

# Constitution

## Red River Resources Limited

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## Red River Resources Limited

ACN: 100 796 754

### Constitution

#### Part 1- Preliminary

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**1. Name**

The Company is Red River Resources Limited.

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**2. Nature of Company**

The Company is a public company limited by shares.

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**3. Replaceable rules**

The replaceable rules in the Corporations Act 2001 do not apply to the Company.

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#### Part 2 – Shares

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**4. Issue of shares**

Without limiting the Company's powers under the Corporations Act 2001, the Company (under the control of the Directors) may:

- (a) issue shares in the Company; and
- (b) grant options over unissued shares in the Company,

on any terms, with any rights or restrictions attached to the shares, at any time, and for any consideration the Directors decide.

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**5. Preference shares**

- 5.1 The Company may issue any preference shares, if the rights of the holders of the preference shares with respect to repayment of capital, participation in surplus assets and profits, cumulative or non-cumulative dividends, voting and priority of payment of capital and dividend in relation to other shares or other classes of preference shares are set out in this Constitution.
- 5.2 The rights of the holders of preference shares issued by the Company will be those rights as are conferred by the terms of issue of the preference shares as determined by the Directors.
- 5.3 Subject to the Corporations Act 2001, the Company may issue preference shares which are, or at the option of the Company or the holder are to be liable, to be redeemed on such terms and conditions set out in their terms of issue and in such manner as the Directors determine before the issue of those preference shares.

- 5.4 Where the Company proposes to issue preference shares and those preference shares are to rank equally with or in priority to preference shares already issued, unless that is expressly permitted by the conditions of issue of the preference shares already issued, the issue or conversion will be deemed to be a modification of the rights attached to the preference shares already issued.
- 5.5 Despite clauses 5.1 to 5.4, for so long as the Company is Listed the Company may not issue a preference share which confers upon the holder rights which are inconsistent with those specified in the Listing Rules, except to the extent of any waiver of the Listing Rules granted by the ASX.
- 5.6 A preference share which, in accordance with its terms of issue, may be converted into an ordinary share will, at the time of conversion and without any further act, have (subject to the terms of issue of the preference share in relation to entitlement to ordinary dividends paid after conversion) the same rights as a fully paid ordinary share and rank equally with other fully paid ordinary shares then on issue.
- 

## **6. Variation of classes and class rights**

- 6.1 Subject to the Corporations Act 2001, the Company may:
- (a) vary or cancel rights attached to shares in a class of shares;
  - (b) convert shares from one class to another;
- by special resolution of the Company and:
- (c) by special resolution passed at a meeting of the holders of shares in that class; or
  - (d) by the written consent of shareholders with at least 75% of the votes in that class.
- 6.2 Part 5 of this Constitution (with the necessary changes) applies to meetings of holders of a class of shares.
- 6.3 The Company may issue new shares that rank equally with existing shares. The new issue is taken not to vary the rights attached to the existing shares.
- 

## **7. Alteration of share capital**

The Company in general meeting may convert its shares into a larger or smaller number of shares.

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## **8. Reduction of capital and buy-backs**

Subject to the Corporations Act 2001 and the Listing Rules, the Company may:

- (a) reduce its share capital; and
- (b) buy-back shares in itself.

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**9. Brokerage**

The Company may pay brokerage or commission if a person takes up shares in the Company.

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**10. Joint holders**

- 10.1 Two or more persons may hold a share only as joint tenants.
- 10.2 Subject to the Corporations Act 2001 and the Listing Rules, the Company need not register more than three persons as joint holders of a share.

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**11. Trust not recognised**

Except as required by law or this Constitution, the Company need not recognise:

- (a) that a person holds a share on trust; or
- (b) any interest in a share except the registered holder's absolute ownership of the whole share.

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**12. Share and option certificates and CHESS statements**

- 12.1 When the Company registers securities of any class to a shareholder or option holder, the Company must issue to the shareholder or option holder, without charge, in the discretion of the Directors:
- (a) one or more certificates for those securities;
  - (b) if the Company is Listed, a statement of holdings required by the CHESS Rules; or
  - (c) any other document that confirms ownership of the securities as the Directors decide.
- 12.2 If the Corporations Act 2001 so permits, the Company:
- (a) need not issue a certificate for the securities; and
  - (b) may cancel a certificate and not issue a replacement.
- 12.3 The Company must comply with the Corporations Act 2001 and the Listing Rules in issuing those certificates, statements of holdings or other documents.
- 12.4 If required to issue a certificate, the Company need issue only one certificate for securities registered in more than one name. The Company must deliver that certificate to any one of the registered holders.
- 12.5 Subject to the Corporations Act 2001 and the Listing Rules, the Company must issue a replacement certificate for a defaced, worn out, lost or destroyed certificate.

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**13. Restricted securities**

- 13.1 If the Company is Listed then, notwithstanding any other provision in this Constitution:

- (a) restricted securities cannot be disposed of during the escrow period except as permitted by the Listing Rules or ASX;
- (b) the Company must refuse to acknowledge a disposal (including registering a transfer) of restricted securities during the escrow period except as permitted by the Listing Rules or ASX; and
- (c) during a breach of the Listing Rules relating to restricted securities, or a breach of a Restriction Agreement, the holder of the restricted securities is not entitled to any dividend or distribution, or voting rights, in respect of the restricted securities.

