

Corporations Act
A Company limited by shares

Constitution of Flinders Exploration Pty Ltd

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1. Definitions and Interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise:

- (a) *Act* means the Corporations Act 2001 (Cth);
- (b) *Company* means Flinders Exploration Pty Ltd ACN 140 351 033;
- (c) *Constitution*, this Constitution, or the Constitution means the constitution of the Company as amended from time to time and a reference to a particular rule of the constitution means that rule as amended from time to time;
- (d) *director* means a director of the Company appointed as such and, except where inappropriate, includes an alternate director;
- (e) *directors* means the directors of the Company or the sole director of the Company, if the Company has only one director;
- (f) *dividend* includes a bonus or other distribution in specie or in cash;
- (g) *in writing* and *written* include printing and other modes of representing or reproducing words in a visible form;
- (h) *member* means a person who for the time being holds a share in the Company;
- (i) *month* means calendar month;
- (j) *Office* means the registered office for the time being of the Company;
- (k) *paid up* includes credited as paid up;
- (l) *related body corporate* has the same meaning as it has in the Act;
- (m) *secretary* means any person appointed to perform any of the duties of a secretary of the Company;
- (n) *share* means a share in the capital of the Company of whatever class;
- (o) *State* means Victoria;
- (p) *Subsidiary* has the same meaning as it has in the Act; and
- (q) *year* means calendar year.

1.2 Interpretation

- (a) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.
- (b) The singular includes the plural and conversely.
- (c) A reference to a person includes a body corporate, an unincorporated body or other entity and conversely.
- (d) A gender includes all genders.
- (e) Headings are for convenience only and do not affect interpretation.
- (f) Except so far as a contrary intention appears in this Constitution, a word or expression in this Constitution has the same meaning as it has in the Act.
- (g) In every case where in this Constitution general expressions are used in connection with powers, discretions or things, those general expressions will not be limited to or controlled by the particular powers, discretions or things with which they are connected. Any word and expression denoting authority or permission will be construed as a word or expression of authority merely and will not be construed as a word or expression denoting directions or compulsory trusts.
- (h) The Company is authorised to do anything which in accordance with the Act a company may do if so authorised by this Constitution or the Act.

2. Exclusion of replaceable rules

Each provision of a Section or Subsection of the Act, which but for this rule 2, would apply to the Company as a replaceable rule, is displaced and does not apply to the Company.

3. New issues

- 3.1 Subject to the provisions of the Act, and except as otherwise provided by this Constitution, all the shares in the capital of the Company will be under the control of the directors who may allot or issue the same on such terms and conditions and at such times and for such issue prices as they may think fit.
- 3.2 Subject to the provisions of this Constitution, any shares may be issued with such preferred, deferred or other rights or restrictions whether in regard to dividends, voting, return of share capital or otherwise as the directors may from time to time determine, and, in particular, any preference shares may be issued on terms that they or any of them are, or at the option of the Company are, liable to be redeemed, but subject otherwise to the provisions of the Act.

4. Recognition of third-party interests

- 4.1 Except as required by law, the Company will not recognise a person as holding a share on any trust.

- 4.2 The Company is not bound by or compelled in any way to recognise (whether or not it has notice of the interest or rights concerned) any equitable, contingent, future or partial interest in any share or unit of a share or (except as otherwise provided by this Constitution or by law) any other right in respect of a share except an absolute right of ownership in the registered holder.

5. Share certificates

A person whose name is entered as a member in the register of members is entitled without payment to receive a certificate in respect of the shares in accordance with the Act.

6. Lien on shares

- 6.1 The Company has a first and paramount lien on every share (other than one whose issue price has been paid in full):
- (a) for all money (whether presently payable or not) called or payable at a fixed time in respect of that share; and
 - (b) registered in the name of a sole holder for all money presently payable by him or her or his or her estate to the Company.
- 6.2 The directors may at any time exempt a share wholly or in part from the provisions of this rule 6.
- 6.3 The Company's lien (if any) on a share extends to all dividends, bonuses and other money payable in respect of the share.

7. Company indemnified against liability in respect of shares

Whenever any law for the time being of any country, state or place imposes or purports to impose any immediate or future or possible liability on the Company to make any payment or empowers any government or taxing authority or government official to require the Company to make any payment in respect of any shares registered in any of the Company's registers as held either jointly or solely by any member or in respect of any dividends, bonuses or other money due or payable or accruing due or which may become due or payable to that member by the Company on or in respect of any such shares or for or on account of any member and whether in consequence of:

- (a) the non-payment of any income tax or other tax by that member;
 - (b) any assessment of income tax against the Company in respect of interest or dividends payable to that member; or
 - (c) any other act or thing,
- the Company in every case:
- (d) will be fully indemnified by that member from all such liability;

