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# CONSTITUTION

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**Company Pty Ltd**

**ACN 111 222 333**

*Corporations Act 2001 (Cth)*

A Company Limited by Shares

*Corporations Act 2001 (Cth)*  
A Company Limited by Shares

**THE CONSTITUTION**

of

**Company Pty Ltd ACN 111 222 333**

**PART ONE - GENERAL**

1. **(Name).** The name of the company is Company Pty Ltd.
2. **(Limited Liability).** The liability of members is limited.
3. **(Replaceable Rules).** The provisions of the *Corporations Act 2001 (Cth)* which operate as replaceable rules apply to the company where they have been expressly included herein. Where the replaceable rules have not been included they are expressly excluded.
4. **(Interpretation).**
  - (a) In this Constitution unless the context otherwise requires the following words and phrases have these meanings:

“ASIC” means the Australian Securities and Investments Commission;

“Constitution” means this constitution and all subsequent amendments to it;

“Corporations Act” means the *Corporations Act 2001 (Cth)*;

“general meeting” means a meeting of the company’s members;

“Members Register” means the register of members to be kept pursuant to the Corporations Act;

“Office” means the registered office for the time being of the company;

“replaceable rules” means the replaceable rules referred to in the Corporations Act;

“Seal” means the common seal (if any) of the company;

“Secretary” means any person appointed to perform the duties of a secretary of the company;

“Section” means a section of the Corporations Act.
  - (b) The dictionary in Part 1-2 Division 1 of the Corporations Act applies to this Constitution as if that dictionary were fully set out herein;
  - (c) Where in any Chapter of the Corporations Act there are particular definitions or dictionaries applying to that Chapter or any part of that Chapter then to the extent such definitions or dictionaries are applicable to this Constitution they are to apply as if they were fully set out herein;

- (d) Where a Section is referred to in this Constitution it is a Section of the Corporations Act.

## **PART 2 - GENERAL MEETINGS**

### **5. Calling and notice of General Meetings**

- (a) **(Calling General Meetings).** Any director of the company or the company secretary on the written request of any director or of any shareholder holding not less than ten percent (10%) of the voting shares in the company may call a meeting of the company's members.
- (b) **(Service).** A notice of general meeting must in writing and be served on each member entitled to attend and vote at the general meeting, on each director of the company and if the company has appointed an auditor on the auditor of the company. For a notice to be effectively served it must be either:
- (i) posted to the member, director or auditor at his, her, its last known address; or
  - (ii) personally handed to the directors, auditor or member concerned. In the case of a member that is not a natural person by being left at its registered office or handed to a director of that corporate member.
- (c) **(Date of Service).** A notice shall be deemed to have been served:
- (i) in the case of a notice served by post, two (2) days after posting;
  - (ii) in the case of a notice served personally, on the date it is handed to the recipient or left at the registered office or handed to a director of that corporate member.
- (d) **(Contents of a Notice – Section 249L).** A notice of a meeting of a company's members must:
- (i) set out the place date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this); and
  - (ii) state the general nature of the business;
  - (iii) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution; and
  - (iv) if a member is entitled to appoint a proxy, the proxy must contain a statement setting out the following information:
    - (A) that a member has the right to appoint a proxy;
    - (B) whether or not the proxy needs to be a member of the company; and
    - (C) that a member who is entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise.

6. **Quorum**

(a) **(Quorum – Section 249T – a replaceable rule).** The quorum for a meeting of the company's members is two members and the quorum must be present at all times during the meeting.

(b) **(Determining whether quorum is present – Section 249T(2) – a replaceable rule).** In determining whether a quorum is present, count individuals attending as proxies or body corporate representatives. However, if a member has appointed more than one proxy or representative, count only one of them. If an individual is attending both as a member and as a proxy or body corporate representative, count them only once.

*Note 1: For rights to appoint proxies, see section 249X.*

*Note 2: For body corporate representatives, see section 250D.*

(c) **(No quorum present – Section 249T(3) – a replaceable rule).** A meeting of the company's members that does not have a quorum present within thirty minutes after the time for the meeting set out in the notice of meeting is adjourned to the date, time and place the directors specify. If the directors do not specify one or more of those things, the meeting is adjourned to:

- (i) if the date is not specified, the same day in the next week; and
- (ii) if the time is not specified, the same time; and
- (iii) if the place is not specified, the same place.

(d) **(No quorum at resumed meetings – Section 249T(4) – a replaceable rule).** If no quorum is present at the resumed meeting within thirty minutes after the time for the meeting, the meeting is dissolved.

7. **Chairperson**

(a) **(Election of Chairperson).** The members shall elect an individual who is a member of the company (or a representative of a member of the company) to chair general meetings.

(b) **(Standing Chairperson).** The members may elect a person to be a standing chairperson and that person shall chair all general meetings at which he or she is present.

(c) **(Interim Chairperson).** In the event that the elected standing chairperson is not in attendance within ten (10) minutes of the time when the general meeting is convened then the members present shall elect an individual who is a member of the company (or a representative member of the company) to chair that general meeting but only during the absence of the standing chairperson. If the standing chairperson joins the

general meeting after the election of a chairperson for that general meeting then the standing chairperson shall take over as chairperson of the meeting.

8. **(Chairperson's casting vote – Section 250E(3) – a replaceable rule).** The chairperson has a casting vote and also, if he or she is a member, any vote he or she has in his or her capacity as a member.

*Note 1: The chairperson may be precluded from voting, for example, by a conflict of interest.*

*Note 2: For rights to appoint proxies, see Section 249X.*

9. **Adjournments**

- (a) **(Chairperson must adjourn - Section 249U(4) – a replaceable rule).** The chairperson must adjourn a general meeting if the members present with a majority of votes at the general meeting agree or direct that the chairperson must do so.
- (b) **(Business at adjourned general meetings – Section 249W – a replaceable rule).** Only unfinished business is to be transacted at a general meeting resumed after an adjournment.
- (c) **(Notice of adjourned general meetings – Section 249M – a replaceable rule).** When a general meeting is adjourned, a new notice of the resumed general meeting must be given if the general meeting is adjourned for one month or more.