13.2 In this clause 13:

- (a) **dispose** has the same meaning as in the Listing Rules; and
- (b) **restricted securities** has the same meaning as in the Listing Rules.

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#### 14. Small holdings

- 14.1 Subject to clauses 14.2 and 14.14, the Company may at any time give a Divestment Notice to any shareholder who holds less than a Marketable Parcel of shares in the Company.
- 14.2 The Company must not give a Divestment Notice to a shareholder more than once in any 12-month period.
- 14.3 Subject to this clause 14, if a shareholder has received a Divestment Notice and has not at any time during the Divestment Notice Period:
- (a) increased its shareholding to a Marketable Parcel or more;
  - (b) sold its shares in the capital of the Company; or
  - (c) given to the Company a notice in writing that it wishes to retain such shares, then
- the shareholder irrevocably appoints the Company and each of the Directors jointly and severally as its attorney (**Divestment Attorney**) to sell, or arrange for the sale of, all of its shares on the terms set out in the Divestment Notice at the price and on the terms determined by the Directors collectively in their sole discretion, to receive the proceeds of such sale on its behalf, and to take any other action as the Divestment Attorney considers necessary or desirable to effect the sale, including to complete and execute a transfer for on behalf of that shareholder in the manner and form the Divestment Attorney considers necessary and to deliver that transfer form to the purchaser of the shares.
- 14.4 A shareholder may revoke any notice given in accordance with clause 14.3(c) by giving subsequent written notice to the Company of such revocation. Upon the revocation of the notice, the shareholder is deemed to irrevocably appoint the Divestment Attorney on the same terms and for the same purposes set out in clause 14.3.
- 14.5 If there is one purchaser purchasing the shares from two or more shareholders in accordance with this clause 14, the transfer may be effected by one transfer form.



- 14.6 The Company may register a transfer of shares in accordance with this clause 14.6 even if the certificate for those shares is not delivered to the Company by the person or entity who holds those shares.
- 14.7 Upon the sale of shares in accordance with this clause 14, the Company must:
- (a) within a reasonable time after completion of the sale, inform the person or entity who previously held those shares of the sale and the sale proceeds received by the Company for the sale of such shares; and
  - (b) if the Company has received the certificate for such shares (or the Company is satisfied that the certificate has been lost or destroyed or such certificate is not required (including without limitation where the shares are uncertificated holdings or CHESS Approved Securities)), within 60 days after completion of the sale, cause the proceeds of sale to be sent to the person or entity who previously held those shares (or, in the case of joint holders, to the holder whose name appeared first in the share register in respect of the joint holding). The Company may make such payment in any manner and by any means as it determines.
- 14.8 The Company is liable for the costs of the share sale in accordance with this clause 14, but the person or entity who previously held those shares will be liable for any taxes, stamp duties or capital gains incurred as a result of such sale.
- 14.9 The Directors may invest or use any money payable to the persons or entities whose shares are sold in accordance with this clause 14 for the benefit of the Company until claimed or otherwise disposed of according to law. The Company shall not be required or liable to pay any interest on such monies.
- 14.10 Nothing in this clause 14 obliges the Company to sell a shareholder's shares.
- 14.11 Clauses 19.3 to 19.5 apply to the purchaser of shares in accordance with this clause 14.
- 14.12 The sole remedy of persons or entities whose shares are sold in purported reliance on this clause 14, but in circumstances where there is a breach of this clause 14, is a right of action in damages against the Company to the exclusion of any other right, remedy or relief against any other person.
- 14.13 The Company's powers in accordance with this clause 14 are suspended from the date of an announcement of a Takeover in respect of the Company until after the close of offers made under the Takeover.
- 14.14 A Divestment Notice can only be given and this clause shall only apply if the Company is Listed.

### **Part 3 - Calls, liens and forfeiture**

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#### **15. Calls**

- 15.1 Subject to the Listing Rules and the terms of issue, the Directors may make calls on the holder of a share for any unpaid portion of the issue price of that share at any time.
- 15.2 The Directors may make a call payable by instalments.

