclosure of an interest; or
- (b) is present at, or counted in the quorum for, a Board meeting that considers, votes on, or participates in the execution of, that agreement.

7. Directors' remuneration

7.1 Remuneration of Directors

The Directors may be paid as remuneration for their services in accordance with the Appointment and Remuneration Guidelines, and for the purposes of those guidelines the applicable band will be Band 1 for a Group A Organisations or such other band as the Relevant Minister subsequently identifies in writing.

7.2 Expenses of Directors

The Company may pay a Director (in addition to any remuneration) all reasonable expenses (including travelling and accommodation expenses) incurred by the Director which have been incurred in accordance with the Company's policy for the reimbursement of expenses and the Appointment and Remuneration Guidelines.

8. Chief Executive Officer

8.1 Appointment and power of Chief Executive Officer

- (a) Provided the prior written approval of the Relevant Minister has been received, the Board may appoint a person to be the Chief Executive Officer.

- (b) The Board may delegate any of the powers of the Board to a Chief Executive Officer:
 - (i) on the terms and subject to any restrictions the Board decides (so as to be concurrent with, or to the exclusion of, the powers of the Board); and
 - (ii) may revoke the delegation at any time.

8.2 Termination of appointment of Chief Executive Officer

The Board may, subject to the terms of the Chief Executive Office's employment contract and having received prior written approval from the Relevant Minister, suspend, remove or dismiss the Chief Executive Officer from their office.

9. Officers' indemnity and insurance

9.1 Indemnity

Subject to, and so far as permitted by the Act and any other applicable law the Company indemnifies each person who is or has been a Director or a Secretary of the Company (or its wholly-owned subsidiaries) against any Liability (other than a liability for legal costs) or reasonable legal costs incurred in defending an action for a Liability, which is incurred by that person as a Director or Secretary of the Company or any wholly-owned subsidiary, unless the Liability arises out of conduct involving a lack of good faith or a breach of any duty of the Director under any law.

9.2 Insurance

Subject to the Act and any other applicable law, the Company may purchase and maintain a contract of insurance for any person.

10. Board meetings

10.1 Convening Board meetings

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

10.2 Notice of Board meeting

The convener of each Board meeting:

- (a) must give reasonable notice of the meeting (and, if it is adjourned, of its resumption) individually to each Director and each Alternate; and
- (b) may give that notice orally (including by telephone) or in writing,

but failure to give notice to, or non-receipt of notice by, a Director does not result in a Board meeting being invalid.

10.3 Use of technology

- (a) A Board meeting may be held using any means of audio or audio-visual communication by which each Director participating can hear and be heard by each other Director participating or in any other way permitted by section 248D of the Act.

- (b) A Board meeting held solely or partly by technology is treated as being held:
 - (i) at the place at which the greatest number of the Directors present at the meeting is located; or
 - (ii) if an equal number of Directors is located in each of two or more places, at the place where the Chairperson of the meeting is located.

10.4 Chairing Board Meetings

- (a) The Board may, subject to receiving the Relevant Minister's prior approval, elect a Director to chair its meetings and decide the period for which that Director holds that office.
- (b) If there is no Chairperson of Directors or the Chairperson is not present at the time for which a Board meeting is called or is unwilling to act, the Directors present must elect a Director present to chair the meeting.

10.5 Quorum

- (a) The quorum for a Board meeting is the majority of Directors and a quorum must be present for the whole meeting.
- (b) An Alternate who is also a Director or a person who is an Alternate for more than one Appointor may only be counted once toward a quorum.
- (c) A Director is treated as present at a meeting held by audio or audio-visual communication if the Director is able to hear and be heard by all others attending.
- (d) If a meeting is held in another way permitted by section 248D of the Act, the Board must resolve the basis on which Directors are treated as present.

10.6 Majority decisions

- (a) A resolution of the Board must be passed by a majority of the votes cast by Directors entitled to vote on the resolution.
- (b) The Chairperson of a Board meeting has a casting vote which may be used at the discretion of the Chairperson.
- (c) If an equal number of votes are cast for and against a resolution, the matter is decided in the negative.

10.7 Procedural clauses

The Board may adjourn and, subject to this Constitution, otherwise regulate its meetings as it decides.

10.8 Written resolutions

If all the Directors entitled to receive notice of a Board meeting and to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document, a Board resolution in those terms is passed at the time when the last Director signs.

10.9 Additional provisions concerning written resolutions

For the purpose of clause 10.8:

- (a) two or more separate documents in identical terms, each of which is signed by one or more Directors, are treated as one document;
- (b) signature of a document by an Alternate is not required if the Appointor of that Alternate has signed the document;
- (c) signature of a document by the Appointor of an Alternate is not required if that Alternate has signed the document in that capacity; and
- (d) an email containing the text of the document expressed to have been signed by a Director that is sent to the Company by the Director is a document signed by that Director at the time of its receipt by the Company.

10.10 Valid proceedings

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

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

11. Relevant Minister and Treasurer Approval

If a matter, power, right or action under this Constitution requires the approval of the Relevant Minister and/or the Treasurer (or their respective delegates), that matter does not have any effect unless and until the approval in writing of the Relevant Minister and/or the Treasurer (or their respective delegates), as applicable, is obtained.