- (e) will have a lien on all dividends, bonuses and other money payable in respect of the shares registered in any of the Company's registers as held by that member in respect of the shares or in respect of any dividend, bonus or other money payable on the shares or for or on account or in respect of that member under or in consequence of any law together with interest at the rate of 10% per annum on it from date of payment to date of repayment and may deduct or set off against any dividend, bonus or other money payable any money paid or payable by the Company together with interest;
- (f) may recover as a debt due from that member or his or her executor or executrix or administrator wherever constituted any money paid by the Company under or in consequence of any law and interest on it at the rate referred to in rule 7(e) and for such period in excess of any dividend, bonus or other money then due or payable by the Company to that member;
- (g) may if any money is paid or payable by the Company under any law refuse to register a transfer of any shares by that member until such money and interest is set off or deducted or in case the same exceeds the amount of any dividend bonus or other money then due or payable by the Company to that member until that excess is paid to the Company.

Nothing contained in this Constitution will prejudice or affect any right or remedy which any law may confer or purport to confer on the Company and, as between the Company and every member any right or remedy which any law confers or purports to confer on the Company will be enforceable by the Company.

8. Exercise of lien

- 8.1 Subject to rule 8.2, for the purpose of enforcing a lien, the Company may sell, in any manner that the directors think fit, any shares on which the Company has a lien.
- 8.2 A share on which the Company has a lien must not be sold under rule 8.1 unless:
 - (a) a sum in respect of which the lien exists is presently payable; and
 - (b) the Company has, not less than 14 days before the date of the sale, given to the registered holder for the time being of the share or the person entitled to the share because of the bankruptcy of the registered holder a notice in writing setting out, and demanding payment of, that part of the amount in respect of which the lien exists as is presently payable.

9. Completion of sale

- 9.1 For the purpose of giving effect to a sale under rule 8, the directors may authorise a person to transfer the shares sold to the purchaser of the shares.
- 9.2 The Company will register the purchaser as the holder of the shares comprised in any transfer and the purchaser is not bound to see to the application of the purchase money.

- 9.3 The title of the purchaser to the shares is not affected by any irregularity or invalidity in connection with the sale.

10. Application of proceeds of sale

The proceeds of a sale under rule 8 will be applied by the Company in payment of that part of the amount in respect of which the lien exists as is presently payable, and the residue (if any) will (subject to any like lien for sums not presently payable as existed on the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

11. Directors power to make calls

- 11.1 The directors may, subject to the terms on which any shares may have been issued, make calls on the members in respect of any money unpaid on the shares of the members.
- 11.2 Each member will, on receiving at least 14 days' notice specifying the time or place of payment, pay to the Company at the time or times and place so specified the amount called on his or her shares.
- 11.3 The directors may revoke or postpone a call.

12. When made and instalments

- 12.1 A call will be taken to have been made at the time when the resolution of the directors authorising the call was passed.
- 12.2 A call may be required to be paid by instalments.

13. Liability to forfeiture

If a member fails to pay any call or instalment of a call on the day appointed for payment of the call or instalment, the directors may, at any time afterwards while any part of the call or instalment remains unpaid, serve a notice on him or her requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued.

14. Time and place for payment

The notice must:

- (a) name a day (not earlier than the expiration of 14 days from the date of service of the notice) and a place at which the payment required by the notice is to be made; and
- (b) state that, in the event of non-payment at or before the time and at the place appointed, the shares in respect of which the call was made or the instalment is payable will be liable to be forfeited.

15. Power to forfeit

- 15.1 If the requirements of a notice served under rule 13 are not complied with, any share in respect of which the notice has been given may at any time afterwards, before the payment

required by the notice has been made, be forfeited by a resolution of the directors to that effect.

- 15.2 That forfeiture will include all dividends, bonuses, interest and other money payable in respect of the forfeited shares and not actually paid before the passing of that resolution.

16. Notice of forfeiture

When any share has been forfeited in accordance with this Constitution, notice of the forfeiture will immediately be given to the member or to the person entitled to the share by transmission (as the case may be). An entry of that notice having been given and of the forfeiture (with the date thereof) will immediately be made in the register of members opposite the entry of the share. The provisions of this rule 16 are directory only and no forfeiture will be in any manner invalidated by an omission or neglect to give that notice or to make the entry.

17. Consequences of forfeiture

A person whose shares have been forfeited ceases to be a member in respect of the forfeited shares, but remains liable to pay to the Company all money that, at the date of forfeiture, was payable by him or her to the Company in respect of the shares (including interest at the rate of 10% per annum from the date of forfeiture on the money for the time being unpaid unless the directors think fit to waive payment of that interest), but his or her liability ceases if and when the Company receives payment in full of all the money (including interest) so payable in respect of the shares.

18. Prima facie evidence of forfeiture

A statement in writing declaring that the person making the statement is a director or a secretary of the Company, and that a share in the Company has been duly forfeited on a date stated in the statement, is conclusive evidence (in the absence of manifest error) of the facts stated in the statement as against all persons claiming to be entitled to the share.