10. **Voting and Polls**

- (a) **(Show of hands - Section 250J(1) – a replaceable rule).** A resolution put to the vote at a general meeting must be decided on a show of hands unless a poll is demanded.
- (b) **(Proxy votes - Section 250J(1A) – a replaceable rule).** Before a vote is taken the chairperson must inform the general meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- (c) **(Result - Section 250J(2) – a replaceable rule).** On a show of hands, a declaration by the chairperson is conclusive evidence of the result, provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chairperson nor the minutes of the general meeting need to state the number or proportion of the votes recorded in favour or against.
- (d) **(When a poll must be taken – Section 250M(1) – a replaceable rule).** A poll demanded on a matter other than the election of a chairperson or the question of an adjournment must be taken when and in the manner the chairperson directs.

- (e) **(Election of chair or adjournment – Section 250M(2) – a replaceable rule).**  
A poll on the election of a chairperson or on the question of an adjournment must be taken immediately.
- (f) **(Show of hands or poll - Section 250E(1) – a replaceable rule).** Subject to any rights or restrictions attached to any class of shares, at a general meeting:
  - (i) on a show of hands, each member has one vote; and
  - (ii) on a poll, each member has one vote for each share they hold.
- (g) **(Jointly held shares).** If a share is held jointly and more than one member votes in respect of that share, only the vote of the member whose name appears first in the register of members counts.
- (h) **(Mental Incapacity).** If a member is of unsound mind or is a person whose estate is liable to be dealt with in any way under the laws relating to mental health, the member's committee or trustee or such other person as may properly have the management of his or her estate may exercise any rights of the member in relation to a general meeting as if the committee, trustee or other person were the member.
- (i) **(Unpaid Calls).** A member shall not be entitled to vote at a general meeting unless all calls and other sums presently payable by the member in respect of shares in the company have been paid.
- (j) **(Objections to right to vote).** A challenge to a right to vote at a general meeting:-
  - (i) may only be made at the meeting; and
  - (ii) must be determined by the chair, whose decision is final.

## 11. Proxies

- (a) **(Appointment of Proxy – Section 249X(1) – a replaceable rule).** A member who is entitled to attend and cast a vote at a general meeting may appoint a person as the member's proxy to attend and vote for the member at that general meeting.
- (b) **(Proportion or number of votes – Section 249X(2) – a replaceable rule).** The appointment may specify the proportion or number of votes that the proxy may exercise.
- (c) **(Members' entitlement to appoint more than one proxy – Section 249X(3) – a replaceable rule).** If the member is entitled to cast two or more votes at the general meeting, that member may appoint two proxies. If the member appoints

two proxies and the appointment does not specify the proportion or number of the member's votes each proxy may exercise half of the votes. Where this results in fractions of votes then these fractions are to be disregarded.

- (d) **(Instrument of Proxy).** An instrument appointing a proxy shall be in writing under the hand of the appointor or of the appointor's attorney duly authorised in writing or, if the appointor is a corporation, either under Seal or under the hand of an officer or attorney duly authorised.
- (e) **(Particular Resolution).** An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy shall not be entitled to vote on the resolution except as specified in the instrument.
- (f) **(Abstention).** An instrument appointing a proxy may specify that the proxy is to abstain from voting in respect of a particular resolution and, where an instrument of proxy so provides, the proxy shall not vote in respect of the resolution.
- (g) **(Demand for Poll).** An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- (h) **(Form of Proxy).** An instrument appointing a proxy shall be in the following form or in a form that is as similar to the following form as the circumstances allow:

**FORM**  
APPOINTMENT OF PROXY

I/We, \_\_\_\_\_, of \_\_\_\_\_, being a member/members of the abovenamed company, hereby appoint \_\_\_\_\_ of \_\_\_\_\_ or, failing him/her, \_\_\_\_\_ of \_\_\_\_\_ or, failing him/her, the chairperson of the meeting as my/our proxy to vote for me/us and on my/our behalf\* at all general meetings of the company until further notice/\* at the \*annual general/\*general meeting of the company to be held on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ and at any adjournment of that meeting.

\*My/our proxy is entitled to vote with respect to \*\_\_\_\_\_% of my/our shares/\*\_\_\_\_ shares.

This form is to be used in accordance with the directions below. Unless the proxy is directed, he/she may vote or abstain as he/she thinks fit.

For                      Against                      Abstain  
[Description of resolution]

*\*Strike out whichever is not desired.*

\_\_\_\_\_  
(Signature)

**INSTRUCTIONS FOR EXECUTION OF FORM OF PROXY**

- (i) *To direct the appointee to cast all votes covered by this instrument in respect of an item of business in a particular manner either on a show of hands or on a poll, place a sufficient indication (including, without limitation, a tick or a cross) in the relevant box in respect of that item of business.*
- (ii) *To direct the appointee to cast some only of the votes covered by this instrument in respect of an item of business in a particular manner, place in the relevant box in respect of that item of business either the number of votes to be cast in that manner on a poll or the percentage of the total votes covered by this instrument to be so cast on a poll. This direction, if given, is also an instruction to the appointee to vote according to the appointee's discretion on a show of hands.*
- (i) **(Receipt of Proxy).** An instrument appointing a proxy shall not be treated as valid unless the instrument of proxy, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, is or are:
- (i) deposited, not less than 48 hours before the time for holding the general meeting or adjourned general meeting at which the person named in the instrument proposes to vote at the office or at such other place in Australia is specified for that purpose in the notice convening the general meeting; or
  - (ii) in the case of a poll, deposited not less than 24 hours before the time appointed for the taking of the poll, at the office or at such other place in Australia as is specified for that purpose in the notice convening the general meeting; or
  - (iii) in any case, handed to the Chairperson of the general meeting prior to the commencement of the general meeting.
- (j) **(Standing Proxy).** Notwithstanding anything elsewhere contained the appointment of a proxy may be a standing one.

Initial: \_\_\_\_\_

(k) **(Validity if death incapacity or revocation).** Unless the company has received written notice of the death of the member before the start or resumption of the general meeting at which a proxy votes, a vote cast by the proxy will be valid even if died before the proxy votes:

- (i) the appointing member dies; or
- (ii) the member is mentally incapacitated; or
- (iii) the member revokes the proxy's appointment; or
- (iv) the member revokes the authority under which the proxy was appointed by a third party; or
- (v) the member transfers the share in respect of which the proxy was given.

(l) **(Proxy and member present).** A proxy's authority to vote is suspended while the member is present at the general meeting.

12. **Convening of General Meetings**

(a) **(Several locations).** The company may hold a general meeting at two or more venues using any form of technology that gives the members as a whole a reasonable opportunity to participate.

(b) **(General meetings in Australia).** Notwithstanding anything elsewhere contained unless all members entitled to attend and vote at general meetings agree in writing to the contrary all general meetings of members must be held in Australia and in a State in which the majority of members reside or have their place of business. If there is no such State then the State in which the greatest number of members reside or have their place of business.