12. Matters requiring approval of the Members

12.1 Sale or disposal of main undertakings

The Company must not sell or dispose of the main undertaking, as specified by the Members of the Company or of any of its subsidiaries, unless first approved by a Special Resolution.

12.2 Subsidiaries

The Company must not form or acquire or participate in the formation or acquisition of a subsidiary, or dispose of shares in a subsidiary, or enter into any transaction which may result in a subsidiary ceasing to be a subsidiary, unless approved by Special Resolution.

12.3 Amendment of Constitution

The Company must not approve or effect an amendment to this Constitution or the constitution of any subsidiary unless such amendment is first approved by a Special Resolution of the Company.

12.4 Change of Name

The Company must not change its name or licence any intellectual property rights in its name unless first approved by a Special Resolution.

12.5 Company must consult with the Relevant Minister

For each of the matters that require a Special Resolution under this clause 12, the Company must consult with the Relevant Minister prior to passing the Special Resolution.

13. Matters Requiring approval of the Treasurer

13.1 No borrowing

- (a) The Company must not:
- (i) exercise its powers to borrow or raise money, to issue debentures, to obtain financial accommodation or to incur a financial obligation; or
 - (ii) create a charge over, or otherwise encumber, its assets or undertakings

without the prior approval of the Treasurer.

- (b) Financial accommodation in clause 13.1(a)(i) has the same meaning as in the *Borrowing and Investment Powers Act 1987* (Vic).
- (c) The Company may enter into an arrangement to obtain the prior agreement or approval of the Treasurer for any of the matters in clause 13.1(a)(i) or 13.1(a)(ii), on a case-by-case or standing basis.
- (d) The Company must consult with the Relevant Minister prior to seeking the Treasurer's approval under clause 13.1(a) and prior to entering into any arrangement under clause 13.1(c).

14. Meetings of Members

14.1 Calling meetings of Members

A meeting of Members:

- (a) may be convened at any time by the Board or a Director; and
- (b) must be convened by the Board when required by section 249D of the Act, or by order made under section 249G of the Act.

14.2 Notice of meeting

- (a) Subject to clauses 14.3 and 14.6, at least 21 days' written notice of a meeting of Members must be given individually to each Member entitled to vote at the meeting, to each Director (other than an Alternate) and to the auditor (if any).

- (b) Subject to any regulation made under section 249LA of the Act, the notice of meeting must comply with section 249L and may be given in any manner permitted by section 249J(3).

14.3 Short notice

Subject to section 249H(4) of the Act:

- (a) if the Company has elected to convene a meeting of Members as the annual general meeting, if all the Members entitled to attend and vote agree; or
- (b) otherwise, if Members who together have the power to cast at least 95% of the votes that may be cast at the meeting agree,

a resolution may be proposed and passed at a meeting of which less than 21 days' notice has been given.

14.4 Postponement or cancellation

Subject to section 249D(5) of the Act, the Board may postpone or cancel a meeting of Members by written notice given individually to each person entitled to be given notice of the meeting.

14.5 Fresh notice

If a meeting of Members is postponed or adjourned for one month or more, the Company must give new notice of the resumed meeting.

14.6 Notice to joint holders of shares

If a share is held jointly, the Company need only give notice of a meeting of Members (or of its cancellation or postponement) to the joint holder who is named first in the Register.

14.7 Technology

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

14.8 Accidental omission

The accidental omission to give notice to, or the non-receipt of notice by, any of those entitled to it does not invalidate any resolution passed at a meeting of Members.

15. Proceedings at general meeting

15.1 Member present at meeting

If a Member has appointed a proxy or attorney or (in the case of a Member that is a body corporate) a representative to act at a meeting of Members, that Member is taken to be present at a meeting at which the proxy, attorney or representative is present.

15.2 Quorum

- (a) Subject to section 249B of the Act, the quorum for a meeting of Members is two. Each individual present may only be counted once toward a quorum.
- (b) If a Member has appointed more than one proxy or representative, only one of them may be counted toward a quorum.

15.3 Quorum not present

If a quorum is not present within 15 minutes after the time for which a meeting of Members is called:

- (a) if called as a result of a request of Members under section 249D of the Act, the meeting is dissolved; and
- (b) in any other case:
 - (i) the meeting is adjourned to the day, time and place that the Board decides and notifies to Members, or if no decision is notified before then, to the same time on the same day in the next week at the same place; and
 - (ii) if a quorum is not present at the adjourned meeting, the meeting is dissolved.

15.4 Chairing meetings of Members

- (a) If the Board has appointed a Director to chair Board meetings, that Director may also chair meetings of Members.
- (b) If:
 - (i) there is no Director whom the Board has appointed to chair Board meetings for the time being; or
 - (ii) the Director appointed to chair Board meetings is not present at the time for which a meeting of Members is called or is not willing to chair the meeting,

the Members present must elect a Member or Director present to chair the meeting.

15.5 Attendance by Auditor and Directors

Every Director and the Auditor (if any) has the right to attend and speak at all meetings of Members whether or not the Director or Auditor is a Member.

15.6 Member rights suspended while call unpaid

If a call on a share is due and unpaid, the holding of that share does not entitle the Member to be present, speak, or vote at, or be counted, in the quorum for a meeting of Members.