19. Fixed amounts taken to be calls

The provisions of this Constitution as to forfeiture apply to non-payment of any sum that, by the terms of the issue of a share, becomes payable at a fixed time as if the same had been payable by virtue of a call duly made and notified.

20. Approval of share transfers

- 20.1 Subject to rule 20.2, shares in the Company may only be transferred by a member to a person of whom the directors approve.
- 20.2 The directors must approve the registration of a transfer of any share which is made under and in accordance with rule 8.1, rule 21, or the provisions of any agreement in writing between all the members of the Company.

21. Transfer of shares to associated persons permitted

- 21.1 A member which is a corporation may at any time transfer all or any shares held by it to a member of the same group (as defined in this rule 21).
- 21.2 Where shares have been transferred under rule 21.1 (whether directly or by a series of transfers under this rule 21) from a corporation (transferor company which expression will not include a second or subsequent transferor in a series of transfers) to a member of the same group (transferee company) and subsequently the transferee company ceases to be a member of the same group as the transferor company then the transferee company will:
- (a) immediately transfer the relevant shares (as defined in this rule 21) to the transferor company; or
 - (b) if the transferor company does not then exist, to a member of the same group as the transferor company at the time of the transfer under rule 21.1 (if such a member exists).
- 21.3 For the purposes of this rule 21:
- (a) the expression *a member of the same group* means a corporation which is for the time being either:
 - (i) a holding company of which the transferor company is a wholly-owned subsidiary; or
 - (ii) a wholly-owned subsidiary of the transferor company or of any holding company of which the transferor company is a wholly-owned subsidiary; and
 - (b) the expression *relevant shares* means and includes (so far as they remain for the time being held by the transferee company) the shares originally transferred to the transferee company and any additional shares issued or transferred to the transferee company by virtue of the holding of those shares or any of them.

22. Title to shares on death

In the case of the death of a member, the survivor where the deceased was a joint holder, and the legal personal representatives of the deceased where he or she was a sole holder, will be the only persons recognised by the Company as having any title to his or her interest in the shares, but this rule 22 does not release the estate of a deceased joint holder from any liability in respect of a share that had been jointly held by him or her with other persons.

23. Registration of transfer on death or bankruptcy

- 23.1 Subject to the Bankruptcy Act 1966, a person becoming entitled to a share in consequence of the death or bankruptcy of a member may, upon such information being produced as is properly required by the directors, elect either to be registered himself or herself as a holder of the share or to have some other person nominated by him or her registered as the transferee of the share.

- 23.2 If the person becoming entitled elects to be registered himself or herself, he or she will deliver or send to the Company a notice in writing signed by him or her stating that he or she so elects.
- 23.3 If he or she elects to have another person registered, he or she will execute a transfer of the share to that other person.
- 23.4 All the limitations, restrictions and provisions of this Constitution relating to the right to transfer, and the registration of transfers of, shares are applicable to any such notice or transfer as if the death or bankruptcy of the member had not occurred and the notice or transfer were a transfer signed by that member.

24. Rights attaching to shares upon death or bankruptcy

- 24.1 Where the registered holder of a share dies or becomes bankrupt, his or her personal representative or the trustee of his or her estate, as the case may be, is, upon the production of such information as is properly required by the directors, entitled to the same dividends and other advantages, and to the same rights (whether in relation to the meetings of the Company, or to voting or otherwise), as the registered holder would have been entitled to if he or she had not died or become bankrupt.
- 24.2 Where 2 or more persons are jointly entitled to any share in consequence of the death of the registered holder, they will, for the purpose of this Constitution, be deemed to be joint holders of that share.

25. Form, execution and registration of transfer instrument

- 25.1 The instrument of transfer of any share will be:
- (a) in writing in any usual or common form or in any other form which the directors may approve or in particular cases accept; and
 - (b) executed by or on behalf of both the transferor and the transferee but the directors may dispense with the execution of the instrument of transfer by the transferee (and that dispensation may apply generally or in relation to any particular instrument) in any case in which it is lawful and the directors think fit to do so.
- 25.2 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 members in respect of them.
- 25.3 Every instrument of transfer must be left for registration at the Office accompanied by the certificate for the shares to which it relates and any other evidence as the directors may reasonably require to show the right of the transferor to transfer the shares. The directors may waive the production of any certificate on evidence satisfactory to them of its loss or destruction.
- 25.4 The registration of transfers may be suspended at any times and for any periods as the directors may from time to time determine not exceeding in aggregate 30 days in any year.

26. Power to alter capital

The Company may by ordinary resolution do the following:

- (a) convert all or any of its existing shares into a larger or smaller number of existing shares; and
- (b) cancel shares that have been forfeited under the terms on which the shares are on issue.

27. Power to reduce capital

Subject to the Act, the Company may reduce its share capital in any manner.

