

Constitution

VicSuper Pty Ltd

ABN 69 087 619 412

As amended by a special resolution of the shareholders

on *2nd May* 2019

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VICSUPER PTY LTD

A company limited by shares

Constitution

1 Preliminary**1.1 Definitions and interpretation**

(a) In this constitution:

Chair means the director appointed as chair under rule 5.17;

Commonwealth means the Commonwealth of Australia and its external territories;

Corporations Act means the *Corporations Act 2001*;

employee has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*;

employer has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*;

Employer Directors means directors appointed under rule 5.3;

Employer Organisations means organisations representing the interests of employers of Fund Members determined in accordance with rule 5.3;

Fund means the Victorian Superannuation Fund;

Fund Member means a member of the Fund;

Independent Director has the same meaning as under the Relevant Law;

Member Directors means directors appointed under rule 5.4;

Member Organisations means organisations representing the interests of Fund Members determined in accordance with rule 5.4;

officer includes a person who takes part in, or is concerned with, the management of the company;

Participating Employer includes any person who for the time being participates in the Fund as an employer under the governing rules of the Fund;

power includes any function, duty, discretion, right and authority;

Relevant Law means the *Superannuation Industry (Supervision) Act 1993* the *Income Tax Assessment Act 1936*, the *Income Tax Assessment Act 1997* and any other present or future law of the Commonwealth or any State or Territory of Australia with which the company, the Fund, or a Participating Employer must comply in order to secure or better secure a concession in respect of taxation or in order to avoid a penalty, detriment or disadvantage;

representative, in relation to a body corporate, means a representative of the body corporate authorised under section 250D of the Corporations Act or a corresponding previous law; and

seal means any common seal, duplicate seal, share seal or certificate seal of the company; and

transmission event means in respect of a shareholder who is an individual:

- (1) the death of the shareholder;
 - (2) the bankruptcy of the shareholder; or
 - (3) the shareholder becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health.
- (b) A shareholder is to be taken to be present at a general meeting if the shareholder is present in person or by proxy, attorney or representative.
- (c) Where a rule establishes an office of chair or deputy chair, the chair may be referred to as chair, chairperson, chairman or chairwoman, and the deputy chair as deputy chair, deputy chairperson, deputy chairman or deputy chairwoman, as the case requires.
- (d) A reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (e) Unless the contrary intention appears, in this constitution:
- (1) the singular includes the plural and vice versa;
 - (2) a gender includes every other gender;
 - (3) a reference to a person includes a natural person, company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
 - (4) a reference to a natural person includes that person's successors and legal personal representatives;
 - (5) a reference to any statute, regulation, proclamation, ordinance or by-law includes any statute, regulation, proclamation, ordinance or by-law varying, consolidating or replacing it and a reference to a statute includes any regulation, proclamation, ordinance and by-law issued under that statute;
 - (6) the meaning of general words is not limited by specific examples introduced by the words 'including', 'such as' or similar expressions; and
 - (7) if a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (f) In this constitution headings and special typeface are for convenience only and do not affect its interpretation.

1.2 Application of the Corporations Act

- (a) This constitution is to be interpreted subject to the Corporations Act. However, the replaceable rules contained in the Corporations Act are displaced and do not apply to the company.

- (b) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act.
- (c) Subject to rule 1.2(b), unless the contrary intention appears, an expression in a rule that is defined in section 9 of the Corporations Act has the same meaning as in that section.

1.3 Exercise of powers

- (a) The company may, in any manner permitted by the Corporations Act:
 - (1) exercise any power;
 - (2) take any action; or
 - (3) engage in any conduct or procedure,which under the Corporations Act a company limited by shares may exercise, take or engage in if authorised by its constitution.
- (b) Where the constitution provides that a person or body may do a particular act or thing and the word “may” is used, the act or thing may be done at the discretion of the person or body.
- (c) Where the constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to only some of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- (e) Where this constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
 - (1) to appoint a person to act in the office or position until a person is appointed to the office or position;
 - (2) subject to any contract between the company and the relevant person, to remove or suspend any person appointed, with or without cause; and
 - (3) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (f) Where this constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (g) Where this constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.

- (h) Where this constitution confers power on a person or body to delegate a function or power:
- (1) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that power by the person or body;
 - (2) the delegation may be either general or limited in any manner provided in the terms of delegation;
 - (3) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
 - (4) the delegation may include the power to delegate;
 - (5) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and
 - (6) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

1.4 No distribution to shareholders

- (a) The main purpose of the company is to act as the trustee of a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* but it is also able to do all other things permitted by the Corporations Act.
- (b) The income and property of the company shall be applied solely towards the promotion of the purpose or object of the company, which are to act as trustee of the Fund and in the interests of Fund Members.
- (c) No income or property of the company shall be paid or transferred directly or indirectly to a person in that person's capacity as a shareholder.