15.7 Adjournment

Subject to clause 14.5, the Chairperson of a meeting of Members at which a quorum is present:

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

15.8 Business at adjourned meetings

The only business that may be transacted at a meeting resumed after an adjournment is the business left unfinished immediately before the adjournment.

15.9 Written resolutions

- (a) The Members may pass a resolution without a general meeting being held if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Member signs.
- (b) For the purposes of clause 15.9(a), separate copies of a document may be used for signing by Members if the wording is identical in each copy.
- (c) Any written resolution passed in accordance with this clause satisfies any requirement in the Constitution or the Act (to the extent permitted by that Act) that the resolution is passed at a general meeting.

16. Representatives

16.1 Appointment of Representatives

A Member may appoint not more than two proxies in accordance with section 249X of the Act to attend and act for the Member at a meeting of Members. An appointment of proxy must be made by written notice to the Company that complies with section 250A(1) or in any other form and mode that is signed or otherwise authenticated by the Member in a manner, satisfactory to the Board. If a Member appoints two proxies and the appointment does not specify the proportion or number of the Member's votes each proxy may exercise, each proxy may exercise half of those votes.

16.2 Member's attorney

A Member may appoint an attorney to act, or appoint a proxy to act, at a meeting of Members. If the Appointor is an individual, the power of attorney must be signed in the presence of at least one witness.

16.3 Deposit of proxy appointment forms and powers of attorney

An appointment of a proxy or an attorney is not effective for a particular meeting of Members unless:

- (a) in the case of a proxy, the proxy appointment form and, if it is executed by an attorney, the relevant power of attorney or a certified copy of it; and

- (b) in the case of an attorney, the power of attorney or a certified copy of it, are received by the Company at its registered office or a fax number at that office (or another address specified for the purpose in the relevant notice of meeting) at least 48 hours before the time for which the meeting was called or, if the meeting has been adjourned, before the resumption of the meeting.

16.4 Appointment for particular meeting, standing appointment and revocation

A Member may appoint a representative to act at a particular meeting of Members or make a standing appointment and may revoke any appointment. A representative may, but need not, be a Member.

16.5 Suspension of proxy or attorney's powers if Member present

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

16.6 Priority of conflicting appointments of attorney or representative

If more than 1 attorney or representative appointed by a Member is present at a meeting of Members and the Company has not received notice of revocation of any of the appointments:

- (a) an attorney or representative appointed to act at that particular meeting may act to the exclusion of an attorney or representative appointed under a standing appointment; and
- (b) subject to clause 16.6(a), an attorney or representative appointed under a more recent appointment may act to the exclusion of an attorney or representative appointed earlier in time.

16.7 More than two current proxy appointments

- (a) An appointment of a proxy by a Member is revoked (or, in the case of a standing appointment, suspended for that particular meeting) if the Company receives a further appointment of proxy from that Member that would result in there being more than two proxies of that Member entitled to act at a meeting.
- (b) The appointment of proxy made first in time is the first to be treated as revoked or suspended by this clause.

16.8 Continuing authority

An act done at a meeting of Members by a representative is valid even if, before the act is done, the appointing Member:

- (a) dies or becomes mentally incapacitated;
- (b) becomes bankrupt or an insolvent under administration or is wound up;

- (c) revokes the appointment or revokes the authority under which the appointment was made by a third party; or
- (d) transfers the share to which the appointment relates,

unless the Company has received written notice of the matter before the start or resumption of the meeting at which the vote is cast.

17. Entitlement to vote

17.1 Number of votes

- (a) Subject to clauses 15.6, 16, 17.2 and 17.3, and the terms on which shares are issued:
 - (i) on a show of hands:
 - (A) if a Member has appointed two proxies, neither of those proxies may vote;
 - (B) a Member who is present and entitled to vote and is also a proxy, attorney or representative of another Member has one vote; and
 - (C) subject to clauses 17.1(a)(i)(A) and 17.1(a)(i)(B), every individual present who is a Member, or a proxy, attorney or representative of a Member, entitled to vote has one vote; and
 - (ii) on a poll, a Member has one vote for every share held.
- (b) The Chairperson of a meeting of Members does not have a second or casting vote.
- (c) If an equal number of votes is cast for and against a resolution the matter is decided in the negative.

17.2 Votes of joint holders

- (a) If there are joint holders of a share, any one of them may vote at a meeting of Members, in person or by proxy, attorney or representative, as if that holder were the sole owner of the share.
- (b) If more than one of the joint holders of a share (including, for the purposes of this clause, joint legal personal representatives of a dead Member) are present at a meeting of Members, in person or by proxy, attorney or representative, and tender a vote in respect of the share, the Company may only count the vote cast by, or on behalf of, the most senior joint holder who tenders a vote.
- (c) For the purpose of clause 17.2(b), seniority depends on the order in which the names of the joint holders are listed in the Register.

17.3 Voting restrictions

- (a) A Member is not entitled to vote on a resolution if, under the Act:

- (i) the Member must not vote or must abstain from voting on the resolution; or
 - (ii) a vote on the resolution by the Member must be disregarded for any purpose.
- (b) If the Member or a person acting as proxy, attorney or representative of the Member purports to vote on that resolution, their vote must not be counted.

17.4 Decision on right to vote

A Voting Member or Director may challenge a person's right to vote at a meeting of Members. A challenge may only be made at the meeting. A challenge, or any other doubt as to the validity of a vote, must be decided by the Chairperson, whose decision is final.