- 15.3 The Directors may, on the issue of shares, differentiate between the shareholders as to the timing of calls and amount of calls to be paid.
- 15.4 While the Company is Listed, the Directors must give to the shareholder:
- (a) the period of notice of the call required by the Listing Rules; and
  - (b) a call notice containing the information required by the Listing Rules.
- While the Company is not Listed, the Company must give to the shareholder at least 14 days' notice of a call, specifying the amount payable, and the time and place of payment.
- 15.5 A call is made when the Directors resolve to make the call.
- 15.6 The Directors may revoke or postpone a call or extend the time for payment.
- 15.7 A call is still valid if either or both:
- (a) a shareholder does not receive notice of the call;
  - (b) the Company accidentally does not give notice of the call to a shareholder.
- 15.8 A shareholder must pay to the Company:
- (a) the amount called, by the time and at the place specified;
  - (b) if the amount called is not paid by that time, interest at the rate fixed in this Part of the Constitution on an unpaid call (or instalment) from the date the call (or instalment) becomes presently payable until and including the date of payment; and
  - (c) costs incurred by the Company in respect of the non-payment or late payment of the call.
- 15.9 Joint holders of a share and their respective personal representatives are all jointly and severally liable to pay all calls on the share.
- 15.10 If, by the terms of issue of a share, an amount is payable on issue or at a fixed date, the Company is taken to have properly called that amount and given proper notice of it.
- 15.11 The Directors may waive all or any part of an amount payable in accordance with this clause 15 or the terms of issue of a share.
- 15.12 The Directors may recover an amount presently payable in accordance with this clause 15 from a shareholder in all or any of the following ways:
- (a) by suing the shareholder for debt;
  - (b) by enforcing the lien on the share; or
  - (c) by declaring the share be forfeited.
- 15.13 A debt is sufficiently proved by evidence that:
- (a) the shareholder is registered as a holder or a joint holder of the share; and

- (b) the resolution for the call is recorded in the minute book.

15.14 The Directors may authorise the Company:

- (a) to accept from a shareholder an amount paid before call;
- (b) to pay interest on the amount paid before call, at any rate the Directors decide, from the date of payment until and including the date the call becomes presently payable; and
- (c) to repay the amount to the shareholder.

15.15 An amount paid before call is ignored in determining a dividend or surplus in a winding up.

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## **16. Indemnity from taxation**

16.1 If the Company is required by law to pay an amount (including a tax) in respect of a shareholder or a share held by that shareholder or a dividend in respect of a share held by that shareholder:

- (a) the shareholder or the shareholder's personal representative must:
  - (1) indemnify the Company against that liability; and
  - (2) on demand, reimburse the Company for any payment by the Company, and pay to the Company interest on it at the rate fixed in accordance with this Part of the Constitution from the date of payment by the Company until and including the date the shareholder reimburses the Company and pays any costs incurred by the Company because of the payment; and
- (b) subject to clause 25.2, the Company may refuse to register a transfer of any shares by or to the shareholder or the shareholder's personal representative until payment of all amounts presently payable in accordance with this clause 16.

16.2 The Directors may waive any of the Company's rights in accordance with this clause 16.

16.3 The Directors may recover an amount presently payable in accordance with this clause 16 from a shareholder in both or either of the following ways:

- (a) by suing the shareholder for debt; or
- (b) by enforcing the lien on the share.

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## **17. Forfeiture**

17.1 The Directors may resolve that a shareholder's share is forfeited if:

- (a) the shareholder does not pay a call or instalment on the share when presently payable; and
- (b) the Company gives the shareholder notice:

- (1) requiring payment of that call or instalment, any interest on it and any costs incurred by the Company because of the non-payment;
    - (2) stating that the share will be forfeited if the shareholder does not pay to the Company, at the place named, the total amount within 14 days (or any longer period stated) after the notice is given; and
  - (c) the shareholder does not pay the total amount within that period.
- 17.2 When a share is forfeited, the Company must:
- (a) notify the former holder that the share is forfeited; and
  - (b) record the forfeiture and date of forfeiture in the register of shareholders.
- A failure to do this does not invalidate the forfeiture.
- 17.3 The former holder of a forfeited share must pay to the Company:
- (a) all calls, instalments, interest and costs in respect of the share at the date of forfeiture; and
  - (b) interest at the rate fixed in this Part of the Constitution on those amounts from the date of forfeiture until and including the date of payment.
- 17.4 The forfeiture of a share extinguishes:
- (a) the former shareholder's interest in the share; and
  - (b) all claims against the Company in respect of the share, including all dividends presently payable by the Company on the share.
- 17.5 Subject to the Listing Rules, the Company may sell or otherwise dispose of a forfeited share on any terms and in any way the Directors decide.
- 17.6 A certificate by a director or secretary of the Company that the share was forfeited on a specified date is sufficient evidence of the matter, unless it is proved to be incorrect.
- 17.7 The Directors may:
- (a) waive any of the Company's rights in accordance with this clause 17; and
  - (b) before sale or re-issue of a forfeited share, annul the forfeiture on any terms the Directors decide.

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## **18. Lien**

- 18.1 The Company has a first ranking lien on:
- (a) each share registered to a shareholder;
  - (b) dividends on the share;

(c) proceeds of sale of the share;

for:

(d) an unpaid call or instalment that is due but unpaid on the share;

(e) if the share was acquired in accordance with an employee incentive scheme, an amount owing to the Company for acquiring the share;

(f) any amounts the Company is required by law to pay (and has paid) in respect of the shares of that shareholder or deceased former shareholder; and

(g) any interest and costs presently payable to the Company in accordance with this Part of the Constitution.

18.2 The Company may sell a share to enforce the lien if:

(a) an amount secured by the lien is presently payable;

(b) the Company gives the shareholder notice:

(1) requiring payment of that amount, any interest on it and any costs incurred by the Company because of the non-payment; and

(2) stating that the share will be sold if the shareholder does not pay to the Company, at the place named, the total amount within 14 days (or any longer period stated) after service of the notice; and

(c) the shareholder does not pay the total amount within that period.