2 Share Capital

2.1 Shares

The directors may issue, or otherwise dispose of, shares to such persons, for such price, on such conditions, at such times and with such special restrictions as the directors think fit.

2.2 Equitable and other claims

- (a) Except as otherwise required by law or provided by this constitution, the company is entitled to treat the registered holder of a share as the absolute owner of that share and is not:
 - (1) compelled in any way to recognise a person as holding a share upon any trust, even if the company has notice of that trust; or
 - (2) compelled in any way to recognise, or be bound by, any equitable, contingent, future or partial claim to or interest in a share on the part of any other person except an absolute right of ownership in the

registered holder, even if the company has notice of that claim or interest.

- (b) With the consent of the directors, shares held by a trustee may be marked in the register in such a way as to identify them as being held subject to the relevant trust.
- (c) Nothing in rule 2.2(b) limits the operation of rule 2.2(a).

2.3 Limited Liability

The liability of each shareholder is limited to the amount unpaid (if any) on the shares held by that shareholder.

3 Transfer of and Transmission of Shares

3.1 Transfer of shares

- (a) Subject to this constitution and to the rights or restrictions attached to any share, a shareholder may transfer all or any of the shareholder's shares by an instrument in writing in any usual form or in any other form that the directors approve.
- (b) An instrument of transfer referred to in rule 3.1(a) must:
 - (1) be signed by or on behalf of both the transferor and the transferee unless:
 - (A) the instrument of transfer relates only to fully paid shares and signature by the transferee has been dispensed with by the directors; or
 - (B) the transfer of the shares is effected by a document which is, or documents which together are, a proper transfer of those shares under the Corporations Act;
 - (2) if required by law to be stamped, be duly stamped; and
 - (3) be left for registration at the registered office of the company, or at such other place as the directors determine, accompanied by the certificate for the shares to which it relates (if any) and such other evidence as the directors may require to prove the title of the transferor or the transferor's right to the shares and to prove the right of the transferee to be registered as the owner of the shares.
- (c) Subject to the powers vested in the directors under rule 3.2 and rule 3.3, where the company receives an instrument of transfer in accordance with rule 3.1(b), the company must register the transferee named in the instrument as the holder of the shares to which it relates.
- (d) A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register of shareholders in respect of the shares.
- (e) The company must not charge a fee for the registration of a transfer of shares.
- (f) The company may retain any registered instrument of transfer for such period as the directors think fit.

- (g) Except in the case of fraud, the company must on request return any instrument of transfer which the directors decline to register to the person who deposited it with the company.
- (h) The directors may, to the extent permitted by law, waive all or any of the requirements of this rule 3.1.

3.2 Power to decline registration of transfers

Subject to any special rights conferred on the holders of any shares, the directors may, in their absolute discretion, decline to register any transfer of shares.

3.3 Power to suspend registration of transfers

The directors may suspend the registration of transfers at such times and for such periods, not exceeding in total 30 days in any year, as they think fit.

3.4 Transmission of shares

- (a) A person who becomes entitled to a share as a result of a transmission event may, upon producing the certificate for the share and such other evidence as the directors may require to prove that person's entitlement to the share, elect:
 - (1) to be registered as the holder of the share by signing and serving on the company a notice in writing stating that election; or
 - (2) to have some other person nominated by that person registered as the transferee of the share by executing a transfer of the share to that other person.
- (b) The rules relating to the right to transfer, and the registration of transfers of shares apply, so far as they can and with such changes as are necessary, to any transfer under rule 3.4(a) as if the relevant transmission event had not occurred and the transfer was signed by the registered holder of the share.
- (c) Notwithstanding rule 3.4(a), the directors may register a transfer of shares signed by a shareholder prior to a transmission event even though the company has notice of the transmission event.

3.5 Transfer of director's shares

A director who is also a shareholder owes an irrevocable obligation to the secretary to transfer all shares in the company held by that director to any person nominated by the secretary, if a director ceases to be director for any reason. The director, in consideration of the issue or transfer of a share or shares to the director irrevocably appoints the secretary as that director's attorney to do all things necessary, including, but not limited to, the signing of a share transfer form, to give effect to the relevant transfer. The appointment of the secretary as a director's attorney under this rule 3.5 will continue despite:

- (a) the bankruptcy or death of the director; or
- (b) the director becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health.

4 General Meetings

4.1 Calling general meetings

- (a) The company need not hold annual general meetings unless required by the Corporations Act.
- (b) The directors may, whenever they think fit, call and arrange to hold a general meeting.
- (c) A general meeting may be called and arranged to be held only as provided by this rule 4.1 or as provided by sections 249D, 249E, 249F and 249G of the Corporations Act.
- (d) The directors may change the venue for, postpone or cancel a general meeting unless the meeting is called and arranged to be held by the shareholders or the court under the Corporations Act. If a general meeting is called and arranged to be held under section 249D of the Corporations Act the directors may not postpone it beyond the date by which section 249D requires it to be held and may not cancel it without the consent of the requisitioning shareholder or shareholders.