18. How voting is carried out

18.1 Method of voting

- (a) A resolution put to the vote at a meeting of Members must be decided on a show of hands unless a poll is demanded under clause 18.2 either before, or on, declaration of the result of the vote on a show of hands.
- (b) Unless a poll is demanded, the Chairperson's declaration of a decision on a show of hands is conclusive evidence of the result.

18.2 Demand for a poll

- (a) A poll may be demanded on any resolution (except a resolution concerning the election of the Chairperson of a meeting) by:
- (i) a Member entitled to vote on the resolution;
 - (ii) Members entitled to cast at least 5% of the votes that may be cast on the resolution on a poll (worked out as at the midnight before the poll is demanded); or
 - (iii) the Chairperson.
- (b) The demand for a poll does not affect the continuation of the meeting for the transaction of other business and may be withdrawn.

18.3 When and how polls must be taken

If a poll is demanded:

- (a) the poll must be taken:
- (i) if the resolution is for the adjournment of the meeting, immediately and in the manner that the Chairperson of the meeting directs;
 - (ii) in all other cases, at the time and place and in the manner that the Chairperson of the meeting directs;
- (b) a person voting who has the right to cast two or more votes need not cast all those votes and may cast those votes in different ways; and

- (c) the result of the poll is the resolution of the meeting at which the poll was demanded.

19. Resolutions without minutes

19.1 Written resolutions

Subject to section 249A(1) of the Act, the Company may pass a resolution without a general meeting being called or held if the resolution is set out in a document:

- (a) if the Company has only one Member, signed in the manner set out in section 249B of the Act; or
- (b) if the Company has more than one Member, signed in the manner set out in section 249A.

19.2 Signature of resolutions

The Company may treat a document on which a faxed 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.

20. Secretary

20.1 Appointment of Secretary

The Board may appoint one or more individuals to be a Secretary, either for a specified term or without specifying a term.

20.2 Terms and conditions of office

- (a) A Secretary holds office on the terms (including as to remuneration) that the Board decides.
- (b) The Board may vary any decision previously made by it about a Secretary.

20.3 Cessation of Secretary's appointment

A person automatically ceases to be a Secretary if the person:

- (a) is not permitted by the Act (or an order made under the Act) to be a secretary of a company;
- (b) becomes disqualified from managing corporations under Part 2D.6 of the Act and is not given permission or leave to manage the Company under section 206F or 206G;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) resigns by notice in writing to the Company; or
- (e) is removed from office under clause 20.4.

20.4 Removal from office

The Board may remove a Secretary from that office whether or not the appointment was expressed to be for a specified term.

21. Minutes

21.1 Minutes must be kept

The Board must ensure that minutes of:

- (a) proceedings and resolutions of meetings of the Company's Members;
- (b) the names of Directors present at each Board meeting or committee meeting;
- (c) proceedings and resolutions of Board meetings (including meetings of a committee to which Board powers are delegated under clause 5.3);
- (d) resolutions passed by Members without a meeting;
- (e) resolutions passed by Directors without a meeting; and
- (f) disclosures and notices of Directors' interests,

to be kept in accordance with sections 191, 192 and 251A of the Act.

21.2 Minutes as evidence

Any minutes recorded and signed in accordance with section 251A of the Act is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

21.3 Inspection of minute books

The Company must allow Members to inspect, and must provide copies of, the minute books for the meetings of Members and for resolutions of Members passed without meetings in accordance with section 251B of the Act.

22. Company seal

22.1 Common seal

The Board:

- (a) may decide whether or not the Company has a common seal; and
- (b) is responsible for the safe custody of that seal (if any) and any duplicate seal it decides to adopt under section 123(2) of the Act.

22.2 Use of common seal

- (a) The common seal and duplicate seal (if any) may only be used with the authority of the Board.
- (b) The Board must not authorise the use of a seal that does not comply with section 123 of the Act.

22.3 Fixing seal to documents

- (a) The fixing of the common seal, or any duplicate seal, to a document must be witnessed by two Directors or one Director and one Secretary, and by any other signatories or in any other way (including the use of copies of signatures) authorised by the Board.
- (b) The fixing of the seal is witnessed in accordance with clause 22.3(a), a statement by the witness that the witness is the sole Director and sole Secretary of the Company should appear next to the signature, but the absence of that statement does not affect the validity of the execution.

23. Financial reports and audit

23.1 Company to keep financial records

The Board must cause the Company to keep written financial records that:

- (a) correctly record and explain its transactions (including transactions undertaken as trustee) and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited, and must allow a Director to inspect those records at all reasonable times.

23.2 Financial reporting

If required by the Act, the Board must cause the Company to prepare a financial report and a Directors' report that comply with Part 2M.3 of the Act and must report to Members in accordance with section 314 no later than the deadline set by section 315.

23.3 Reports to the State

The Company will provide to the Relevant Minister or the Treasurer a copy of any information which the Company or any of its Directors or Officers are required to prepare and provide to the Relevant Minister or Treasurer under any law or Victorian Government policy, including the information required to be prepared, provided or delivered in accordance with any one or more of section 74 of the State Owned Enterprises Act, Part 7 of the *Financial Management Act 1994* (Vic) and sections 81, 93 or 94 of the Public Administration Act in each case to the extent applicable.