13. **Resolutions of Members without a General Meeting**

(a) **(Signed minute of resolution).** Subject to Section 249A the company 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.

(b) **(Several counterparts).** A minute of resolution passed pursuant to paragraph (a) may be signed in separate copies provided the resolution and the statement are identical in all copies.

(c) **(Time passed).** A resolution passed pursuant to paragraph (a) or (b) shall for all the purposes of this Constitution be passed when the last member signs the document or counterpart.

- (d) **(One Member).** Where the Company has only one member a document recording the resolution and the date and time and signed by the member shall for all purposes be a validly passed resolution. Where the one member is a company, a corporate representative appointed for that company under Section 250D of the Corporations Act, may sign such resolution.
- (e) **(Notification).** Where under the Corporations Act there is a requirement that information or documents be given to members then that requirement shall be satisfied if such information or documents are given to the members with the document to be signed.
- (f) **(Lodgement).** Where under the requirements of the Corporations Act a copy of the notice of the general meeting must be lodged with ASIC, it shall be sufficient if the copy of the documents signed by the members is lodged with ASIC and if there is a requirement that a copy of any other document or information be lodged with ASIC then it will be sufficient if that information or documents are so lodged.

### **PART THREE - DIRECTORS AND OTHER OFFICERS**

#### **14. Appointment of Directors**

- (a) **(Appointment of directors by members).** Provided a person has consented in writing to be appointed as a director of the company then the company may appoint a person as a director by resolution to that effect passed at a general meeting. The Company must have at least one director at all times.
- (b) **(Appointment of directors by other directors).** Provided a person has consented in writing to be appointed as a director of a company then the directors of the company may by directors' resolution appoint that person as a director of the company.
- (c) **(Term of appointment).** The resolution appointing a director may specify the term of his/her appointment. Where no such term is specified then that person shall continue as a director:-
  - (i) until any other director's term of appointment comes to an end and then that appointee shall be eligible for reappointment; or
  - (ii) where the other directors do not have any term or terms of appointment then the appointee shall continue as a director until he or she retires resigns dies or is removed.

15. **Ceasing to be a Director.**

- (a) **(Death or resignation).** A director shall cease to be a director upon his or her retirement resignation or death. A resignation of a director must be in writing and shall be effective from the later of the following two dates and times:-
- (i) the date and time stated in the resignation as being the date and time upon which it shall take effect; or
  - (ii) the date and time it is served on the company at its registered office or upon the company secretary or if there is no company secretary upon any other director of the company.
- (b) **(Removal by members).** Subject to paragraph (d) a director may be removed from office by ordinary resolution of the members of the company. This shall have effect notwithstanding any term of appointment specified in that director's appointment and notwithstanding any employment contract arrangement or service agreement stipulating that the person shall be a director of the company for a specified term.
- (c) **(Removal by directors).** Subject to paragraph (d) a director may be removed from office by directors' resolution of the directors of the company. This shall have effect notwithstanding any term of appointment specified in that director's appointment and notwithstanding any employment contract arrangement or service agreement stipulating that the person shall be a director of the company for a specified term.
- (d) **(Shareholders Agreement).** Where there is a shareholders agreement between the members of the company and it provides that a person may not be removed except with a written consent or approval of any particular member or person then the rights of the members in paragraph (b) hereof and the directors in paragraph (c) hereof can only be exercised if the consent or approval required under the shareholders agreement has first been obtained;
- (e) **(Automatic Cessation).** A person shall cease to be a director automatically and without the need for the passing of any resolution removing him or her if by virtue of Section 206B of the Corporations Act that person is disqualified from managing a corporation. A person shall also cease to be a director automatically if that person:
- (i) Becomes an insolvent under administration under any Act;

- (ii) Becomes a person of unsound mind who is a person whose person or affairs or estate is being dealt with in any way under the laws then applying in respect to mental health.
- (f) **(Other rights to remove a director).** Any director of the company or any shareholder holding not less than 20% of the issued share capital in the company may notwithstanding any other provision in this Constitution by notice to the secretary of the company remove a director where that director has:
- (i) notwithstanding the receipt of notice of directors meetings failed to attend three consecutive directors meetings without reasonable excuse or consent of all of the other directors;
  - (ii) changed his or her residential address and failed to notify the company secretary of his or her new residential address within one month of the date of such change;
  - (iii) if the director is a director by reason only of the fact that he or she is an employee of the company and that director for whatever reason ceases to be employed by the company;
  - (iv) if the director is a member of the company and he or she fails to pay any call made with respect to his or her shares as and when that call becomes payable;
  - (v) if the director has a material personal interest in any contract or arrangement with the company and he or she fails to disclose that material personal interest to all of the directors of the company within a reasonable time of he or she becoming aware of such material personal interest.

16. **Remuneration, directors fees and expenses**

- (a) **(Directors may fix their remuneration).** The directors of the company may from time to time by resolution fix the directors fees payable to directors and any other remuneration payable to directors generally or to any particular director.
- (b) **(Expenses).** The company may from time to time pay a directors' travelling and other expenses are properly incurred by him or her in:
  - (i) attending directors' meeting or any meetings of committees of directors;  
and
  - (ii) attending any general meetings of the company; or

- (iii) connection with the company's business.

Where a director has incurred an expense then the company may reimburse that expense to the director upon being provided with such evidence thereof as the company may reasonably require.

17. **Powers of Directors**

- (a) **(Management of Business – Section 198A(1) – a replaceable rule).** The business of a company is to be managed by or under the direction of the directors.
- (b) **(Exercise of powers).** The directors may exercise all the powers of the company except any powers that under the Corporations Act or under this Constitution is required to be exercised only pursuant to or after the passing of a resolution of the members of the company in general meeting.
- (c) **(Appointment of attorneys).** The directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the directors), for such period and subject to such conditions as they think fit;
- (d) **(Protections and delegation by attorney).** Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.
- (e) **(Execution of negotiable instrument – Section 198B(1) – a replaceable rule).** Any two directors of the company, may sign, draw, accept, endorse or otherwise execute a negotiable instrument.
- (f) **(Directors may determine different execution – Section 198B(2) – a replaceable rule).** The directors may determine by resolution that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.
- (g) **(Delegation of powers).** The directors may from time to time by resolution delegate any of their powers to:
  - (i) the managing director of the company;
  - (ii) any executive director of the company;
  - (iii) any committee or committees of directors of the company;

- (iv) any non-executive director of the company;
- (v) any other person employed by the company or retained as an agent or representative of the company.