4.2 Notice of general meetings

- (a) Subject to this constitution and to the rights or restrictions attached to any shares, notice of a general meeting must be given within the time limits prescribed by the Corporations Act and in the manner authorised by rule 12.1 to each person who is at the date of the notice:
 - (1) a shareholder;
 - (2) a director; or
 - (3) an auditor of the company.
- (b) A notice of a general meeting must specify the date, time and place of the meeting and state the general nature of the business to be transacted at the meeting.
- (c) A person may waive notice of any general meeting or consent to short notice of any general meeting by notice in writing to the company.
- (d) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this rule 4.2 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
 - (1) the non-receipt or failure occurred by accident or error; or
 - (2) before or after the meeting, the person:
 - (A) has waived or waives notice of that meeting under rule 4.2(c); or
 - (B) has notified or notifies the company of the person's agreement to that act, matter, thing or resolution by notice in writing to the company.
- (e) A person's attendance at a general meeting:

- (1) waives any objection that person may have to a failure to give notice, failure to give sufficient notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
- (2) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting unless the person objects to considering the matter when it is presented.

4.3 Admission to general meetings

The chair of a general meeting may refuse admission to any person, or require any person to leave and remain out of, the meeting for any reason including that the person:

- (a) is in possession of a pictorial-recording or sound-recording device;
- (b) is in possession of a placard or banner;
- (c) is in possession of an article considered by the chair to be dangerous, offensive or liable to cause disruption;
- (d) refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
- (e) behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
- (f) is not:
 - (1) a shareholder or a proxy, attorney or representative of a shareholder;
 - (2) a director; or
 - (3) an auditor of the company,

and even if the person would otherwise have been entitled to attend the meeting.

4.4 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum of shareholders is present when the meeting proceeds to business.
- (b) A quorum consists of:
 - (1) if the number of shareholders entitled to vote is two or more - two of those shareholders; or
 - (2) if only one shareholder is entitled to vote - that shareholder, present at the meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (1) where the meeting was convened upon the requisition of shareholders, the meeting must be dissolved; or
 - (2) in any other case:
 - (A) the meeting stands adjourned to such day, and at such time and place, as the directors determine or, if no determination

is made by the directors, to the same day in the next week at the same time and place; and

- (B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

4.5 Chair of general meetings

- (a) The Chair of directors or, in the absence of the Chair, the deputy chair of directors (if existing) is entitled, if present within 15 minutes after the time appointed for the meeting and willing to act, to preside as chair at each general meeting.
- (b) If no chair of the general meeting exists under rule 4.5(a), the members present must elect as chair of the meeting a member who is present and willing to act.
- (c) A chair of a general meeting may, for any item of business or discrete part of the meeting, vacate the chair in favour of another person nominated by them.

4.6 Conduct of general meetings

- (a) Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chair of the meeting whose decision is final.
- (b) The chair of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) Where 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 rule 4.6(c), it is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

4.7 Decisions at general meetings

- (a) Except in the case of any resolution which as a matter of law requires a special majority, questions arising at a general meeting are to be decided by a majority of votes cast by the shareholders present at the meeting and any such decision is for all purposes a decision of the shareholders.
- (b) In the case of an equality of votes upon any proposed resolution:
- (1) the chair of the meeting will not have a second or casting vote; and
 - (2) the proposed resolution is to be taken as having been lost.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded before the vote is taken or before or immediately after the declaration of the result of the show of hands:
- (1) by the chair of the meeting; or
 - (2) by any shareholder present at the meeting and having the right to vote on the resolution.

- (d) A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chair of a general meeting that resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it will be taken in such manner and (subject to rule 4.7(g)) either at once or after an interval or adjournment or otherwise as the chair of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (g) A poll demanded at a general meeting on the election of a chair of the meeting or a question of adjournment must be taken immediately.
- (h) The demand for a poll may be withdrawn.
- (i) If the company has only one shareholder and the shareholder records in writing the shareholder's decision to a particular effect:
 - (1) the recording of that decision counts as the passing by the shareholder of a resolution to that effect at a general meeting at which a quorum is present; and
 - (2) that record is to be taken as a minute of the passing of that resolution.

4.8 Decisions without general meetings

The company may pass a resolution (except a resolution to remove an auditor) without a general meeting being held:

- (a) if all of the shareholders entitled to vote on the resolution sign a document containing a statement that they are in favour of a resolution set out in the document; and
- (b) otherwise in accordance with the Corporations Act.

If a share is held jointly, each of the joint shareholders must sign the document.