18.3 The Directors may waive any of the Company's rights under this clause 18.

18.4 Registration by the Company of a transfer of a share releases any lien on that share, insofar as the lien relates to money owing by the transferor or previous transferor, unless the Company gives the transferee notice of its claim.

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## 19. Sale

19.1 The Directors may authorise a person to sign a transfer of a forfeited share or a share sold to enforce a lien.

19.2 The Company must apply the sale price from:

(a) the sale of a forfeited share; and

(b) the sale of a share sold to enforce a lien;

in the following order:

(c) to the costs of the sale;

(d) to the amount presently payable by the former holder to the Company;

- (e) to the former holder or the former holder's personal representative, on receipt of the certificate for the share (if any).

19.3 The Company must register the purchaser of the share as the holder of the share.

19.4 The purchaser need not enquire whether the Company:

- (a) properly exercised its powers in respect of the share; or
- (b) properly applied the sale price for the share.

These matters do not affect the title of the purchaser.

19.5 Unless expressly agreed, the purchaser is not liable for calls and other amounts presently payable in respect of the share before the sale.

---

## **20. Interest**

20.1 A shareholder must pay interest in accordance with this Part to the Company:

- (a) at a rate the Directors decide; or
- (b) if the Directors do not decide a rate, at 10% per annum.

20.2 Interest payable to the Company accrues daily.

20.3 The Company may capitalise interest monthly or at any other intervals the Directors decide.

## **Part 4 - Transfer of shares**

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## **21. Instruments of transfer**

Subject to this Constitution, a shareholder may transfer a share:

- (a) in the case of CHESS Approved Securities, in accordance with the CHESS Rules, the Corporations Act and the Listing Rules;
- (b) by an instrument of transfer in any common form or other form approved by the Directors;
- (c) by any other method of transferring securities recognised by the Corporations Act 2001 and, if the Company is Listed, ASX, and approved by the Directors.

---

## **22. Registration**

22.1 If a CHESS Approved Security is transferred, the Company must comply with the CHESS Rules.

22.2 If an instrument of transfer is used, it must be:

- (a) executed by or for both the transferor and the transferee (unless it is a sufficient transfer of marketable securities);

- (b) stamped (if required); and
- (c) delivered to the Company's share registry, together with any evidence the Directors require to prove:
  - (1) the title of the transferor;
  - (2) the transferor's right to transfer the shares; and
  - (3) the proper execution of the instrument of transfer.

---

**23. Effect of transfer**

Subject to the CHES Rules, if the Company is Listed a transferor of shares remains the holder of the shares until the transfer is registered and the name of the transferee is entered in the register of shareholders as the owner of the shares.

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**24. No charge**

The Company must not charge a fee to register a transfer or issue a certificate, except where the Listing Rules permit the charging of a fee.

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**25. Refusal to register transfer**

- 25.1 If the Company is not Listed, the Directors may refuse to register a transfer of shares only if:
- (a) clause 21 or clause 22 is not complied with;
  - (b) the shares are not fully paid; or
  - (c) the Company has a lien on the shares.
- 25.2 If the Company is Listed, the Company must not prevent, delay or interfere with the registration of a transfer document. This does not apply to a paper-based transfer document which is not a proper instrument of transfer. However, the Company may ask the approved CS facility (within the meaning of the Listing Rules) to apply a holding lock to prevent a transfer, or refuse to register a paper-based transfer document, where permitted by the Corporations Act 2001 or the Listing Rules. The Company must do so if the Corporations Act 2001 or the Listing Rules so require.
- 25.3 The Directors must give notice of any refusal to the security holder and any broker lodging the transfer. The notice must set out the reason for the refusal. Failure to do so does not invalidate the decision of the Directors.

---

**26. Suspension of registration**

Subject to the Corporations Act 2001 and the Listing Rules, the Directors may suspend registration of transfers of shares in the Company at the times and for the periods they decide. The periods of suspension must not exceed 30 days in any calendar year.

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**27. Company retains paper-based transfer document**

- 27.1 The Company may keep a paper-based transfer document after registration.
- 27.2 If demand is made within 12 months after the Company gives notice of a refusal to register and there is no allegation of fraud, the Company must return the paper-based transfer document to the depositor.

---

**28. Death of shareholder**

- 28.1 If a shareholder (other than a joint shareholder) dies, the Company must recognise only the personal representative of the deceased shareholder as being entitled to the deceased shareholder's shares.
- 28.2 If a shareholder who owns shares jointly dies, the Company must recognise only the survivor(s) as being entitled to the deceased shareholder's interest in the shares.
- 28.3 Whether the deceased shareholder owned the shares solely or jointly, the estate of the deceased shareholder is not released from any liability in respect of the shares.

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**29. Transmission**

- 29.1 If a person is entitled to shares because of a Transmission Event and gives the Directors the information they reasonably require to establish the person's entitlement:
- (a) the person may:
    - (1) by giving notice to the Company, elect to be registered as the holder of the shares; or
    - (2) by giving a completed instrument of transfer to the Company, transfer the shares to another person; and
  - (b) the person is entitled, whether or not registered as the holder of the shares, to the same rights as the shareholder or deceased shareholder.
- 29.2 On receiving a notice in accordance with clause 29.1(a)(1), the Company must register the person as the holder of the shares.
- 29.3 A transfer in accordance with clause 29.1(a)(2) is subject to the same rules (for example, about entitlement to transfer and registration of transfers) as apply to transfers generally.