28. Power to buy back shares

Subject to the Act, the Company may buy back its own shares.

29. Frequency and convening of general meetings

29.1 Subject to the Act and rule 29.2, a general meeting will be held at the time and place as will be determined by the directors provided that the members may meet for any general meeting by telephone or by other means of electronic communication by which all persons participating in the general meeting are able to hear the entire meeting and be heard by all other persons attending the general meeting. A general meeting conducted by telephone or other means of electronic communication will be deemed to be held at the place agreed on by the members attending the general meeting in person or by proxy, attorney or representative provided that at least one of the members so present at the meeting was at that place in person, by proxy, attorney or representative for the duration of the meeting.

29.2 Any director may convene a general meeting at any time.

30. Notice of general meeting

30.1 Subject to rules 30.2 and 30.3 and the requirements of the Act, notice of a general meeting will:

- (a) be given not less than 21 days before the meeting (exclusive of the day of the meeting and exclusive of the day on which the notice is served or deemed to be served);
- (b) specify the place, the day and the hour of meeting; and
- (c) except as provided by rule 30.4, state the general nature of the business to be transacted at the meeting.

30.2 Notice of every general meeting will be given to:

- (a) every member;
- (b) every person entitled to a share in consequence of the death or bankruptcy of a member who, but for his or her death or bankruptcy, would be entitled to receive notice of the meeting;

- (c) the auditor or auditors for the time being of the Company; and
- (d) every director of the Company (and his or her alternate if that alternate is known to be in Australia).

30.3 No other person will be entitled to receive notices of general meetings.

30.4 It is not necessary for a notice of an annual general meeting to state that the business to be transacted at the meeting includes the consideration of accounts and the reports of the directors and auditors and the appointment and fixing (if required) of the remuneration of the auditors.

31. Omission to give and non-receipt of notice

The accidental omission to give notice of any meeting to or the non-receipt of any notice by any of the members will not invalidate the proceedings at or any resolution passed at any meeting.

32. Circulating resolution of all members valid

Subject to the Act a resolution in writing signed by all the members for the time being entitled to receive notice of and to attend and vote at general meetings (or, in the case of corporations being members, by their duly authorised representatives) will be as valid and effective as if the same had been passed at a general meeting of the Company duly convened and held.

33. Quorum

33.1 Except as otherwise provided in this Constitution or in any agreement between all the members, 2 members, or if the Company has only one member, that member, present in person or by proxy or attorney or representative or, subject to rule 29.1, by telephone or by other means of electronic communication, will be a quorum.

33.2 No business will be transacted at any general meeting except the election of a Chairman and the adjournment of the meeting unless a quorum of members is present at the time when the meeting proceeds to business and for the duration of the meeting.

34. If quorum not present

If within half an hour from the time appointed for the meeting or at any time during the meeting a quorum is not present, the meeting:

- (a) if convened on the requisition of members, will be dissolved; or
- (b) in any other case:
 - (i) stands adjourned, to the same day in the next week at the same time and place (or to any other day and at any other time and place as all the members may agree in writing); and

- (ii) if at that adjourned meeting a quorum is not present within half an hour from the time appointed for the adjourned meeting, the meeting will be dissolved.

35. Chairman of general meetings

- 35.1 The chairman of the board of directors will be entitled to take the chair at every general meeting.
- 35.2 If there is no chairman, or if he or she is not present within 15 minutes of the time appointed for the meeting or is unwilling or unable to act as chairman of the meeting, the vice-chairman of the board of directors will be entitled to take the chair.
- 35.3 If there is no vice-chairman or he or she is not present within 15 minutes of the time appointed for the meeting or is unwilling or unable to act as chairman of the meeting, the persons present and entitled to vote may choose another director as chairman. If no director is present or if all the directors present decline to take the chair, then the persons present and entitled to vote will choose one of their number to be chairman of that meeting.

36. Adjournments

- 36.1 The chairman may with the consent of any meeting at which a quorum is present, and will if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 36.2 When a meeting is adjourned for 30 days or more for any reason, notice of the adjourned meeting will be given as for an original meeting.
- 36.3 Except as provided in rule 36.2, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

37. Voting and demand for poll

- 37.1 At any general meeting a resolution put to the vote of the meeting will be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
 - (a) by the chairman; or
 - (b) by any member present in person or by proxy, representative or attorney and entitled to vote.
- 37.2 Unless a poll is so demanded, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority or lost, and an entry to that effect in the book containing the minutes of the proceedings of general meetings 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.
- 37.3 Any demand for a poll may be withdrawn.