4.9 Voting rights

- (a) Subject to this constitution and to any rights or restrictions attached to any shares, at a general meeting:
 - (1) on a show of hands, every shareholder present in person or by proxy, attorney or representative has one vote for each share held by the shareholder and in respect of which the shareholder is entitled to vote; and
 - (2) on a poll, every shareholder present in person or by proxy, attorney or representative has one vote for each share held by the shareholder and in respect of which the shareholder is entitled to vote.
- (b) A joint holder may vote at any meeting in person or by proxy, attorney or representative as if that person was the sole holder. If more than one joint

holder tenders a vote, the vote of the holder named first in the register must be accepted to the exclusion of the other or others.

- (c) A person entitled to a share as a result of a transmission event may vote at any general meeting in respect of that share in the same manner as if that person were the registered holder of the share if, before the meeting, the directors have:
- (1) admitted that person's right to vote at that meeting in respect of the share; or
 - (2) been satisfied of that person's right to be registered as the holder of, or to transfer, the share under rule 3.4(a),
- and any vote so tendered by such a person must be accepted to the exclusion of the vote of the registered holder of the share.
- (d) A shareholder is not entitled to vote at a general meeting unless all calls and other sums presently payable by that shareholder in respect of shares in the company have been paid.
- (e) An objection to the qualification of a person to vote at a general meeting:
- (1) must be raised before or at the meeting at which the vote objected to is given or tendered; and
 - (2) must be referred to the chair of the meeting, whose decision is final.
- (f) The chair of the meeting is the sole judge of the validity of votes tendered at the meeting. A vote not disallowed by the chair of a meeting under rule 4.9(e) is valid for all purposes.

4.10 Representation at general meetings

- (a) Subject to this constitution, each shareholder entitled to vote at a meeting of shareholders may vote:
- (1) in person or, where a shareholder is a body corporate, by its representative;
 - (2) by proxy; or
 - (3) by attorney.
- (b) A proxy, attorney or representative may, but need not, be a shareholder of the company.
- (c) A proxy, attorney or representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Unless otherwise provided in the appointment of a proxy, attorney or representative, or in the Corporations Act, an appointment will be taken to confer authority:
- (1) to agree to a meeting being convened by shorter notice than is required by the Corporations Act or by this constitution;
 - (2) to speak to any proposed resolution on which the proxy, attorney or representative may vote;
 - (3) to demand or join in demanding a poll on any resolution on which the proxy, attorney or representative may vote;

- (4) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or representative how to vote on those resolutions:
 - (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (B) to vote on any procedural motion, including any motion to elect the chair, to vacate the chair or to adjourn the meeting; and
 - (C) to act generally at the meeting; and
- (5) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (e) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.
- (f) Subject to rule 4.10(h), an instrument appointing a proxy or attorney need not be in any particular form provided it is in writing, legally valid and signed by the appointer or the appointer's attorney.
- (g) Subject to rule 4.10(h), a proxy or attorney may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the proxy or attorney, and the authority under which the instrument is signed or a certified copy of the authority, are:
 - (1) received at the registered office of the company, a fax number at the company's registered office or at such other place, fax number or electronic address specified for that purpose in the notice calling the meeting before the time for holding the meeting or adjourned meeting or taking the poll (as the case may be);
 - (2) in the case of a meeting or an adjourned meeting, tabled at the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
 - (3) in the case of a poll, produced when the poll is taken.
- (h) The directors may waive all or any of the requirements of rules 4.10(f) and (g) and in particular may, upon the production of such other evidence as the directors require to prove the validity of the appointment of a proxy or attorney, accept:
 - (1) an oral appointment of a proxy or attorney;
 - (2) an appointment of a proxy or attorney which is not signed in the manner required by rule 4.10(f); and
 - (3) the deposit, tabling or production of a copy (including a copy sent by fax) of an instrument appointing a proxy or attorney or of the power of attorney or other authority under which the instrument is signed.

- (i) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite:
 - (1) a transmission event occurring in relation to the appointer; or
 - (2) the revocation of the instrument or of the authority under which the instrument was executed,
 if no notice in writing of the transmission event or revocation has been received by the company by the time and at one of the places at which the instrument appointing the proxy or attorney is required to be deposited, tabled or produced under rule 4.10(g).
- (j) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the transfer of the share in respect of which the instrument was given if the transfer is not registered by the time at which the instrument appointing the proxy or attorney is required to be deposited, tabled or produced under rule 4.10(g).
- (k) The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on any resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

5 Directors

5.1 Number and appointment of directors

- (a) Directors of the company shall only be appointed as provided in this rule 5.
- (b) The number of directors must not be less than four.
- (c) If required by the Relevant Law, the directors shall comprise an equal number of:
 - (1) Employer Directors (appointed in accordance with rule 5.3); and
 - (2) Member Directors (appointed in accordance with rule 5.4),
 and may, if the directors so determine and as permitted by the Relevant Law, include one or more Independent Directors appointed by the directors.

5.2 Appointment of directors

Subject to this rule 5, the directors may by resolution appoint or remove directors.

5.3 Appointment of Employer Directors

- (a) The directors will determine, by resolution, the Employer Organisations from time to time.
- (b) Employer Directors will be appointed by the Employer Organisations, subject to such rules and conditions as may be determined by the directors, either generally or in any particular case.