## Part 5 - Proceedings of shareholders

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### 30. One shareholder

While the Company has only one shareholder:

- (a) it may pass a resolution by the shareholder recording it and signing the record; and
  - (b) the rest of this Part of the Constitution does not apply.
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### 31. Annual general meeting

The Company must hold an annual general meeting at least once in each calendar year and within five months after the end of its financial year, or as otherwise required by the Corporations Act 2001.

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### 32. Who may call meetings of shareholders

- 32.1 A director may call a meeting of shareholders, when and where the director decides.
  - 32.2 The Directors may call a meeting of shareholders, when and where the Directors decide.
  - 32.3 The Directors must call a meeting of shareholders when requested by the shareholders specified in the Corporations Act 2001.
  - 32.4 The shareholders specified in the Corporations Act 2001 may call a meeting of shareholders.
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### 33. How to call meetings of shareholders

- 33.1 At least 28 days' notice must be given of a general meeting. However, unless prohibited by the Corporations Act 2001, the Company may call on shorter notice:
    - (a) an annual general meeting, if all the shareholders entitled to attend and vote at the annual general meeting agree beforehand; and
    - (b) any other general meeting, if shareholders with at least 95% of the votes that may be cast at the meeting agree beforehand.
  - 33.2 Notice of a meeting must be given to shareholders, directors, the auditor and, if the Company is Listed, the ASX.
  - 33.3 A notice of a general meeting must:
    - (a) set out the place, date and time for the meeting;
    - (b) state the general nature of the meeting's business;
    - (c) 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
    - (d) contain a statement setting out the following information:
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- (1) that the shareholder has the right to appoint a proxy;
  - (2) that the proxy need not be a shareholder of the Company; and
  - (3) that a shareholder 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;
- (e) contain anything else required by the Corporations Act 2001; and
- (f) if the Company is Listed:
- (1) specify a place and a fax number, and may specify an electronic address, for the purposes of receipt of proxy appointments; and
  - (2) contain a proxy form in accordance with the Listing Rules; and
  - (3) contain anything else required by the Listing Rules.
- 33.4 The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:
- (a) the consideration of the annual financial report, Directors' report and auditor's report;
  - (b) the election of directors;
  - (c) the appointment of the auditor; and
  - (d) the fixing of the auditor's remuneration.
- 33.5 Non-receipt of notice of a meeting, or failure to give proper notice of a meeting to a person entitled to receive it, does not invalidate anything done at the meeting if:
- (a) the failure was accidental;
  - (b) the person gives notice to the Company that the person waives proper notice or agrees to the thing done at the meeting; or
  - (c) the person attends the meeting and:
    - (1) does not object at the start of the meeting to the holding of the meeting; or
    - (2) if the notice omitted an item of business, does not object to the consideration of the business when it is presented to the meeting.

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#### **34. Membership at a specified time**

The convenor of a meeting of shareholders or of a class of shareholders may determine that all shares are taken, for the purposes of the meeting, to be held by the persons who held them at a specified time (not more than 48 hours before the meeting). The determination must be made before notice of the meeting is given. Particulars of the determination must be given in the notice of meeting.

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**35. Quorum**

- 35.1 A quorum for a meeting of shareholders is three shareholders entitled to vote (counting joint holders of a share as one shareholder). The quorum must be present at the start of the meeting.
- 35.2 In determining whether a quorum is present, the chair of the meeting must count shareholders, proxies, attorneys, body corporate representatives and any other persons entitled to vote. However, if a shareholder has more than one proxy, attorney or body corporate representative, the chair of the meeting must count only one of them. If an individual is attending both as a shareholder and as a proxy, attorney or body corporate representative, or in any other capacity, the chair of the meeting must count them only once.
- 35.3 If a quorum is not present within 30 minutes after the time appointed for the meeting:
- (a) if the meeting was called on the request of shareholders or by shareholders, the meeting is dissolved;
  - (b) any other meeting is adjourned to any day, time and place the Directors decide.
- 35.4 If a quorum is not present within 30 minutes after the time appointed for a resumed meeting, the meeting is dissolved.

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**36. Chairperson**

- 36.1 The chairperson of Directors is entitled to chair all meetings of shareholders.
- 36.2 If there is no chairperson of Directors, or if the chairperson is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the deputy chairperson of Directors may chair the meeting. If there is no deputy chairperson, or if the deputy chairperson is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the directors present must elect one of themselves to chair the meeting. If they do not do so, the shareholders present must elect a person to chair the meeting.
- 36.3 The chairperson may delegate the powers conferred by this Constitution to such person or persons as they think fit.
- 36.4 Nothing contained in this Constitution will be taken to limit the powers conferred on the chairperson by law.