38. Procedure for polls

- 38.1 If a poll is properly demanded, it will be taken in the manner and, subject to rule 38.2, either at once or after an interval or adjournment or otherwise as the chairman directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- 38.2 A poll demanded on the election of a chairman or on a question of adjournment will be taken immediately.
- 38.3 The demand for a poll will not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

39. Voting rights of members

Except as otherwise provided in this Constitution or in any agreement in writing between all of the members, at meetings of members or classes of members:

- (a) on a show of hands every member who (being a natural person) is present in person or by proxy or attorney or (being a body corporate) is present by a duly authorised representative has one vote; and
- (b) on a poll every member present in person or by proxy or attorney or other duly authorised representative has one vote for each share held by him, her or it.

40. No casting vote of chairman

In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, will, subject to any agreement in writing between all the members, not be entitled to a second or casting vote.

41. Restriction on voting rights - unpaid shares

A member is not entitled to vote at a general meeting unless all calls and other sums presently payable by him or her in respect of shares have been paid.

42. Objections to qualification to vote

- 42.1 An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- 42.2 Any objection will be referred to the chairman of the meeting, whose decision made in good faith is final and conclusive.
- 42.3 A vote not disallowed under an objection is valid for all purposes.

43. Appointment of proxies

A member may appoint a proxy, who does not need to be a member, to vote on his or her behalf.

44. Form of proxy

- 44.1 An instrument appointing a proxy must be in writing (in the common or usual form) and be executed, by the member or the member's attorney or in the case of a Company by an officer duly authorised.
- 44.2 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where the instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.
- 44.3 The instrument appointing a proxy will be taken to confer authority to demand a poll.
- 44.4 An instrument appointing a proxy will, unless the contrary is stated on it, be valid as well for any adjournment of the meeting as for the meeting to which it relates.

45. Lodgement of proxy

An instrument appointing a proxy will not be treated as valid unless the instrument, 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 deposited or received by facsimile transmission, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, at the Office, or at any other place (including the relevant facsimile number) as is specified for that purpose in the notice convening the meeting.

46. Validity of proxy

A vote given in accordance with an instrument of proxy or of a power of attorney is valid notwithstanding the revocation of the instrument (or of the authority under which the instrument was executed) or of the power, or the transfer of the share in respect of which the instrument or power is given, if no intimation in writing of the revocation or transfer has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

47. Number and qualification of directors

- 47.1 The Company must have at least one director.
- 47.2 At least one director must ordinarily reside in Australia.
- 47.3 A corporation will not be capable of being appointed as a director of the Company.
- 47.4 A person will not be capable of being a director of the Company unless he or she has attained the age of 18 years.
- 47.5 A director will not be required to hold any share in the Company as a qualification for office.

48. Removal and appointment of directors

The members of the Company at a general meeting may by resolution remove any director from office and appoint another person in his or her place. The directors of the Company may

at any time appoint any person to be a director, either to fill a casual vacancy or as an addition to the existing directors.

49. Term of appointment as director

Every director appointed under this Constitution will hold office until he or she ceases to hold office pursuant to rule 51.

50. Company auditor may not act as director

No person may be appointed as a director or alternate director of the Company if his or her appointment as such would result in a person who (or a firm which) is then an auditor of the Company becoming prohibited under any applicable law from acting as an auditor of the Company.

51. Vacancy of office

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

- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (b) resigns his or her office by notice in writing to the Company; or
- (c) is removed from office pursuant to rule 48.

52. General management of Company by directors

The business of the Company will be managed by the directors who may exercise all powers of the Company as are not by the Act or by this Constitution expressly directed or required to be exercised by the Company in general meeting but subject nevertheless to this Constitution, to any agreement in writing between all the members, to the provisions of the Act and to any regulations (being not inconsistent with this Constitution or those provisions) as may be prescribed by the Company in general meeting provided that no regulation will invalidate any prior act of the directors which would have been valid if that regulation had not been made.

53. Appointment of attorneys

- 53.1 The directors may, by power of attorney, appoint any corporation, firm or person or body of persons (whether nominated directly or indirectly by the directors) to be the attorney or attorneys of the Company for any purposes, with any powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under this Constitution) and for any period and subject to any conditions as the directors think fit.
- 53.2 Any powers of attorney may contain any 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 him or her.

54. Meetings of directors

- 54.1 Subject to this Constitution, the directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. A director may at any time, and a secretary will on the requisition of a director, convene a meeting of the directors.
- 54.2 The directors may meet either in person or by telephone or by other means of electronic communication by which all persons participating in the meeting are able to hear the entire meeting and to be heard by all other persons attending the meeting. A meeting conducted by telephone or other means of electronic communication will be taken to be held at the place agreed on by the directors attending the meeting, provided that at least one of the directors present at the meeting was at that place for the duration of the meeting.

55. Quorum at meetings of directors

- 55.1 Subject to any agreement in writing between all of the members, the quorum necessary for the transaction of the business of the directors will be 2 if the Company has more than one director and one if the Company has only one director. No business will be transacted at any directors' meeting unless a quorum of directors is present at the time when the meeting proceeds to business and for the duration of the meeting.
- 55.2 If at any duly convened meeting of the directors a quorum is not present at the time when the meeting proceeds to business or at any time during the meeting, the meeting will be adjourned to the same day in the next week at the same time and place and at the adjourned meeting the quorum will be the same as in rule 55.1.