In delegating such powers the directors may impose such conditions, limitations and qualifications to the exercise of those powers as they may think fit.

- (h) **(Committees of Directors).** A committee to which any powers have been delegated shall exercise those powers delegated in accordance with any directions of the directors and a power so exercised shall be deemed to have been exercised by the directors.
- (i) **(Appointment of Chairperson).** The members of such a committee shall elect as the first item of business one of their number as chairperson of their meetings. Where such committee meetings are held and:
  - (i) a chairperson has not been elected; or
  - (ii) the chairperson is not present within ten minutes after the time appointed for the holding of the meeting or is unwilling to act;
  - (iii) the members of the committee that are present shall elect one of their number to be chairperson of that committee meeting.
- (j) **(Committee Meetings).** Such a committee of directors may meet and adjourn as they think fit. Questions arising at a meeting of a committee shall be determined by a majority of votes of the members of the committee present and voting. In the case of an equality of votes, the chairperson, in addition to his or her deliberative vote (if any), shall have a casting vote.
- (k) **(Use of Technology).** Provided that all of the members of a committee consent, the members may participate in a meeting of the committee by means of any technology allowing all persons participating in the meeting to hear each other at the same time. Any member of a committee participating in such a meeting shall of the purposes of this Constitution be deemed to be personally present at the meeting. The consent of a member of a committee to the use of technology may be a standing one. Any consent of a member of a committee to the use of technology may be withdrawn only within a reasonable period prior to a meeting at which the technology is to be used.

18. **Directors Meetings**

- (a) **(Proceedings of Directors).** Where there is more than one director the directors may meet together as a board for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) **(Calling Directors' Meetings).** Any directors' meeting may be called by any director by giving reasonable notice to every other director. Such notice shall set out the time and place of such meeting and a short description of the matters proposed to be discussed. Such notice may be given by letter, facsimile or by email and in urgent situations may be given orally by any form of telephonic communication.
- (c) **(Failure to give notice).** A meeting of directors shall not be invalid because of any failure to give notice to any particular director provided reasonable attempts have been made to contact that director. It shall be conclusive evidence that reasonable attempts have been made to contact that director if the notice has been sent by facsimile to his or her last known facsimile number; or sent by prepaid post to the director's last known residential address; or where the notice has been sent by email to him or her whether or not that email has been opened; or where there is evidence that attempts have been made to telephone the director at his or her last known telephone numbers without success.
- (d) **(Inadequacy of notice).** Where there is any inadequacy in a notice given to any director that inadequacy shall not invalidate any meeting of directors unless at that meeting the directors then present resolve that the directors meeting should not proceed because of that inadequacy.

19. **Chairperson of Directors Meetings**

- (a) **(Election of chairperson).** The directors may by resolution elect one of their directors to act as the chairperson of a particular directors meeting or all directors meetings. The directors' resolution may determine the period for which the particular director is to act as and be the chairperson. The appointment of a chairperson can be a standing appointment. Except where under any shareholders agreement or agreement between directors there is a contractual right to act as chairperson of directors meetings of the company, the directors may by resolution at any time and notwithstanding that the chairperson is a standing appointment change the chairperson of their directors meetings.

- (b) **(First item of business).** Where there is no standing chairperson of the company the directors must as the first item of business at every directors' meeting elect a director present to act as chairperson of the directors' meeting.

20. **Voting at Directors Meetings**

- (a) **(Majority vote).** A resolution of the directors must be passed by a majority of the directors present that are entitled to vote on the resolution and on the basis that each director has one vote that he or she can cast either for or against the resolution.
- (b) **(Casting vote).** The chairperson has a casting vote if necessary. This shall be in addition to any vote that he or she has in his or her capacity as a director.
- (c) **(Voting and completion of transaction).** If a director of the company has a material personal interest in a matter that relates to the affairs of the company then the director must disclose the nature and extent of the interest and its relation to the affairs of the company at or prior to a meeting of the directors. If at a meeting of directors where a relevant transaction is being considered then the disclosure must be made before the transaction is entered into.
- (d) **(No requirement for disclosure).** There is no requirement under paragraph (c) of this clause to disclose an interest that is one which under Section 191(2) of the Corporations Act a director does not have to disclose.
- (e) **(Consequences of disclosure).** Provided that where there has been an obligation on the part of the director to make a disclosure of his interest and that disclosure has been made, the director may vote on matters that relate to the interest and:
  - (1) any transactions that relate to the interest may proceed; and
  - (2) the director may retain all benefits under the transaction even though the director has the interest; and
  - (3) the company cannot avoid the transaction merely because of the existence of the interest.

21. **Directors Meetings held using Technology**

- (a) **(Telephone or video link up).** Subject to paragraph (b) hereof the directors may hold board meetings by telephone conference calls or link ups; by video or other form of visual or audio link up where all directors can orally hear and communicate with all other directors so linked up. All directors' resolutions so passed shall be valid and fully effective.

- (b) **(Consent).** For the purposes of the Corporations Act each director by consenting to be a director of the company has consented to directors meetings being held using technology in accordance with paragraph (a) of this clause. Any director participating in such a meeting shall for the purposes of this Constitution be deemed to be personally present at the meeting. The consent of the director to the use of technology is a standing one. Any consent of a director to the use of technology may only be withdrawn within a reasonable period prior to a directors meeting at which the technology is to be used.

22. **Appointment of alternate directors**

- (a) **(Appointment of alternate directors).** Any director may by a written notice of appointment appoint a person who has consented in writing to being so appointed to act as his or her alternate at any directors meeting or meetings. Such appointment shall be effective from the last to occur of the following:
- (i) The delivery to the company secretary of the signed written notice of appointment setting out the full name and address of the alternate director;
  - (ii) The delivery to the company secretary of the written consent duly signed by the alternate director consenting to being appointed as the alternate to the appointing director;
  - (iii) The signed consent of all other directors of the company to the appointment of the alternate or the passing of a board resolution approving of the appointment of the alternate.
- (b) **(Powers of an alternate director).** The appointment of an alternate director can be a standing appointment. An alternate director so appointed shall be entitled to exercise all of the powers of the director appointing him or her unless that director qualifies or limits the powers of his or her alternate in the appointment. The appointment may be for a particular meeting or for a particular period. If the appointment is so limited then the alternate director is not entitled to vote or exercise any rights beyond the particular meeting or particular purpose. The appointment of an alternate may expressly include a power to sign any minute of directors' resolution or to sign any document which under this Constitution the director appointing the alternate would have power or authority to sign on the company's behalf.