23.4 Audit

- (a) The Company appoints the Auditor-General as auditor of the Company.
- (b) The Auditor-General, and any person authorised by the Auditor-General, has in respect of an audit of the Company all the powers of an auditor under the Act.
- (c) The Company must pay to the Treasurer for payment to the consolidated fund, an amount to be determined by the Auditor-General to defray the costs and expenses of an audit under powers conferred on the Auditor-General under section 73(3) of the State Owned Enterprises Act.

- (d) The Board must cause the Company's financial reports (if any) for each financial year to be audited and obtain an auditor's report from the Auditor-General.

23.5 Inspection of financial records and books

Subject to clause 21.3 and section 247A of the Act, a Member who is not a Director does not have any right to inspect any document of the Company except as authorised by the Board or by a resolution of Members.

24. Shares

24.1 No non-pro rata share issue

The Company must not offer shares for subscription, invite persons to subscribe for shares or securities, or allot or issue shares or securities in the Company on a basis other than to the Members, unless first approved by a Special Resolution.

24.2 Preference and redeemable preference shares

- (a) Subject to clause 24.1, the Company may issue preference shares (including preference shares that are liable to be redeemed).
- (b) The rights attached to preference shares will be determined by Special Resolution of the Company.

24.3 Surrender of shares

- (a) The Board may accept a surrender of shares:
 - (i) to compromise a question as to whether those shares have been validly issued; or
 - (ii) if surrender is otherwise within the Company's powers.
- (b) The Company may sell or re-issue surrendered shares in the same way as forfeited shares.

25. Certificates

25.1 Issue of share certificate

The Company must issue a certificate of title to shares that complies with section 1070C of the Act, and deliver it to the holder of those shares in accordance with section 1071H.

25.2 Multiple certificates and joint holders

- (a) If a Member requests the Company to issue several certificates each for a part of the shares registered in the Member's name, the Company must do so.
- (b) For the purpose of clause 25.2(a), joint holders of shares are a single Member. The Company may issue only one certificate that relates to each share registered in the names of two or more joint holders and may deliver the certificate to any of those joint holders.

26. Register

26.1 Joint holders

If the Register names two or more joint holders of a share, the Company must treat the person named first in the Register for that share as the sole owner of it for all purposes (including the giving of notice) except in relation to:

- (a) delivery of certificates (to which clause 25.2 applies);
- (b) the right to vote (to which clause 17.2 applies);
- (c) the power to give directions as to payment of, or a receipt for, dividends (to which clauses 29.3 and 29.4 apply);
- (d) liability for instalments or calls (which, subject to section 1072E(8) of the Act, is joint and several); and
- (e) transfer.

26.2 Nominee holders

A registered holder of shares who holds them as trustee for, or otherwise on behalf of or on account of, a body corporate, must give the Company written notice of that fact in accordance with section 1072E(11) of the Act.

26.3 Non-beneficial holders

Subject to sections 169(5A) and 1072E of the Act, unless otherwise ordered by a court of competent jurisdiction or required by statute, the Company:

- (a) may treat the registered holder of any share as the absolute owner of it; and
- (b) need not recognise any equitable or other claim to or interest in a share by any person except a registered holder.

27. Partly paid shares

27.1 Fixed instalments

If a share is issued on terms that some, or all, of the issue price is payable by instalments, the registered holder of the share must pay every instalment to the Company when due. If the registered holder does not do so, clauses 27.6 to 27.14 apply as if the registered holder had failed to pay a call.

27.2 Prepayment of calls

The Board may:

- (a) accept prepayment of some or all of the amount unpaid on a share above the sums actually called as a payment in advance of calls;
- (b) agree:
 - (i) to payment by the Company of interest at a rate no higher than the Interest Rate on that part of the advance payment which for the

time being exceeds the aggregate amount of the calls then made on the shares in respect of which it was paid; or

(ii) that the amount paid in advance will be taken into account in calculating participation in profit or ascertaining entitlement to surplus on a winding up or other distributions attributable to that share; and

(c) unless otherwise agreed between the Member and the Company, repay the sum.

27.3 Calls made by Board

Subject to the terms of issue of a share, and to any Special Resolution passed under section 254N of the Act, the Board may:

- (a) make calls on a Member for some or all of the money unpaid on a share held by that Member;
- (b) make a call payable by instalments; or
- (c) revoke or postpone a call,

and must give the relevant Member written notice of the call specifying to whom the call must be paid and the time for payment (which must be at least 14 days after the notice is given).

27.4 Classes of shares

- (a) The Board may issue shares on terms as to the amount of calls to be paid and the time for payment of those calls, which are different as between the holders of those shares.
- (b) The Board may make different calls on different classes of shares.

27.5 Obligation to pay calls

- (a) Subject to section 1072E(8) of the Act, a Member subject to a call must pay the amount of the call to the payee named in the notice of call no later than the time specified in the notice.
- (b) Joint holders of a share are jointly and severally liable for calls.

27.6 Called Amounts

If a call is not paid on or before the day specified for payment, the Board may require the Member liable for the call to pay:

- (a) interest on the amount of the call at the Interest Rate from that day until payment is made; and
- (b) all costs and expenses incurred by the Company because payment was not made on that day.