56. Acts of continuing directors

The continuing directors may act notwithstanding any vacancy in their body but, if and so long as their number is reduced below the number fixed by this Constitution as the necessary quorum of directors, the continuing directors or director may act for the purpose of increasing the number of directors to a number sufficient to constitute a quorum but for no other purpose.

57. Chairman and vice-chairman

- 57.1 Subject to any agreement in writing between all the members, the directors may elect a chairman and a vice-chairman of their meetings and determine the period for which each is to hold office.
- 57.2 If no chairman or vice-chairman is elected or if at any meeting the chairman or vice-chairman is unwilling or unable to act or is not present within 10 minutes after the time appointed for holding the meeting the directors present may choose one of their number to be chairman of the meeting.

58. Votes at directors' meetings

Questions arising at any meeting of directors will be decided by majority vote.

59. No casting vote of chairman

Where there is an equality of votes on any question arising at a meeting of the directors, the chairman of the meeting will have a second or casting vote.

60. Validity of directors' acts

All acts done by any meeting of the directors or by any person acting as a director will, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any director or person acting or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

61. Circular resolutions

Subject to the Act, a resolution in writing signed by all the directors will be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held. Any resolution may consist of several documents in like form each signed by one or more directors. A cable, telegram, fax, telex or other document produced by electronic or mechanical means and bearing the signature of a director printed with his or her authority by electronic or mechanical means will be deemed to be a document in writing signed by the director.

62. Appointment of alternate director

- 62.1 A director may from time to time appoint a person (including another director) to be an alternate director in his or her place during any period as he or she thinks fit. An alternate director may be (but is not required to be) a member and is not required to have any share qualification. The same person may be appointed as an alternate director for more than one director.
- 62.2 The appointment of an alternate director may be terminated or suspended at any time by the appointor notwithstanding that the period of the appointment of the alternate director has not expired, and will terminate in any event if for any reason the appointor vacates his or her office as a director.
- 62.3 An appointment, or the termination or suspension of an appointment, of an alternate director will be effected by written notice, facsimile, telex, cable or other document produced by electronic or mechanical means bearing the signature of the director who makes or made the appointment and served on the Company at the Office.
- 62.4 An alternate director will be entitled to:
- (a) receive notices of meetings of the directors and of any committee of the directors of which his or her appointor is a member; and
 - (b) attend and vote as a director and be counted in the quorum at any meeting at which his or her appointor is not personally present and generally at any meeting to perform all functions of his or her appointor as a director.

- 62.5 If an alternate director will be himself or herself a director or attends any meeting as an alternate for more than one director he or she will count as only one for the purpose of determining whether a quorum is present.
- 62.6 The signature of an alternate director to any resolution in writing of the directors will be as effective as the signature of his or her appointor. An alternate director will be entitled to exercise all the powers (except the power to appoint an alternate director) that the appointor may exercise and the exercise of any power by the alternate director will be deemed to be the exercise of the power by the appointor.

63. Managing director

- 63.1 The directors may from time to time appoint one or more of their number to the office of managing director for such period and on such terms as they think fit, and, subject to the terms of any agreement entered into in a particular case, may revoke any such appointment.
- 63.2 A managing director will, 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.
- 63.3 The directors may, upon such terms and conditions and with such restrictions as they think fit, confer upon a managing director any of the powers exercisable by them. Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the directors. The directors may at any time withdraw or vary any of the powers so conferred on a managing director.

64. Contracts with directors

- 64.1 No director will by virtue of such office be disqualified from holding any office or place of profit under the Company and any director may be or become a director of or otherwise hold office or a place of profit in any other company promoted by the Company or in which the Company may be interested as vendor, shareholder or otherwise. Furthermore, any director may contract or make any agreement with the Company whether as a vendor, purchaser, broker, solicitor, accountant, or other professional person or otherwise and any contract or arrangement entered or to be entered into by or on behalf of the Company in which any director will be in any way interested will not be avoided.
- 64.2 Any director so holding any office or place of profit under the Company or so being a director of or otherwise holding an office or place of profit in any such other company or so contracting or arranging will not by reason only of any of those facts or interest resulting therefrom or of his or her having voted as a director of the Company in fixing or allocating remuneration or other benefits in relation to any such office or place of profit in such other company or of the fiduciary relationship thereby established be liable to account to the Company for any remuneration or other benefits accruing therefrom. The nature of the director's interest aforesaid must nevertheless be disclosed by him or her as required the Act.