- (c) **(Notice to be sent to alternate).** If the appointing director requests the company to give his or her alternate director notice of directors' meetings, then the company must do so. Where any director or shareholder has power under this Constitution to call a directors' meeting then the company secretary must ensure that where an alternate is entitled to notice of the directors' meeting that such shareholder or director also gives notice to the alternate.
- (d) **(Exercise of powers – Section 201K(3) – a replaceable rule).** When an alternate exercises the director's powers, the exercise of the powers is just as effective as if the powers were exercised by the director.
- (e) **(Director present).** Where a director who has appointed an alternate is present at the directors' meeting then his or her alternate shall have no right to vote or participate in the directors' meeting. Where during the course of a directors' meeting at which the alternate director is present the director who appointed him or her joins the directors' meeting then as and from the appointing director joining the directors' meeting the alternate director shall have no right to vote or participate in the directors' meeting.
- (f) **(Termination of appointment).** The appointing director may terminate his or her alternate director's appointment at any time by giving written notice thereof to the alternate and to the company secretary.

23. **Quorum at Directors Meeting**

- (a) **(Quorum at directors' meeting).** Unless the directors determine otherwise, the quorum for a directors' meeting of the company shall be two directors and the quorum must be present at all times during the directors' meeting. For determining whether a quorum exists, alternate directors present shall be included.
- (b) **(Quorum not present).** Where a quorum of directors is not present then the directors' meeting may be adjourned by the chairperson or on the motion of any director to a date not more than seven days after the convened date of the directors meeting.
- (c) **(Insufficient directors).** Where there are insufficient directors of the company to constitute a quorum then the director or directors present shall only have the following powers:
  - (i) to appoint a person who has consented in writing to being a director as a further and new director of the company;

- (ii) to call a meeting of members of the company for the purposes of appointing a further director;
- (iii) to exercise any powers of the directors of the company that were by previous directors' resolution delegated to that director or directors.

24. **Minute of Directors Resolution**

- (a) **(Resolutions – Section 248A(1) – a replaceable rule).** The directors of a company may pass a resolution without a directors' meeting being held if all the directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- (b) **(Copies – Section 248A(2) – a replaceable rule).** Separate copies of a document may be used for signing by directors if the wording of the resolution and statement is identical in each copy.
- (c) **(When a resolution is passed – Section 248A(3) – a replaceable rule).** The resolution is passed when the last director signs.
- (d) **(Sole Director).** Where the Company only has one director, a director's resolution will be validly passed if the sole director signs a document recording the directors resolution. The director's resolution should be dated by the sole director.

25. **Defect in appointment of director or committee member**

- (a) **(Validity of acts).** All acts done by any meeting of the director or of a committee of directors or by any person acting as a director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a director or a member of the committee, or to act as a director or that a person so appointed was disqualified, be as valid as if the person had been duly appointed and was qualified to be a director or to be a member of the committee.
- (b) **(No liability).** Where a defect is discovered in the appointment of a person as a director or a member of a committee and where that person has acted in good faith in the discharge of his or her duties or powers then that person shall not, simply because of the defect in his or her appointment be liable to the company or to indemnify the company in respect to any loss or liability incurred by the company.

## **PART FOUR – OTHER OFFICERS**

### **26. Managing Director**

- (a) **(Appointment of managing directors).** The directors of a company may appoint one or more of themselves to the office of managing director of the company for such period, and on such terms (including as to remuneration), as the directors so resolve. A person shall not be appointed as managing director unless he or she has consented in writing to being appointed as managing director.
- (b) **(Cease to be managing director – Section 203F(1) – a replaceable rule).** A director ceases to be managing director if they cease to be a director. A person ceases to be the managing director if he or she resigns, retires or is removed by directors' resolution as managing director.
- (c) **(Powers to revoke or vary appointment).** The directors may revoke or vary an appointment of a managing director at any time by resolution to that effect.
- (d) **(Remuneration).** A managing director shall, subject to the terms of any agreement entered into in a particular case, receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the directors determine.
- (e) **(Conferral of powers – Section 198C(1) – a replaceable rule).** The directors of a company may confer on a managing director any of the powers that the directors can exercise.
- (f) **(Power can be revoked or varied – Section 198C(2) – a replaceable rule).** The directors may revoke or vary a conferral of powers of the managing director.
- (g) **(Accountability of managing directors).** Subject to any resolution of the directors to the contrary the managing director shall always be answerable to the board in respect to all powers exercised by him or her and to make a full and proper disclosure of all transactions in which the company is involved.
- (h) **(Delegation).** The managing director may subject to any directors' resolution to the contrary delegate any of his or her powers to any executive or management employee of the company and subject to such terms and conditions as the managing director shall think fit.

- (i) **(Duty to the company).** The managing director shall discharge and exercise all of his or her powers as managing director of the company carefully, with skill, diligently and always in the best interests of the company.

27. **Chief Executive Officer**

- (a) **(Appointment of chief executive officer).** The directors of a company may appoint a person who is an employee of the company but not a director as the chief executive officer of the company for such period, and on such terms (including as to remuneration), as the directors so resolve. A person shall not be appointed as chief executive officer unless he or she has consented in writing to being appointed as chief executive officer.
- (b) **(Cease to be chief executive officer).** An employee ceases to be the chief executive officer if he or she ceases to be an employee of the company. A person ceases to be the chief executive officer if he or she resigns, retires or is removed by directors' resolution as chief executive officer.
- (c) **(Powers to revoke or vary appointment).** The directors may revoke or vary an appointment of a chief executive officer at any time by resolution to that effect.
- (d) **(Remuneration).** A chief executive officer shall, subject to the terms of any agreement entered into in a particular case, receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the directors determine.
- (e) **(Conferral of powers).** The directors of a company may confer on a chief executive officer any of the powers that the directors can exercise.
- (f) **(Power can be revoked or varied).** The directors may revoke or vary a conferral of powers of the chief executive officer.
- (g) **(Accountability of chief executive officer).** Subject to any resolution of the directors to the contrary the chief executive officer shall always be answerable to the board in respect to all powers exercised by him or her and to make a full and proper disclosure of all transactions in which the company is involved.
- (h) **(Delegation).** The chief executive officer may, subject to any directors' resolution to the contrary, delegate any of his or her powers to any executive or management employee of the company and subject to such terms and conditions as the chief executive officer shall think fit.