5.4 Appointment of Member Directors

- (a) The directors will determine, by resolution, the Member Organisations from time to time.
- (b) Member Directors will be appointed:

- (1) by the Member Organisations, subject to such rules and conditions as may be determined by the directors, either generally or in any particular case; or
- (2) if the directors so determine, in accordance with such rules for the election of Member Directors as may be determined by the directors from time to time.

5.5 Period of office

A director will hold office for a term of four years or any other period as unanimously determined by the directors from time to time either generally or in any particular case. At the end of the term of office, a director will cease to be a director but, subject to this constitution and any maximum total period of office determined by the directors, will be eligible for re-appointment or re-election, as the case may be.

5.6 Vacation of office

In addition to the circumstances in which the office of a director becomes vacant by virtue of the Corporations Act, the office of a director becomes vacant if the director:

- (a) dies;
- (b) becomes prohibited from being a director by reason of, or a disqualified person in terms of, the Corporations Act or any Relevant Law;
- (c) suffers any mental or physical incapacity or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, and in respect of whom the directors have passed a resolution declaring the office of that person to become vacant;
- (d) is removed from office under rule 5.2;
- (e) resigns from office by notice in writing to the company;
- (f) in the case of a Member Director:
 - (1) unless the directors unanimously determine otherwise, they cease to satisfy any eligibility criteria that had to be satisfied for that person to be appointed to the office of Member Director;
 - (2) ceases to hold office as a result of the period of office determined under rule 5.5 expiring; or
 - (3) is removed from office by the same procedure as that by which they were appointed;
- (g) in the case of an Employer Director:
 - (1) unless the directors unanimously determine otherwise, they cease to satisfy any eligibility criteria that had to be satisfied for that person to be appointed to the office of Employer Director;
 - (2) ceases to hold office as a result of the period of office determined under rule 5.5 expiring; or
 - (3) is removed from office by the person or entity (or people or entities) that appointed them under rule 5.3.

5.7 Filling vacancies

If the office of director becomes vacant:

- (a) while rule 5.1(c) applies, unless the directors determine otherwise, the vacancy must be filled within 90 days of the vacancy occurring in accordance with rule 5.3 or 5.4, as applicable; or
- (b) if rule 5.1(c) does not apply, the vacancy may be filled by a person appointed by the remaining directors.
- (c) Unless the directors determine otherwise, a person appointed to fill a vacancy in the office of director will hold office for the unexpired portion of the term of office of, and otherwise on the same conditions as, the director whose office became vacant.

5.8 Representation at meetings

- (a) While rule 5.1(c) applies:
 - (1) a Member Director may appoint another Member Director to vote as their proxy; and
 - (2) an Employer Director may appoint another Employer Director to vote as their proxy,for all meetings of directors or at a particular meeting of directors (and any adjournment or re-scheduling of that meeting).
- (b) The instrument appointing the proxy may direct the manner in which the proxy is to vote in respect of a particular resolution and, if so, the proxy must vote in accordance with the direction.
- (c) The instrument appointing the proxy need not be in any particular form except that it must be in writing.
- (d) The appointment of a proxy is not revoked by the appointing director attending and taking part in the meeting, but if the appointing director votes on any resolution, the proxy is not entitled to, and must not, vote as the appointing director's proxy on that resolution.
- (e) A director may be appointed as proxy to represent more than one director and have as many votes accordingly but for the purpose of forming a quorum counts as only one director.

5.9 Remuneration and expenses

- (a) The directors must seek independent advice to assist them in determining the appropriate level of remuneration for the directors. The directors may resolve, only after obtaining further independent advice, to alter their level of remuneration at any time.
- (b) Directors shall be paid reasonable travelling and other expenses properly incurred by them in attending and returning from meetings of the directors, or any committee of the directors, or general meetings of the company, or otherwise in connection with the business of the company, including any insurance premiums incurred by the director.
- (c) The directors may request a director to perform additional services and may determine to remunerate the director for those additional services in such manner as the directors think fit.

5.10 Director need not be a shareholder

- (a) A director is not required to hold any shares in the company to qualify for appointment.
- (b) A director is entitled to attend and speak at general meetings even though that director is not a shareholder of the company.
- (c) The secretary may at any time require a director who is a shareholder to:
 - (1) execute a deed appointing the secretary of the company as the director's attorney for the purposes of rule 3.5; and
 - (2) execute share transfers in favour of:
 - (A) the secretary; and
 - (B) any person (including no particular person) as specified by the secretary.