- 64.3 Subject to the Act, a general notice to the directors by a director to the effect that he or she is an officer or a member of a specified company or a member of a specified firm and is to be regarded as interested in any contract which may after the date of the notice be made with that company or firm will be deemed to be a sufficient declaration of interest in relation to any contract so made.
- 64.4 Every director will as a director be entitled to vote in respect of any appointment, contract or arrangement in which he or she is so interested and if he or she votes his or her vote will be counted.
- 64.5 A director may, notwithstanding his or her interest and whether or not he or she is entitled to vote or does vote, participate in the execution of any instrument by or on behalf of the Company through signing the same or otherwise.

65. Appointment of secretary

Subject to any agreement in writing between all of the members, the directors will in accordance with the Act appoint one or more secretaries for any term, at any remuneration and on the conditions that they think fit. Any secretary so appointed may be removed or suspended by them.

66. Keeping and inspection of accounting records

- 66.1 The directors will cause proper accounting and other records to be kept and will distribute copies of financial statements as required by the Act.
- 66.2 Every member will be entitled, either himself or herself or through his or her agent duly authorised in writing, during the Company's normal hours of business, to inspect and take copies of the books of account and all other records and documents of the Company and each of its subsidiaries on giving not less than 48 hours' written notice to the secretary. The Company will give each member or agent all facilities as he or she may reasonably require for any purposes including the use of copying facilities. The Company may make a reasonable charge for any copies taken but otherwise will not charge for any facilities requested.

67. Appointment of auditors and audit of accounts

The Company may appoint an auditor and his or her appointment, retirement, removal, duties and obligations will be regulated in accordance with the Act.

68. Dividends

The Board may from time to time determine that a dividend is payable to the shareholders out of profits of the Company or otherwise as permitted by law.

69. Apportionment of dividends

- 69.1 Subject to any written agreement between all of the members and subject to the rights of or any restrictions on the holders of shares created or raised under any special arrangement as to

dividend, all dividends will be declared and paid according to the amounts paid or credited as paid on the shares in respect of which the dividend is paid.

- 69.2 No amount paid or credited as paid on a share in advance of calls will be treated for the purposes of this rule 69 as paid on the share. All dividends will 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 from a particular date, that share will rank for dividend accordingly.

70. Deduction of unpaid amounts

The directors may deduct from any dividend payable to any member all sums of money (if any) presently payable by him or her to the Company on account of calls or otherwise in relation to the shares of the Company.

71. Payment of distributions

- 71.1 Any dividend, interest or other money payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to:
- (a) the registered address of the holder; or
 - (b) any person and to any address that the holder in writing directs.
- 71.2 Every cheque or warrant will be made payable to the order of the person to whom it is sent.

72. Reserves

- 72.1 The directors may, before declaring or paying any dividend, set aside out of the profits of the Company such sums as they think proper as reserves, to be applied, at the discretion of the directors, for any purpose for which the profits of the Company may be properly applied.
- 72.2 Pending any such application, the reserves may, at the discretion of the directors, be used in the business of the Company or be invested in such investments as the directors think fit.
- 72.3 The directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends without transferring those profits to a reserve.

73. Capitalisation of profits

- 73.1 The directors may resolve that it is desirable to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to members, and that that sum be applied, in any of the ways mentioned in rule 73.2, for the benefit of members in the proportions to which those members would have been entitled in a distribution of that sum by way of dividend.
- 73.2 The ways in which a sum may be applied for the benefit of members under rule 73.1 are:
- (a) in paying up any amounts unpaid on shares held by members;

- (b) in paying up in full unissued shares or debentures to be issued to members as fully paid; or
 - (c) partly as mentioned in rule 73.2(a) and partly as mentioned in rule 73.2(b).
- 73.3 The directors will do all things necessary to give effect to the resolution and, in particular, to the extent necessary to adjust the rights of the members among themselves, may:
- (a) issue fractional certificates or make cash payments in cases where shares or debentures become issuable in fractions; and
 - (b) authorise any person to make, on behalf of all the members entitled to any further shares or debentures upon the capitalisation, an agreement with the Company providing for the issue to them, credited as fully paid up, of any such further shares or debentures or for the payment up by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised;
- and any agreement made under an authority referred to in rule 73.3(b) is effective and binding on all the members concerned.

74. Service of notices

- 74.1 Except where another mode of giving notice is expressly provided in this Constitution, a notice, request, demand or other communication may be given or made by the Company to any member by being delivered by hand, sent by prepaid post, by registered airmail or by telex, facsimile or e-mail to the member at his or her registered address or to the telex number, facsimile number or e-mail address as notified by the member to the Company from time to time.
- 74.2 Notices, requests, demands and other communications will be deemed to be duly given or made:
- (a) in the case of delivery in person, when delivered;
 - (b) in the case of delivery by post on the third business day after the date of posting from within the Commonwealth of Australia to an address within the Commonwealth of Australia or in the case of posting within the Commonwealth of Australia to the registered address of a member outside the Commonwealth of Australia, on the tenth business day after the date of posting;
 - (c) in the case of telex, on receipt by the sender of the answerback code of the member receiving the transmission at the end of the transmission;
 - (d) in the case of facsimile, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages, the correct destination facsimile machine number and the result of the transmission as 'OK'; and
 - (e) in the case of e-mail, if the vendor has evidence that the notice, request, demand or other communication reached the member's e-mail address.