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**37. Regulation of meetings**

- 37.1 The chairperson may regulate the meeting of shareholders in any way consistent with this Constitution.
- 37.2 The chair of the meeting of a meeting of shareholders or a person acting with the chair of the meeting's authority may require any person who wishes to attend the meeting to comply with searches, restrictions or other security arrangements the chair of the meeting or a person acting with the chair of the meeting's authority considers appropriate. The chair of the meeting or a person acting with the chair of the meeting's authority may refuse admission to, or require to leave and remain out of, the meeting any person:

- (a) who does not comply with the security arrangements required;
- (b) in possession of a pictorial-recording or sound recording device;
- (c) in possession of a placard or banner;
- (d) in possession of an article considered by the chair of the meeting to be dangerous, offensive or liable to cause disruption;
- (e) who refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession; or
- (f) who behaves or threatens to behave in a dangerous, offensive or disruptive manner.

37.3 At any time the chair of the meeting considers necessary or desirable for the proper and orderly conduct of the meeting, the chair of the meeting may demand cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and, if the chair of the meeting considers it appropriate, require the business, question, motion or resolution to be put to a vote of the Members present.

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## **38. Adjournment**

- 38.1 The chair of the meeting may, at any time during a meeting of shareholders, adjourn the meeting to any day, time and place.
- 38.2 The chair of the meeting must adjourn a meeting of shareholders if the shareholders present with a majority of votes at the meeting agree or direct the chair of the meeting to do so. The chair of the meeting may adjourn the meeting to any day, time and place.
- 38.3 When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for more than a month.
- 38.4 Only unfinished business is to be transacted at a meeting resumed after an adjournment.

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## **39. Suspension, postponement or cancellation of meeting**

- 39.1 The Directors may whenever they think fit postpone or cancel any meeting of shareholders.
- 39.2 Notice of such postponement or cancellation of meeting must state the reason for postponement or cancellation and be:
- (a) given to ASX if the Company is Listed; and
  - (b) given in such other manner as is determined by the Directors.
- 39.3 The chair of the meeting may suspend proceedings at a meeting of shareholders for any period of time in order to allow a poll to be taken or determined. During such a suspension, no business may be discussed or transacted without the chair of the meeting's consent. A suspension in accordance with this clause 39.3 is not taken to be an adjournment.

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## **40. How shareholders make decisions at meetings**

- 40.1 A meeting of shareholders makes a decision by passing a resolution. A resolution is passed if more than 50% of the votes cast by the shareholders entitled to vote are in favour of the resolution (unless the law requires a special resolution).
- 40.2 A special resolution is passed if:
- (a) the notice of the meeting sets out an intention to propose the special resolution and states the resolution; and
  - (b) it is passed by at least 75% of the votes cast by shareholders entitled to vote on the resolution.

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#### **41. How voting is carried out**

- 41.1 Unless a poll is properly requested, a resolution put to the vote at a meeting of shareholders must be decided on a show of hands.
- 41.2 If a poll is properly requested, the result of the poll is the resolution of the meeting.
- 41.3 Any disputes as to the admission or rejection of a vote shall be determined by the chair of the meeting and such determination shall be deemed final and conclusive.
- 41.4 A declaration by the chair of the meeting that a resolution is passed, or passed by a particular majority, or lost, and an entry to that effect in the minutes, are sufficient evidence of that fact, unless proved incorrect.

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#### **42. Polls**

- 42.1 A poll may be requested on any resolution.
- 42.2 A poll may be requested by:
- (a) at least five shareholders entitled to vote on the resolution;
  - (b) shareholders with at least 5% of the votes that may be cast on the resolution on a poll; or
  - (c) the chair of the meeting.
- 42.3 The poll may be requested:
- (a) before a vote is taken;
  - (b) before the voting results on a show of hands are declared; or
  - (c) immediately after the voting results on a show of hands are declared.
- 42.4 A request for a poll may be withdrawn.
- 42.5 A poll requested on a matter other than the election of a chair of the meeting or the question of an adjournment must be taken when and how the chair of the meeting directs.

42.6 A poll on the election of a chair of the meeting or the question of an adjournment must be taken immediately.

42.7 A request for a poll does not prevent the meeting dealing with other business.

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**43. How many votes a shareholder has**

43.1 Subject to the Listing Rules, this Constitution and any special rights or restrictions attached to a share, at a meeting of shareholders:

- (a) on a show of hands, each shareholder present (in person, by proxy, attorney or representative) has one vote; and
- (b) on a poll, each shareholder present (in person, by proxy, attorney or representative) has:
  - (1) one vote for each fully paid share they hold; and
  - (2) a fraction of a vote for each partly paid share they hold. The fraction must be equivalent to the proportion which the amount paid (not credited) is of the total amounts paid and payable (excluding amounts credited). Amounts paid in advance of a call are ignored.

43.2 The chair of the meeting has a casting vote.

43.3 If a share is held jointly and more than one shareholder votes the share, only the vote of the shareholder whose name appears first in the register of shareholders counts.

43.4 The parent or guardian of an infant shareholder may vote that infant's share, if the parent or guardian satisfies the Directors of the relationship or appointment before the meeting. If the infant's parent or guardian votes the share, the infant shareholder must not vote.