27.7 Proof of call

If, on the hearing of an action for recovery of a Called Amount, it is proved that:

- (a) the minute books of the Company record the Board's resolution making the call;
- (b) notice of the call was given under clause 27.3; and
- (c) the person sued appears in the Register as a holder of the share in respect of which the call was made,

proof of those matters is conclusive proof of the debt.

27.8 Forfeiture notice

At any time until a Called Amount is paid, the Board may give the relevant Member a notice which:

- (a) requires the Member to pay the Called Amount;
- (b) specifies a date at least 14 days after the date of the notice by which and a place at which payment must be made; and
- (c) states that if payment is not made at that place on or before that date, the share to which the call relates is liable to be forfeited.

27.9 Forfeiture

If the requirements of a notice given under clause 27.8 are not satisfied, the Board may forfeit the share for which that notice was given (and all dividends, interest and other money payable in for that share and not actually paid before the forfeiture) by resolution passed before the Called Amount is paid.

27.10 Disposal and re-issue of forfeited shares

- (a) A share forfeited under clause 27.9 immediately becomes the property of the Company.
- (b) In relation to a share forfeited under clause 27.9, the Board, on behalf of the Company, may:
 - (i) re-issue the share with or without any money paid on it by any former holder credited as paid; or
 - (ii) sell or otherwise dispose of the share, and execute and register a transfer of it,to the person and on the terms it decides.
- (c) The title of the new holder of the share referred to in clause 27.10(b) is not affected by any irregularity in the forfeiture or the re-issue, sale or disposal and the sole remedy of any person previously interested in the share is damages that may be recovered only from the Company. The new holder is not liable for the Called Amount.

27.11 Notice of forfeiture

- (a) The Company must promptly:

- (i) give notice of the forfeiture of a share to the Member who held the share immediately before the resolution for forfeiture was passed; and
 - (ii) enter the forfeiture and its date in the Register.
- (b) A written declaration that a share was forfeited on a specified date and notice of forfeiture was given in accordance with this Constitution signed by a Director or Secretary is, in the absence of proof to the contrary, evidence of those facts and of the Company's right to dispose of the share.

27.12 Cancellation of forfeiture

The Board may cancel the forfeiture of a share on any terms at any time before it disposes of that share under clause 27.10.

27.13 Effect of forfeiture

- (a) A person who held a share that has been forfeited under clause 27.9 ceases to be a Member in relation to that share, but remains liable to pay the Called Amount until it is paid in full.
- (b) The Board may elect not to enforce payment of an amount due to the Company under this clause.

27.14 Application of proceeds

The Company must:

- (a) apply the net proceeds of any re-issue, sale or disposal of a forfeited share under clause 27.10 (after payment of all costs and expenses) to satisfy the Called Amount; and
- (b) pay any surplus to the person who held the share immediately before forfeiture.

28. Company liens

28.1 Existence of liens

- (a) Unless the terms of issue provide otherwise, the Company has a first and paramount lien on each share for:
 - (i) all money called or payable at a fixed time in respect of that share (including money payable under clause 27.6) whether or not payment is due;
 - (ii) all money owed to the Company by a registered holder; and
 - (iii) amounts for which the Company is indemnified under clause 28.3.
- (b) The lien in clause 28.1(a) extends to all dividends payable in relation to the share and to proceeds of sale of the share.

28.2 Sale under lien

If:

- (a) the Company has a lien on a share;
- (b) an amount secured by the lien is due and payable;
- (c) the Company has given notice to the Member registered as the holder of the share requiring payment of the amount which is due and payable and secured by the lien and specifying a date (at least 14 days after the date of the notice) by which and a place at which payment of that amount must be made; and
- (d) the requirements of the notice given under 28.2(c) are not fulfilled,

the Company may sell the share as if it had been forfeited under clause 27.9, to the extent practical and modified as necessary, as if the amount referred to in 28.2(b) were the Called Amount in respect of that share.

28.3 Indemnity for payments required to be made by the Company

- (a) If the law of any jurisdiction imposes, or purports to impose, any immediate, future or possible liability on the Company, or empowers or purports to empower any person to require the Company to make any payment, on account of a Member or referable to a share held by that Member (whether alone or jointly) or a dividend or other amount payable in respect of a share held by that Member, the Company:
 - (i) is fully indemnified by that Member from that liability;
 - (ii) may recover as a debt due from the Member the amount of that liability together with interest at the Interest Rate from the date of payment by the Company to the date of repayment by the Member; and
 - (iii) may refuse to register a transfer of any share by that Member until the debt has been paid to the Company.
- (b) Nothing in this Constitution in any way prejudices or affects any right or remedy that the Company has (including any right of set off) and, as between the Company and the Member, any such right or remedy is enforceable by the Company.

29. Dividends

29.1 Determining Dividends and Reserves

- (a) Within six months of the date of incorporation of the Company, the Board must develop a dividend policy of the Company and submit the dividend policy to the Members for approval.
- (b) Within one month after the annual financial report becoming available, the Board must make a recommendation in writing to the Members on the dividend available to be declared and paid to the Members at the time of entitlement to such dividend, such recommendation to include:
 - (i) the amount of the available dividend;
 - (ii) the time for determining entitlements;
 - (iii) the time for payment;

- (iv) the method of payment; and
 - (v) confirming that the dividend is consistent with the approved dividend policy.
- (c) The Board will consult with the Members on the recommendation.
- (d) Before paying any dividend to Members, the Board may do either or both of:
- (i) setting aside out of profits of the Company reserves to be applied for any purpose consistent with this Constitution and use any sum so set aside in the activities of the Company; or
 - (ii) carrying forward any amount out of profits that the Board decides not to distribute without transferring that amount to a reserve.