5.11 Interested directors

- (a) theirA director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the company or in which the company may be interested as a shareholder or otherwise and is not accountable to the company for any remuneration or other benefits received by the director as a director or officer of, or from having an interest in, that body corporate.
- (b) A director who has a material personal interest in a matter that relates to the affairs of the company must give the other directors notice of the interest, unless:
 - (1) they are not required to do so under the Corporations Act;
 - (2) the other directors are already aware of the nature and extent of the interest and its relation to the affairs of the company; or
 - (3) the director has already given notice of the interest (including by way of standing notice) and the nature and extent of the director's interest has not materially increased beyond that already disclosed in the notice.
- (c) Subject to rule 5.11(b), a director is not disqualified from contracting merely because of being a director with the company either as vendor, purchaser or otherwise or because of the fiduciary obligation arising out of that office.
- (d) Subject to rule 5.11(b), no contract made by a director with the company and no contract or arrangement entered into by or on behalf of the company in which any director may be in any way interested is avoided or rendered voidable merely because of the director holding office as a director or because of the fiduciary obligations arising out of that office.
- (e) Subject to rule 5.11(b), no director contracting with or being interested in any arrangement involving the company is liable to account to the company for any profit realised by or under any such contract or arrangement merely because of the director holding office as a director or because of the fiduciary obligations arising out of that office.

- (f) Subject to the Corporations Act and any written policy approved by the directors, a director who is in any way interested in any contract or arrangement or proposed contract or arrangement:
- (1) may, despite that interest, be counted in determining whether a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement,
- but:
- (2) may not vote in respect of, or in respect of any material matter arising out of, the contract or arrangement or proposed contract or arrangement; and
 - (3) may not sign any document relating to that contract or arrangement or proposed contract or arrangement the company may execute.

5.12 Powers and duties of directors

- (a) The directors are responsible for managing the business of the company and may exercise to the exclusion of the company in general meeting all the powers of the company which are not required, by the Corporations Act or by this constitution, to be exercised by the company in general meeting.
- (b) Without limiting the generality of rule 5.12(a), the directors may exercise all the powers of the company to borrow or otherwise raise money, to charge any property or business of the company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the company or of any other person.
- (c) The directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the company.
- (d) The directors may:
 - (1) appoint or employ any person to be an officer, agent or attorney of the company for such purposes with such powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the directors), for such period and upon such conditions and subject to such directions as they think fit;
 - (2) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (3) subject to any contract between the company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney of the company at any time, with or without cause.
- (e) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors think fit.
- (f) Each director must keep all business of the company confidential and unless expressly authorised to do so, will not disclose information about the company to any third party except as required by law.

5.13 Proceedings of directors

- (a) The directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) The contemporaneous linking together by telephone or other electronic means of a number of the directors sufficient to constitute a quorum, constitutes a meeting of the directors and all the rules relating to meetings of the directors apply, so far as they can and with such changes as are necessary, to meetings of the directors by telephone or other electronic means.
- (c) A director participating in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting.
- (d) A meeting by telephone or other electronic means is to be taken to be held at the place determined by the chair of the meeting provided that at least one of the directors involved was at that place for the duration of the meeting.

5.14 Convening of meetings of directors

- (a) The Chair may, whenever the Chair thinks fit, convene a meeting of the directors.
- (b) Notwithstanding paragraph (a), two directors may also convene a meeting of the directors at any time.
- (c) A secretary must, on the requisition of the Chair or two directors, convene a meeting of the directors.

5.15 Notice of meetings of directors

- (a) Subject to this constitution, notice of a meeting of directors must be given to each person who is a director at the time of giving the notice.
- (b) A notice of a meeting of directors:
 - (1) must specify the time and place of the meeting;
 - (2) need not state the nature of the business to be transacted at the meeting;
 - (3) may be given immediately before the meeting; and
 - (4) may be given in person or by post or by telephone, fax or other electronic means.
- (c) A director may waive notice of any meeting of directors by notifying the company to that effect in person or by post or by telephone, fax or other electronic means.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (1) the non-receipt or failure occurred by accident or error;
 - (2) before or after the meeting, the director:
 - (A) has waived or waives notice of that meeting under rule 5.15(c); or

- (B) has notified or notifies the company of their agreement to that act, matter, thing or resolution personally or by post, or by telephone, fax or other electronic means; or
- (3) the director attended the meeting.
- (e) Attendance by a person at a meeting of directors waives any objection that person may have to a failure to give notice of the meeting.

5.16 Quorum at meetings of directors

- (a) A quorum for a meeting of directors is two-thirds of the total number of directors in office.
- (b) In the event of a vacancy in the office of a director or vacancies in the offices of directors, the remaining director or directors may act but, if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, the remaining director or directors may act only for the purpose of implementing an increase in the number of directors to a number sufficient to constitute a quorum or of convening a general meeting of the company.