43.5 A person may vote a share if:

- (a) the person is entitled to be registered as the holder of the share because of a Transmission Event; and
- (b) the person satisfies the Directors of that entitlement before the meeting.

43.6 The shareholder must not vote a share if another person does so in accordance with this clause 43.5.

43.7 A shareholder must not vote a share if:

- (a) a call or other amount is presently payable in respect of the share;
- (b) the shareholder is in breach of a Restriction Agreement in respect of the share; or
- (c) the Listing Rules require the Company to disregard the shareholder's vote in respect of the share.

43.8 The chair of the meeting or other person may disregard any vote by a shareholder who is not entitled to vote.

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**44. Challenging a right to vote**

- 44.1 A challenge to a right to vote at a meeting of shareholders may only be made:
- (a) before the meeting, to the Directors; or
  - (b) at the meeting, to the chair of the meeting of the meeting.
- 44.2 The challenge must be decided by the Directors or the chair of the meeting (as the case may be). The Directors' decision or the chair of the meeting's decision is final.

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**45. Direct voting**

- 45.1 The Directors may determine that the shareholders who are entitled to vote at a meeting of shareholders be entitled to vote by way of Direct Vote.
- 45.2 The Directors may prescribe any regulations, rules and procedures regarding the giving of a Direct Vote (including without limitation in respect of the form, method and timing of a Direct Vote in order for such vote to be valid).

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**46. Proxies, attorneys and representatives**

- 46.1 A shareholder, who is entitled to vote at a meeting of shareholders, may vote:
- (a) on a show of hands:
    - (1) personally;
    - (2) by one proxy;
    - (3) by one attorney; or
    - (4) if a body corporate, by its representative, or by one proxy or by one attorney; and
  - (b) on a poll:
    - (1) personally;
    - (2) by not more than two proxies;
    - (3) by not more than two attorneys; or
    - (4) if a body corporate, by its representative, or by not more than two proxies or by not more than two attorneys.
- 46.2 A proxy, attorney or representative need not be a shareholder of the Company.
- 46.3 A shareholder may appoint a proxy, attorney or representative for all or for particular meetings of shareholders.
- 46.4 An appointment of an attorney or representative must be in a form approved by the Directors.

46.5 An appointment of a proxy is valid if it is signed by the shareholder making the appointment and it contains the following information:

- (a) the shareholder's name and address;
- (b) the Company's name;
- (c) the proxy's name or the name of the office held by the proxy;
- (d) the meetings at which the appointment may be used.

The Directors may decide to accept a proxy even if it contains only some of that information.

46.6 A shareholder is deemed to have appointed the chair of the meeting as its proxy to vote in accordance with the directions set out in the appointment of proxy, or if no directions have been given, as the proxy sees fit (to the maximum extent permitted by law):

- (a) if the appointment of proxy does not specify the proxy's name or the name of the office held by the proxy; or
- (b) in circumstances where the Corporations Act 2001 permits such appointment.

46.7 Unless otherwise specified in the appointment, the proxy, attorney or representative may:

- (a) agree to short notice for the meeting;
- (b) even if the appointment directs how to vote on a particular resolution:
  - (1) vote on an amendment to the particular resolution, a motion not to put the particular resolution or any similar motion; and
  - (2) vote on a procedural motion, including a motion to elect the chair of the meeting, to vacate the chair or adjourn the meeting;
- (c) speak at the meeting;
- (d) vote (but only to the extent allowed by the appointment); and
- (e) request or join in a request for a poll.

46.8 If a person represents two or more shareholders, that person has only one vote on a show of hands.

46.9 If a shareholder appoints two proxies or two attorneys in one instrument and both are present, on a show of hands only the first named proxy or attorney may vote.

46.10 The appointment may specify the proportion or number of votes that the proxy or attorney may exercise. If the shareholder appoints two proxies or two attorneys and the appointment does not specify the proportion or number of the shareholder's votes each proxy or attorney may exercise, on a poll each proxy or attorney may exercise half of the votes.

46.11 A later appointment of a proxy or attorney revokes an earlier one if both appointments could not be validly exercised at the meeting.



- 46.12 An appointment may specify the way a proxy or attorney is to vote on a particular resolution. A proxy may vote only as directed.
- 46.13 Subject to clause 46.14, an appointment of a proxy is effective only if the Company receives the appointment (and any authority under which the appointment was signed or certified copy of the authority) at least 48 hours before the meeting or resumed meeting, unless the Directors decide to reduce that time. The Company receives an appointment or authority when it is received at any of the following:
- (a) the Company's registered office;
  - (b) a fax number at the Company's registered office;
  - (c) a place, fax number or electronic address specified for the purpose in the notice of meeting.

These requirements also apply to an appointment of an attorney.