75. Distribution in specie

- 75.1 If the Company is wound up, the liquidator may with the sanction of a special resolution of the Company, divide among the members in kind the whole or any part of the assets of the Company (whether they consist of property of the same kind or not) and may for that purpose set any value as he or she considers fair on any property to be so divided and may determine how the division will be carried out as between the members or different classes of members.
- 75.2 The liquidator may, with the sanction of a special resolution of the Company, vest the whole or any part of any of those assets in trustees on trusts for the benefit of the contributories as the liquidator thinks fit but so that no member will be compelled to accept any shares or other securities in respect of which there is any liability.

76. Indemnity**76.1 Definitions**

For the purposes of this Constitution:

- (a) *Officer* means a Director, an alternate Director, a Secretary, an officer as defined by the Act, or the Chief Executive Officer; and
- (b) *Legal Proceedings* means any claim, action, suit or demand, enquiry, Royal Commission or other regulatory investigation, whether civil or criminal, which relates to or arises in connection with the Officer being an officer of the Company or the employment of the Officer with the Company.

76.2 Indemnity

- (a) Subject to and so far as may be permitted by the Act, every Officer and past Officer (with the exception of any auditor) of the Company is hereby indemnified by the Company to the fullest extent permitted by law against a liability incurred by that person as an Officer of the Company or a subsidiary of the Company, including without limitation legal costs and expenses incurred in participating or being involved in or in defending Legal Proceedings.
- (b) The indemnity in favour of the Officer under rule 76.2(a) is a continuing indemnity which applies in respect of all Liabilities incurred in the capacity of an officer of the Company or a wholly owned subsidiary of the Company even if:
- (i) the Officer is not an officer at the time of the Relevant Claim is made or at the time of accrual of a cause of action constituting the Liability; or
- (ii) the Liability was incurred before the date of this constitution.
- (c) The indemnity given in clause 76.2(a) will be in force and will continue for seven years from the date from which the Officer ceases to be an officer and during that period it will be irrevocable and will not be affected by:
- (i) any intermediate payments, settlement of accounts or payment;
- (ii) laches, acquiescence or delay on the part of the Officer; or

- (iii) the death, bankruptcy, insolvency or liquidation of any person.

76.1 Insurance premiums

The Company may pay the premium on a contract insuring a person who is or has been an Officer of the Company to the fullest extent permitted by law.

76.2 Indemnity to employees

Every employee who is not a Director, Secretary or executive officer of the Company may be indemnified out of the property of the Company against a liability:

- (a) incurred by the employee acting in that capacity; and
- (b) for the costs and expenses incurred by an employee:
 - (i) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the employee or in which the person is acquitted; or
 - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to the employee under the Act.

77. Restrictions due to proprietary company status

77.1 The Company is a proprietary company limited by shares.

77.2 The Company must have no more than 50 non-employee shareholders.

77.3 In applying rule 77.2:

- (a) count joint holders of a particular parcel of shares as one person; and
- (b) an employee shareholder is:
 - (i) a shareholder who is an employee of the Company or of a subsidiary of the Company; or
 - (ii) a shareholder who was an employee of the Company, or of a subsidiary of the Company, when they became a shareholder.

77.4 The Company must not engage in any activity that would require disclosure to investors under Chapter 6D of the Act, except for an offer of its shares to:

- (a) existing shareholders of the Company; or
- (b) employees of the Company or of a subsidiary of the Company.

77.5 In this Deed, unless otherwise indicated by the context:

- (a) *Definitions* means the definitions text;
- (b) *Effective* shall be the following text:
 - (i) the stuff;
 - (ii) the things; and
 - (iii) the other stuff..

77.6 In this Deed, unless otherwise indicated by the context:

- (a) words importing the singular include the plural and vice versa;
- (b) headings are for convenience only and do not affect interpretation of this Deed;
- (c) a reference to a clause, paragraph or schedule is a reference to a clause, paragraph or schedule of this Deed;
- (d) where any word or phrase is given a definite meaning in this Deed, any part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (e) an expression importing a natural person includes a body corporate, partnership, joint venture, association or other legal entity;
- (f) a reference to a statute, statutory provision or regulation includes all amendments, consolidations or replacements thereof;
- (g) a reference to a party to a document includes that party's legal personal representatives, successors and permitted assigns;
- (h) a covenant or agreement on the part of or for the benefit of two or more persons binds or benefits them jointly and severally;
- (i) a reference to a body, whether statutory or not:
 - (i) which ceases to exist; or
 - (ii) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions; and
- (j) *including* and similar expressions are not words of limitation.