5.17 Chair and deputy chair

- (a) Subject to rule 5.17(c), the directors must appoint one of their number to hold the office of chair until the date that the director's office is vacated in accordance with rule 5.6 or any earlier date determined by the directors.
- (b) There is no prohibition on a Chair whose office has been vacated in accordance with rule 5.6 from again being appointed as Chair if they subsequently again serves as a director.
- (c) The directors may appoint one of their number to hold the office of deputy chair for such period and on such terms as they may determine, provided that if the Chair is an Employer Director, the deputy chair must be a Member Director and if the Chair is a Member Director, the deputy chair must be an Employer Director.
- (d) If an Employer Director or a Member Director ceases to be Chair and is not reappointed as Chair, then:
 - (1) in the case of an Employer Director ceasing to be Chair, the directors must appoint a Member Director; or
 - (2) in the case of a Member Director ceasing to be Chair, the directors must appoint an Employer Director,
 as Chair under rule 5.17(a), unless the directors determine otherwise.
- (e) If rule 5.17(d) is not applicable, where the Chair:
 - (1) resigns from the office of chair of directors by notice in writing to the directors;
 - (2) vacates their office as director in accordance with rule 5.6; or
 - (3) is removed from the office of chair of directors by a resolution of the directors,

their office as chair of directors will be vacated and the directors must elect one of their number to hold the office of chair of directors in accordance with rule 5.17(a).

- (f) The Chair shall preside at each meeting of directors. Where a meeting is held and the ordinary Chair is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act and a deputy chair has been appointed pursuant to rule 5.17(c) and is present and willing to act, then the deputy chair will act as chair of that meeting. .
- (g) If no chair of the meeting exists under rule 5.17(f), the directors present must elect as chair of the meeting a director who is present and willing to act.

5.18 Decisions of directors

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under this constitution.
- (b) While rule 5.1(c) applies, a resolution in a meeting of the directors is only valid if not less than two-thirds of the total number of directors in office vote in favour of it (including, for this purpose, a vote by way of directed proxy).
- (c) At any meeting of directors, each director present has one vote only and no director has a second or casting vote, except in the director's capacity as a proxy for another director.
- (d) The Chair (or such other person determined by the directors) shall sign all minutes of directors' meetings which minutes shall be taken to be a true and correct record.

5.19 Written resolutions

- (a) If:
 - (1) not less than two-thirds of the total number of directors in office assent to a document containing a statement to the effect that an act, matter or thing has been done or resolution has been passed; and
 - (2) the directors who assent to the document would have constituted a quorum at a meeting of directors held to consider that act, matter, thing or resolution, and would not have been disqualified from voting on the resolution in question,

then that act, matter, thing or resolution is to be taken as having been done at or passed by a meeting of the directors.

- (b) For the purposes of rule 5.19(a):
 - (1) the meeting is to be taken as having been held:
 - (A) if the directors assented to the document on the same day, on the day on which the document was assented to and at the time at which the document was last assented to by not less than two-thirds of the total number of directors in office; or
 - (B) if the directors assented to the document on different days, on the day on which, and at the time at which, the document was last assented to by not less than two-thirds of the total number of directors in office;

- (2) two or more separate documents in identical terms, each of which is assented to by one or more directors, are to be taken as constituting one document; and
 - (3) a director may signify assent to a document by signing the document or by notifying the company of the director's assent in person or by post, telephone, facsimile transmission, or other electronic means.
- (c) Where a director signifies assent to a document otherwise than by signing the document, the director must by way of confirmation sign the document at the next meeting of the directors attended by that director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.

5.20 Committees of directors

- (a) The directors may delegate any of their powers to a committee or committees comprising such directors as the directors 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.
- (c) The rules applying to meetings and resolutions of directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a committee of directors.
- (d) Subject to rule 5.9(c), membership of a committee of directors may, if the directors so resolve, be treated as an extra service or special exertion performed by the members for the purposes of rule 5.9(d).

6 Secretary

- (a) The directors must appoint at least one secretary and may appoint additional secretaries.
- (b) A secretary holds office on such terms and conditions (including remuneration) as the directors determine.

7 Execution of documents

7.1 Manner of execution

The company may execute a document if the document is signed by:

- (a) two directors;
- (b) a director and a secretary; or
- (c) any other person authorised by the company to execute documents on behalf of the company.

7.2 Common seal

The company may have a common seal. If the company has a common seal, rules 7.3 to 7.5 will apply.

7.3 Safe custody of seal

The directors must provide for the safe custody of the seal.

7.4 Use of seal

- (a) The seal must 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.
- (b) The authority to use the seal may be given before or after the seal is used.
- (c) Subject to rule 7.5, until the directors otherwise determine, every document to which the seal is fixed must be executed in accordance with rule 7.1.
- (d) Use of the seal may be recorded in a seal register maintained by the company.

7.5 Sealing and signing of certificates

The directors may determine either generally or in a particular case that the seal and the signature of any director, secretary or other person is to be printed on or affixed to any certificates for securities in the company by some mechanical or other means.