29.2 Amount and payment of dividend

Subject to the Act, the amount of each dividend (if any) to be paid by the Company is the amount determined by resolution of the Members, after consultation with the Board.

29.3 Method of payment

The Company may pay any cash dividend, interest or other money payable for shares by cheque sent, and may distribute assets by sending the certificates or other evidence of title to them, through the post directed to:

- (a) the address of the Member (or in the case of a jointly held share, the address of the joint holder named first in the Register); or
- (b) to any other address the Member (or in the case of a jointly held share, all the joint holders) directs in writing.

29.4 Joint holders' receipt

Any one of the joint holders of a share may give an effective receipt for any dividend, interest or other money payable in relation to that share.

29.5 Retention of dividends by Company

The Company may retain the dividend payable on a share:

- (a) of which a person seeks to be registered as the holder under clause 31.2 or 31.3, until that person is registered as the holder of that share or transfers it; or
- (b) on which the Company has a lien, to satisfy the liabilities in relation to which the lien exists.

29.6 No interest on dividends

The Company must not pay interest on a dividend.

30. Transfer of shares

30.1 Instrument of transfer

- (a) Subject to clause 30.2, a Member may transfer a share by a document in the form of which is permitted by law and which is signed by or on behalf of both the transferor and the transferee.
- (b) The Company must not register a transfer that does not comply with this clause.

30.2 Delivery of transfer and certificate

- (a) A document of transfer must be:
 - (i) delivered to the registered office of the Company or the address of the Register last notified to Members by the Company;
 - (ii) accompanied by the certificate for the shares to be transferred or evidence satisfactory to the Board of its loss or destruction; and
 - (iii) marked with payment of any stamp duty payable.
- (b) Property in, and title to, a document of transfer that is delivered to the Company (but not the shares to which it relates) passes to the Company on delivery.

30.3 Refusal to register transfer

- (a) The Board, without giving any reason, may refuse to register a transfer of shares (other than a transfer to the State, its nominee, a State Owned Company or a State Business Corporation under the State Owned Enterprises Act, or their respective nominees) and, subject to section 259C of the Act, must not register a transfer to a subsidiary of the Company.
- (b) If the Board refuses to register a transfer, the Company must give the transferee notice of the refusal within 2 months after the date on which the transfer was delivered to it.

30.4 Transferor remains holder until transfer registered

The transferor of a share remains the holder of it until the transfer is registered and the name of the transferee is entered in the Register for that share.

30.5 Powers of attorney

- (a) The Company may assume that a power of attorney granted by a Member, that is lodged with or produced or exhibited to the Company, remains in force.
- (b) The Company may rely on such a power of attorney, until the Company receives express notice in writing at its registered office of:
 - (i) the revocation of the power of attorney; or
 - (ii) the death, dissolution or insolvency of the Member.

31. Transmission of shares

31.1 Death of joint holder

The Company must recognise only the surviving joint holders as being entitled to shares registered jointly in the names of a deceased Member and others. The estate of the deceased joint holder is not released from any liability in respect of the shares.

31.2 Death of single holder

- (a) The Company must not recognise anyone except the legal personal representative of the deceased Member as having any title to shares registered in the sole name of a deceased Member.
- (b) If the personal representative gives the Board the documents described in section 1071B(9) or 1071B(13) of the Act, or other information that satisfies the Board of the representative's entitlement to be registered as holder of the shares:
 - (i) subject to clauses 30.3 and 31.4, the Company must register the personal representative as the holder of the shares as soon as practical after receiving written and signed notice to the Company from the representative requiring it to do so; and
 - (ii) whether or not registered as the holder of the shares, the personal representative:
 - (A) may, subject to clause 30, transfer the shares to another person; and
 - (B) has the same rights as the deceased Member.

31.3 Transmission of shares on insolvency or mental incapacity

- (a) Subject to the *Bankruptcy Act 1966* (Cth), if a person entitled to shares because of the insolvency or mental incapacity of a Member gives the Board the information it reasonably requires to establish the person's entitlement to be registered as holder of the shares:
 - (i) subject to clauses 30.3 and 31.4, the Company must register that person as the holder of the shares as soon as practical after receiving a written and signed notice to the Company from that person requiring it to do so; and
 - (ii) whether or not registered as the holder of the shares, that person:
 - (A) may, subject to clause 30, transfer the shares to another person; and
 - (B) has the same rights as the insolvent or incapable Member.
- (b) If section 1072C of the Act applies, this clause is supplemental to it.

31.4 Refusal to register holder

The Company has the same right to refuse to register a personal representative or person entitled to shares on the insolvency or mental incapacity of a Member as it would have if that person was the transferee named in a transfer signed by a living, solvent, competent Member.