- (i) **(Duty to the company).** The chief executive officer shall discharge and exercise all of his or her powers as chief executive officer of the company carefully, with skill, diligently and always in the best interests of the company.

28. **Company Secretary**

- (a) **(Appointment of company secretary).** The directors of a company may appoint a person as company secretary whether or not that person is a director of the company. A person shall not be appointed as company secretary unless he or she has consented in writing to being appointed as company secretary.
- (b) **(Cease to be company secretary).** A person ceases to be the company secretary if he or she resigns, retires or is removed by directors' resolution as company secretary.
- (c) **(Powers to revoke or vary appointment).** The directors may revoke or vary an appointment of a company secretary at any time by resolution to that effect.
- (d) **(Remuneration).** A company secretary shall, subject to the terms of any agreement entered into in a particular case, receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the directors determine.
- (e) **(Conferral of powers).** Unless otherwise stated in the directors' resolution appointing the company secretary, the company secretary shall be responsible for and have all powers ancillary to the administration of the company and in respect to all aspects of corporate governance and corporate compliance. The directors of a company may confer on a company secretary any other powers that the directors resolve.
- (f) **(Power can be revoked or varied).** The directors may revoke or vary a conferral of powers of the company secretary.
- (g) **(Accountability of company secretary).** Subject to any resolution of the directors to the contrary the company secretary shall always be answerable to the board in respect to all powers exercised by him or her and to make a full and proper disclosure of all transactions in which the company is involved.
- (h) **(Duty to the company).** The company secretary shall discharge and exercise all of his or her powers as company secretary of the company carefully, with skill, diligently and always in the best interests of the company.

## **PART FIVE – COMMON SEAL, BOOKS AND REGISTERS**

### **29. Common Seal**

- (a) **(Custody of the common seal).** The directors shall have custody of the common seal and shall ensure that it is kept safe and is only used pursuant to resolutions of the directors authorising its use.
- (b) **(Use of the seal).** The common seal shall be used for the purposes of executing documents which are required to be executed under Seal or which the company through its directors resolves shall be executed under Seal. The affixing of the common seal of the company to any document shall only be done in the presence of:
- (i) two persons, one being a director and the other the company secretary; or
  - (ii) two persons who are directors of the company; or
  - (iii) two persons who the directors authorise by resolution to witness the affixing of the common seal; or
  - (iv) one director and another person which other person the board authorises by resolution to witness the affixing of the common seal.
- (c) In the case of there being only one director, the common seal may be affixed in the presence of the one director who shall witness its affixing by signing the document to which it is affixed on that page, next to or through the common seal as affixed.
- (d) **(Signatures of witnesses).** The persons who witness the affixing of the common seal shall sign the document to which the Seal is affixed in their capacity as witnesses and it shall be apparent on the face of the document as to whether those persons are directors, company secretary or other person so authorised.

### **30. Books and Registers**

- (a) **(Minute Book).** The company secretary shall ensure that a minute book of all directors' meetings and meetings of members is maintained and that:
- (i) all minutes of all directors' meetings and all documents containing directors' resolutions are kept in that minute book;
  - (ii) all minutes of all general meetings and all documents containing resolutions of members are kept in that minute book;
  - (iii) all signed consents to appointment as officers of the company are kept in the minute book;

- (iv) all disclosures of material personal interest made pursuant to Section 191 of the Corporations Act are kept in the minute book;
  - (v) such other documents as the directors may resolve be kept in the minute book.
- (b) **(Register).** The company secretary shall ensure that the following registers are kept and at all times maintained:
- (i) a register of members to be kept in accordance with the provisions of the Corporations Act;
  - (ii) a register of charges to be kept in accordance with the provisions of the Corporations Act;
  - (iii) a register of options to be kept in accordance with the provisions of the Corporations Act.
- (c) **(Other Registers).** The company secretary shall keep and maintain such other registers and records as the directors by resolution and/or the managing director or chief executive officer may direct be kept in order to ensure good corporate governance and good corporate compliance procedures are at all times maintained.
- (d) **(Inspection of books, registers and records).** All directors shall have access at all times to the book, records and registers of the company. The directors of a company, or the company by a resolution passed at a general meeting, may authorise and permit a member to inspect the books and records of the company.
- (e) **(Location of books, registers and records).** All of the books, records and registers shall be kept at the registered office of the company and shall be within the custody and control of the company secretary.

## **PART SIX - DIVIDENDS**

### **31. Dividends**

- (a) **(Directors may fix dividends).** Subject to paragraph (c) of this clause, the directors may as they think fit and from time to time from profits available determine that a dividend is payable and fix:
- (i) the amount; and
  - (ii) the time for payment;
  - (iii) the method of payment;
  - (iv) whether the dividend is fully franked, partly franked or unfranked.

The methods of payment may include the payment of cash, the issue of shares, the grant of options and the transfer of assets.

- (b) **(Interest – Section 254U(2) – a replaceable rule).** Interest is not payable on a dividend.
- (c) **(Corporations Act – Section 254T).** Notwithstanding paragraph (a) of this clause, a dividend may only be paid out of profits of the company.
- (d) **(Special rights to dividends).** Subject to the rights of persons (if any) entitled to shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect of which the dividend is paid.
- (e) **(Apportionment of dividends).** All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid, but, if any share is issued on terms providing that it will rank for dividend as from a particular date, that share shall rank for dividend accordingly.
- (f) **(Deduction from dividends).** The directors may deduct from any dividend payable to a member all sums of money (if any) presently payable by the member to the company on account of calls or otherwise in relation to the shares held by that member in the company.

32. **Payments**

- (a) **(Payments in cash).** Any dividend, interest or other money payable in cash in respect of shares may be paid by cheque sent by prepaid post directed to:
  - (i) the address of the holder of those shares as shown in the register of members or, in the case of joint holders, to the address shown in the register of members as the address of the joint holder first named in the register of members; or
  - (ii) to such other address as the holder or joint holders in writing directs or direct.
- (b) **(Receipts).** Any one or two or more joint holders may give effectual receipts for any dividends, interest or other money payable in respect of the shares held by them as joint holders.