8 Reserves, Profits and Dividends

8.1 Reserves

- (a) Subject to this constitution, the directors may keep such reserves or provisions for such purposes as they think fit.
- (b) The directors may appropriate to the profits of the company any amount previously set aside as a reserve or provision.
- (c) The setting aside of any amount as a reserve or provision does not require the directors to keep the amount separate from the other assets of the company or prevent the amount being used in the business of the company or being invested in such investments as the directors think fit.

8.2 Carry forward of profits

The directors must carry forward so much of the profits remaining as is not transferred to a reserve or provision.

8.3 Dividends

The directors do not have the power to declare dividends or pay dividends.

9 Winding Up

If upon the winding-up or dissolution of the company there remains after satisfaction of all its debts and liabilities any property whatsoever:

- (a) that property will not be paid to or distributed amongst the shareholders of the company;
- (b) that property must be given or transferred to some other company, fund, authority or institution which has objects similar to the object of the company and which prohibits the distribution of its income and property among its shareholders to an extent at least as great as is imposed on the company under rule 1.4; and

- (c) the company, fund, authority or institution referred to above is to be determined by the shareholders of the company at or before the time of dissolution or, in default, by such Judge of the Supreme Court of the State or Territory in which the company has its registered office as may have or acquire jurisdiction in the matter.

10 Minutes and records

10.1 Minutes

The directors must ensure minutes of proceedings and resolutions of general meetings, and of meetings of directors (including committees of the directors) are recorded, in books kept for the purpose, within one month after the relevant meeting is held.

10.2 Minutes of resolutions passed without a meeting

The directors must ensure minutes of resolutions passed by shareholders and resolutions passed and declarations made by directors (and committees of directors) without a meeting are recorded in books kept for the purpose within one month after the resolution is passed or the declaration is made.

10.3 Signing of minutes

- (a) The minutes of a meeting must be signed within a reasonable time by the chair of the meeting or the chair of the next meeting.
- (b) The minutes of the passing of a resolution or the making of a declaration without a meeting must be signed by a director within a reasonable time after the resolution is passed or the declaration is made.

10.4 Minutes as evidence

A minute that is recorded and signed under rules 10.1 and 10.2 is evidence of the proceeding, resolution or declaration to which it relates unless the contrary is proved.

10.5 Inspection of records

- (a) The directors must ensure the minute books for general meetings are open for inspection by shareholders free of charge.
- (b) Subject to rule 10.5((a)), the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the company or any of them will be open to the inspection of shareholders (other than directors).
- (c) A shareholder (other than a director) does not have the right to inspect any books, records or documents of the company except as provided by law or authorised by the directors.

11 Indemnity and insurance

11.1 Officers to whom rule 11 applies

This rule 11 applies to each person who is, or has been, a director, deputy director, alternate director or secretary of the company and to such other officers of the company both past and present as the directors determine.

11.2 Indemnity

The company may indemnify, to the full extent permitted by law, each officer to whom this rule 11 applies for all losses or liabilities incurred by the officer in the performance of the officer's powers and the cost of defending claims against the officer.

11.3 Insurance

Without limiting the generality of rule 5.11(a), the company may pay a premium in respect of a contract insuring each officer to whom this rule 11 applies against all liability incurred by such officer in connection with the performance of the officer's powers and duties and the cost of defending claims against the officer to the extent permitted by the Corporations Act. In the case of a director, any such premium shall not be considered remuneration paid to that director for the purposes of rule 5.9.

12 Notices

12.1 Notices by company

Subject to this constitution, a notice may be given by the company to any director (either in their capacity as shareholder or director) either by serving it personally at, or by sending it by post in a prepaid envelope to, the director's usual residential or business address, or such other address, or by sending it to the facsimile number or electronic address, as the director has supplied to the company for the giving of notices.

12.2 Notices by shareholders or directors to the company

Subject to this constitution, a notice may be given by a shareholder or director to the company by serving it on the company at, or by sending it by post in a prepaid envelope to, the registered office of the company or by sending it to the principal facsimile number or principal electronic address of the company at its registered office.

12.3 Notices posted to addresses outside the Commonwealth

A notice sent by post to an address outside the Commonwealth must be sent by airmail.

12.4 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
- (1) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (2) in any other case, at the time at which the letter would be delivered in the ordinary course of post.

- (b) Where a notice is sent by fax or electronic means service of the notice is to be taken to be effected on the day after the date it is sent.

12.5 Other communications and documents

Rules 12.1 to 12.4 (inclusive) apply, so far as they can and with such changes as are necessary, to the service of any communication or document.

12.6 Notices in writing

A reference in this constitution to a notice in writing includes a notice given by facsimile or electronic means.

13 General

13.1 Submission to jurisdiction

Each shareholder submits to the non-exclusive jurisdiction of the Supreme Court of the State or Territory in which the company is registered, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

13.2 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

14 Amendment of Constitution

The company may, at any time, alter this constitution in accordance with the Corporations Act by special resolution (as defined in the Corporations Act) but only with the prior consent by resolution of the directors.

Dated: 2nd May 2019