32. Share capital

32.1 Capitalisation of profits

- (a) The Company may capitalise profits, reserves or other amounts available for distribution to Members.
- (b) Subject to the terms of issue of shares, Members are entitled to participate in a capital distribution in the same proportions in which they are entitled to participate in dividends.

32.2 Adjustment of capitalised amounts

The Board may settle any difficulty that arises in relation to a capitalisation of profits as it thinks appropriate and necessary to adjust the rights of Members among themselves including:

- (a) fixing the value of specific assets;
- (b) issuing fractional certificates;
- (c) making cash payments to Members on the basis of the value fixed or on the basis that fractional entitlements are disregarded so as to adjust the rights of Members between themselves; and
- (d) vesting cash or specific assets in trustees.

32.3 Conversion of shares

Subject to Part 2H.1 of the Act and clause 24.2, the Company may convert:

- (a) an ordinary share into a preference share;
- (b) a preference share into an ordinary share; and
- (c) all or any of its shares into a larger or smaller number of shares by Ordinary Resolution.

32.4 Reduction of capital

Subject to having obtained prior written approval from the Treasurer, the Company may reduce its share capital:

- (a) by reduction of capital in accordance with Division 1 of Part 2J.1 of the Act;
- (b) by buying back shares in accordance with Division 2 of Part 2J.1 of the Act;
- (c) in the ways permitted by sections 258E and 258F of the Act; or
- (d) in any other way for the time being permitted by the Act.

32.5 Payments in kind

- (a) Where the Company reduces its share capital in accordance with Division 1 of Part 2J.1 of the Act, it may do so by way of payment of cash, distribution of specific assets (including shares or other securities in another corporation), or in any other manner permitted by law.
- (b) If the reduction is by distribution of specific assets, the Board may:
 - (i) fix the value of any assets distributed;
 - (ii) make cash payments to Members on the basis of the value fixed so as to adjust the rights of Members between themselves; and
 - (iii) vest an asset in trustees.

32.6 Payment in kind by way of securities in another corporation

- (a) Where the Company reduces its share capital by distribution of specific assets (being shares or other securities in another corporation) each Member is taken to have agreed to become a Member of that corporation and to have agreed to be bound by the constitution of that corporation.
- (b) Each Member also appoints each Director and each Secretary their agent and attorney to:
 - (i) agree to the Member becoming a Member of the corporation referred to in clause 32.6(a);
 - (ii) agree to the Member being bound by the constitution of corporation referred to in clause 32.6(a); and
 - (iii) execute any transfer of shares or securities, or other document required to give effect to the distribution of shares or other securities to that Member.

33. Winding up

33.1 Entitlement of Members

Subject to the terms of issue of shares and this clause 33, the surplus assets of the Company remaining after payment of its debts are divisible among the Members in proportion to the number of fully paid shares held by them. For this purpose, a partly paid share is counted as a fraction of a fully paid share, equal to the proportion paid on it.

33.2 Distribution of assets generally

If the Company is wound up, the liquidator may, with the sanction of a Special Resolution:

- (a) divide the assets of the Company among the Members in kind;
- (b) for that purpose fix the value of assets and decide how the division is to be carried out as between the Members and different classes of Members; and

- (c) vest assets of the Company in trustees on any trusts for the benefit of the Members the liquidator thinks appropriate.

33.3 No distribution of liabilities

The liquidator cannot compel a Member to accept marketable securities in respect of which there is a liability as part of a distribution of assets of the Company.

33.4 Distribution not in accordance with legal rights

If the liquidator decides on a division or vesting of assets of the Company under clause 33.2, that is not in accordance with the legal rights of the contributories, any contributory who would be prejudiced by it has a right to dissent and ancillary rights, as if that decision were a special resolution passed under section 507 of the Act.

34. Notices

34.1 Notices by Company

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

34.2 When notice is given

- (a) A notice to a person by the Company is regarded as given and received:
 - (i) if it is delivered personally or sent by electronic message:
 - (A) by 5 pm (local time in the place of receipt) on a Business Day - on that day; or
 - (B) after 5 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
 - (ii) if it is sent by mail:
 - (A) within Australia - 1 Business Day after posting; or
 - (B) to a place outside Australia - 5 Business Days after posting.

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

34.3 Notice to joint holders

- (a) Notice to joint holders of shares must be given to the joint Member named first in the Register.
- (b) Every person who becomes entitled to a share is bound by every notice in relation to that share that was properly given to a person registered as the holder the share before the transfer or transmission of the share was entered in the Register.

35. Execution of documents

- (a) The Company may execute a document:
 - (i) in accordance with section 127(1) of the Act;
 - (ii) if the Company has a Company Seal in accordance with section 127(2) of the Act; or
 - (iii) in any other way approved by the Directors and permitted by law (including by electronic means).
- (b) Without limiting any other rights of the Directors and Members, each of them may execute documents by electronic means.

Signing page

Signed by the Honourable Jacinta Allan MP, Premier on behalf of the Crown in right of the State of Victoria



Signature



Date

Signed by the Honourable Tim Pallas MP, Treasurer on behalf of the Crown in right of the State of Victoria

Signature

Date

Signing page

Signed by the Honourable Jacinta Allan MP, Premier on behalf of the Crown in right of the State of Victoria

Signature

Date

Signed by Tim Pallas MP, Treasurer on behalf of the Crown in right of the State of Victoria



Signature

23/10/2023

Date