## **PART SEVEN – NOTICES AND WINDING UP**

### **33. Notices**

- (a) **(Notices to members).** A notice may be given to any member either by serving it on the member personally or by sending it by post to the member at his, her or its address as shown in the register or the address supplied by the member to the company for the giving of notices to him, her or it.
- (b) **(Notices to directors).** A notice may be given to any director either by serving it on the director personally, by sending it by post to the director at his or her last known address or with the director's consent by facsimile, email or by telephone.
- (c) **(Notice to joint members).** Notice to joint members must be given to the joint member named first in the register of members.
- (d) **(Legal representatives and beneficiaries).** A notice may be served or given to a person entitled to a share in consequence of the death or bankruptcy of a member by serving it on the person personally or by sending it to him or her by post addressed to the person by name, or by the title of representative of the deceased or assignee of the bankrupt, or by any like description, at the address (if any) in Australia supplied for that purpose by the person. If such an address has not been supplied, then service of the notice can be made at the address to which the notice might have been sent if the death or bankruptcy had not occurred.
- (e) **(Notices given by facsimile or email).** Notwithstanding the foregoing and subject to the Corporations Act, if a person to whom a notice is to be given has supplied to the company a facsimile number or email address for the service of notices on him, her or it then any such notice may be given or served on that person by facsimile or email.
- (f) **(Notices sent by facsimile).** Except as provided in clause 5 or otherwise stated in this Constitution a notice sent by facsimile or email shall be deemed served immediately upon the completion of sending if such completion is within business hours in the place where the addressee's facsimile machine or computer is located, but if not, then at 9.00am on the next occurring business day at such place.

- (g) **(Business hours, Business days).** For the purposes of this clause, “business hours” means from 9.00am to 5.00pm on a business day which means a day on which the major trading banks are open for business at the place or in the postal district where the addressee’s facsimile machine or computer is located.

34. **Winding Up**

- (a) **(Dividends and distributions by a liquidator).** If the company is wound up, the liquidator may, with the sanction of a special resolution, divide among the members in kind the whole or any part of the property of the company and may for that purpose set such value as the liquidator considers fair upon any property to be so divided and may determine how the division is to be carried out as between the members or different classes of members;
- (b) **(Vesting of property in trustees).** The liquidator may, with the sanction of a special resolution, vest the whole or any part of any such property in trustees upon such trusts for the benefit of the contributors as the liquidator thinks fit, but so that no member shall be compelled to accept any shares or other securities in respect of which there is any liability.

**PART EIGHT – INDEMNITY OF OFFICERS**

35. **Indemnity of Officers**

- (a) **(Indemnity).** Except to the extent that it is prohibited from doing so by the Corporations Act, the company may indemnify every person who is or has been an officer or auditor of the company or of any related body corporate of the company against any liability or loss incurred by him or her in that capacity.
- (b) **(Payment of insurance premiums).** Except to the extent that it is prohibited from doing so by the Corporations Act, the company may pay or agree to pay a premium in respect of a contract insuring any officer or auditor of the company from and against any liability.

**PART NINE – SHARES AND SHARE CAPITAL**

36. **Shares and Share Capital**

- (a) **(Directors power to issue shares).** The directors may by resolution issue shares in the company to such persons as they think fit, on such terms as they think fit and for such subscription price as they think fit. Such shares may be issued as fully paid or partly paid and the directors may fix such terms as to the payment of calls where the shares are partly paid as the directors think fit.

- (b) **(Application for allotment).** No shares shall be issued unless the company has received an application for allotment from the allottee duly signed specifying the number of shares applied for, the subscription price and a statement to the effect that the allottee will be bound by the terms of this Constitution if the shares applied for or in portion thereof are allotted to him, her or it. Unless otherwise directed by the directors an application for allotment must be accompanied by a cheque or cash or such other consideration representing the subscription price for the shares.
- (c) **(Preference shares).** Subject to the Corporations Act, the company may issue preference shares, including redeemable preference shares.
- (d) **(Classes of shares).** The directors may issue shares of any particular class and attach rights in respect of those shares as part of the terms upon which they are allotted. The holders of those shares shall thereafter be entitled to the enjoyment and benefit of those rights.
- (e) **(Variation of class rights).** The rights attaching to any class of shares so issued may only be varied with the consent in writing of the holders of three-quarters of the issued shares of that class, or with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of that class.
- (f) **(Meetings of class shareholders).** The provisions of this Constitution relating to general meetings shall apply so far as they are capable of application and mutatus mutandis to every such separate meeting except that:
- (i) If there are two or more holders of shares of the class, a quorum shall be constituted by two persons who between them hold or represent by proxy one-third of the issued shares of the class;
  - (ii) If there is only one person holding shares of the class, a quorum shall be constituted by that person; and
  - (iii) Any holder of shares of the class present in person or by proxy may demand a poll.
- (g) **(Issue of further shares of a class to be a deemed variation of class rights).** The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further share ranking equally with the first-mentioned shares.

- (h) **(Alteration of share capital).** The company may by resolution in accordance with the Corporations Act convert all or any of its shares into a larger or smaller number of shares. The cancellation of such shares will constitute a reduction of capital.

37. **Calls on shares**

- (a) **(Directors may make calls).** The directors may make calls upon the members in respect of any money unpaid on the shares of the members and not by the terms of issue of those shares made payable at fixed times, except that no call shall be payable earlier than one month from the date fixed for the payment of the last preceding call;
- (b) **(Payment of calls).** Each member shall, upon receiving at least fourteen (14) days notice specifying the time or times and place of payment, pay to the company at the time or times and place so specified the amount called on his shares;
- (c) **(Revocation or postponement of a call).** The directors may revoke or postpone a call.
- (d) **(When call made).** A call shall be deemed to have been made at the time when the resolution of the directors authorising the call was passed and may be required to be paid by instalments.
- (e) **(Calls on joint holders).** The joint holders of a share shall be jointly and severally liable to pay all calls in respect of the share.
- (f) **(Failure to pay calls).** If a sum called in respect of a share is not paid before or on the day appointed of payment of the sum, the person from whom the sum is due shall pay interest on the sum from the day appointed for payment to the time of actual payment at such rate not exceeding the prescribed rate on the day appointed for payment as the directors determine, but the directors may waive payment of that interest wholly or in part.
- (g) **(Deemed call on allotment).** Any sum that, by the terms of issue of a share, becomes payable on allotment or at a fixed date shall for the purposes of this Constitution be deemed to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable, and, in case of non-payment, all the relevant provisions of this Constitution shall apply as if the sum had become payable by virtue of a call duly made and notified.

- (h) **(Differentiation of amount of calls).** The directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.
- (i) **(Payment without calls).** The directors may accept from a member the whole or part of the amount unpaid on a share although no part of that amount has been called up.
- (j) **(Interest on early payments).** The directors may authorise payment by the company of interest upon the whole or any part of an amount so accepted, until the amount becomes payable, at such rate, no exceeding the maximum rate, as is agreed upon between the directors and the member paying the sum. The maximum rate of interest shall be if the company has, by resolution, fixed a rate, the rate so fixed or in any other case, the rate of ten percent per annum calculated from the date of payment of the sum to the company.

38. **Reduction of Share Capital**

- (a) **(Reduction of share capital).** The company may reduce its share capital in such manner as it thinks fit provided that it is fair and reasonable to shareholders as a whole, does not materially prejudice the company's ability to pay its creditors and is approved by shareholders under Section 256C of the Corporations Act. A cancellation of a share for no consideration is a reduction of share capital.
- (b) **(Buy Back of Shares).** The company may buy back any of its shares in accordance with the provisions of Chapter 2J part 2J(1) and the applicable procedures as set out in Division 2 of that part.

39. **Non Recognition of Trust**

- (a) **(Non recognition).** Except as provided by the Corporations Act, the company shall not be bound by or compelled in any way to recognise any trust with respect to a particular share.
- (b) **(Applications for shares).** The company is not obliged when it issues shares that are applied for by an allottee in its capacity as trustee to state either in the resolution allotting the shares or in any subsequent share certificate or in the register of members that the shares are held on trust.

40. **Share Certificates**

- (a) **(Issue of share certificate).** The company secretary shall ensure that the company issues share certificates in respect to all shares allotted by it. Such

share certificates shall be issued within one month of the date of allotment and sent to the new shareholder at the address stated in the application for allotment.

- (b) **(Jointly held shares).** Where there are two allottees to whom shares are allotted jointly, the company shall not be bound to issue more than one share certificate.
- (c) **(Content of share certificate).** The share certificates shall identify by name the shareholder, the number and class of shares held and whether the shares are allotted as fully paid or partly paid. The share certificates shall be signed by a director or by the company secretary. A copy of the share certificate shall be kept by the company with its books and records.

41. **Transfer of shares**

- (a) **(Approval of Directors).** A shareholder shall be entitled to transfer his, her or its shares in the company to any other shareholder of the company or to any third party who is not a shareholder provided the directors have by resolution approved of such transfer.
- (b) **(Registration of transfers).** No transfer of shares shall be registered unless it has first been approved by the directors by resolution to that effect. No transfer shall be registered until the share transfer has been duly stamped in accordance with any applicable state legislation dealing with the stamping and payment of duty in respect to the transfer of shares. Provided however the directors may approve a share transfer subject to the same being stamped.
- (c) **(Person remains holder until transfer registered etc - Section 1072F(1) – a replaceable rule).** A person transferring share remains the holder of the shares until the share transfer is registered and the name of the person to whom they are being transferred is entered in the register of members in respect of the shares.
- (d) **(Directors not required to register transfer - Section 1072F(2) – a replaceable rule).** The directors are not required to register a transfer of shares in the company unless:
  - (i) the transfer and any share certificate have been lodged at the company's registered office; and
  - (ii) any fee payable on registration of the transfer has been paid; and

- (iii) the directors have been given any further information they reasonably require to establish the right of the person transferring the shares to make the transfer.
  - (e) **(Directors may refuse to register).** The directors may refuse to register a transfer of shares in the company at their absolute discretion and without assigning any reason for such refusal.
  - (f) **(Share certificates).** The directors shall upon the registration of a transferee as the holder of the shares transferred to him, her or it cause to be issued a share certificate in the name of the transferee as the holder of those shares. The directors shall also at the same time cause the cancellation of the previous share certificate issued in respect to those shares.
42. **Transmission by death or bankruptcy of the holder of shares**
- (a) **(If shares not held jointly – Section 1072A(1) – a replaceable rule).** If a shareholder who does not own shares jointly dies, the company will recognise only the personal representative of the deceased shareholder as being entitled to the deceased shareholder's interest in the shares.
  - (b) **(Transmission - Section 1072A(2) – a replaceable rule).** If the personal representative of the deceased shareholder gives the directors the information they reasonably require to establish the representative's entitlement to be registered as holder of the shares:
    - (i) the personal representative may by giving a written and signed notice to the company, elect to be registered as the holder of the shares; or
    - (ii) by giving a completed transfer form to the company, transfer the shares to another person.
  - (c) **(Rights of personal representative).** The personal representative is entitled, whether or not registered as the holder of the shares, to the same rights as the deceased shareholder.
  - (d) **(Registration of personal representative).** On receiving an election from the personal representative pursuant to paragraph (b) of this clause to being registered as the holder of the deceased shareholder's shares the company must register the personal representative as the holder of the shares.
  - (e) **(If shares held jointly - Section 1072A(5) – a replaceable rule).** If a shareholder who owns shares jointly dies, the company will recognise only the survivor as being entitled to the deceased shareholder's interest in the shares.

The estate of the deceased shareholder is not released from any liability in respect of the shares.

- (f) **(Transmission - Section 1072B(1) – a replaceable rule).** If a person who is entitled to shares because of the bankruptcy of a shareholder gives the directors the information they reasonably require to establish the person’s entitlement to be registered as holder of the shares, the person may:
- (i) by giving a written and signed notice to the company, elect to be registered as the holder of the shares; or
  - (ii) by giving a completed transfer form to the company, transfer the shares to another person.
- (g) **(Election - Section 1072B(2) – a replaceable rule).** On receiving an election under paragraph (f) of this clause to the effect that the person entitled to shares requires to be registered as the holder of those shares, the company must register that person as the holder of those shares.
- (h) **(Bankruptcy Act - Section 1072B(4) – a replaceable rule).** This clause has effect subject to the *Bankruptcy Act* 1966 (Cth).
- (i) **(Transmission – Section 1072D(1) – a replaceable rule).** If a person entitled to shares because of the mental incapacity of a shareholder gives the directors the information they reasonably require to establish the person’s entitlement to be registered as the holder of the shares the person may:
- (i) by giving a written and signed notice to the company, elect to be registered as the holder of the shares; or
  - (ii) by giving a completed transfer form to the company, transfer the share to another person; and
  - (iii) the person is entitled, whether or not registered as the holder of the shares, to the same rights as the shareholder.
- (j) **(Election).** On receiving an election under paragraph (i) of this clause from that person to the effect that he or she is to be registered as the holder of the shares, the company must register that person as the holder of the shares.
- (k) **(Transfer rules).** A transfer of any shares pursuant to this clause is subject to the same rules as apply to transfers of shares generally.