- 46.14 The Directors may in their discretion accept an appointment of a proxy or attorney notwithstanding that the appointment is not received in the time and manner set out in clause 46.13, but are under no obligation to do so.
- 46.15 Unless the Company receives written notice of the matter before the start or resumption of a meeting, a vote by a proxy, attorney or representative is valid even if:
- (a) there is a Transmission Event in respect of the shareholder;
  - (b) the appointment of the proxy, attorney or representative is revoked;
  - (c) the shareholder revokes the authority under which the proxy was appointed by a third party; or
  - (d) the shareholder becomes an externally-administered body corporate.
- 46.16 A vote by a proxy or attorney is valid even if the shareholder transfers the share for which the appointment was given, if the transfer is not registered at the time of the meeting (or at any earlier time fixed by the Directors so that shareholders at that time are taken to be shareholders at the time of the meeting).
- 46.17 A proxy or attorney may take part in a meeting of shareholders even if the appointor or representative is present. However, if the appointor or representative votes on a resolution, the proxy or attorney must not vote.

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## **47. Power to return, complete or amend certain proxies & powers**

- 47.1 If the Company receives an instrument appointing a proxy or attorney or other form of representative within the cut-off time specified in the notice of meeting or otherwise required by the Corporations Act 2001 for receipt of proxies, powers of attorney or other form of representative (as applicable) and the Company considers that such instrument has not been duly signed or executed, the Company may in its discretion:
- (a) return the instrument to the appointing shareholder; and

- (b) request the shareholder duly sign or execute the instrument and return it to the Company before a specified time (which may be later than the cut-off time for receipt of the instrument).

The instrument will be valid if the duly executed instrument is returned to the Company before the time specified in accordance with clause 47.

- 47.1 If the Company receives an instrument of appointment of proxy, power of attorney or other form of representative that is unclear or incomplete (other than in the circumstances referred to in clause 47):
- (a) the Company may clarify with the appointing shareholder by written or verbal communication any the powers of, or the voting or other instruction or intentions, regarding the appointment of the proxy, attorney or representative and may, at its discretion, accordingly amend or complete the contents of the instrument to reflect the powers, instructions or intentions as clarified with the shareholder;
  - (b) the shareholder is taken to have appointed the Company as its attorney for the purpose of making any insertion or amendment in accordance with this clause; and
  - (c) the appointment of proxy, power or other representation will be valid if received by the Company within the cut-off time specified in the notice of meeting for receipt of proxies, powers or other forms of representation and despite the fact that it was completed or amended in accordance with this clause after that time.
- 47.2 Nothing in this clause 47 limits or restricts the powers of the Directors to determine the validity or otherwise of proxies, powers of attorney or other forms of representative at general law and to do so without necessarily being obliged to seek completion or clarification in accordance with clause 47 or 47.1 (as applicable).

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## **48. Proportional takeovers**

- 48.1 If offers are made in accordance with a Proportional Takeover Bid for securities of the Company:
- (a) the registration of a transfer giving effect to a takeover contract for the bid is prohibited unless and until an Approving Resolution is passed in accordance with this clause 48.1;
  - (b) a person (other than the bidder or an associate of the bidder) who, as at the end of the day on which the first offer under the bid was made, held bid class securities is entitled to vote on an Approving Resolution;
  - (c) the Directors may determine whether an Approving Resolution is voted on:
    - (1) at a meeting, convened and conducted by the Company, of the persons entitled to vote on the resolution; or
    - (2) by means of a postal ballot conducted by the Company in accordance with the procedure set out in this clause 48; and
  - (d) an Approving Resolution that has been voted on is taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total

number of votes on the resolution is greater than 50%, and otherwise is taken to have been rejected.

48.2 The provisions that apply to a general meeting of the Company apply, with such modifications as the Directors decide are necessary, to a meeting convened in accordance with this clause 48.

48.3 In a postal ballot:

- (a) the Company must send a notice of postal ballot and ballot paper, to all persons holding bid class securities, at least 14 days (or any shorter period the Directors decide) before the Ballot Closing Date;
- (b) non-receipt of a notice of postal ballot or ballot paper, or accidental failure to give a notice of postal ballot or ballot paper to a shareholder entitled to receive them, does not invalidate the postal ballot and any resolution passed under the postal ballot;
- (c) the notice of postal ballot must contain the text of the proposed resolution and the Ballot Closing Date, and may contain any other information the Directors consider appropriate;
- (d) each ballot paper must specify the name of the shareholder entitled to vote;
- (e) a postal ballot is only valid if the ballot paper is properly completed and:
  - (1) if the shareholder is an individual, signed by the individual or a duly authorised attorney; or
  - (2) if the shareholder is a corporation, executed by the corporation in any way permitted by its Constitution or the Corporations Act 2001 or by a duly authorised officer or duly authorised attorney;
- (f) a postal ballot is only valid if the Company receives the ballot paper (and any authority in accordance with which the ballot paper is signed or a certified copy of the authority) before the close of business on the Ballot Closing Date at the registered office or share registry of the Company or any other place specified for that purpose in the notice of postal ballot;
- (g) a person may revoke a postal ballot vote by notice received by the Company before the close of business on the Ballot Closing Date.

## Part 6 – Directors

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### 49. Number of directors

49.1 There must be at least three directors and at most 10 directors.

49.2 The Company in general meeting may increase or reduce the number of directors.

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### 50. Appointment of directors

50.1 The Directors may appoint a director.

- 50.2 The Company in general meeting may appoint a director.
- 50.3 No person other than a director retiring in accordance with this constitution is eligible for election as a director at any general meeting unless:
- (a) in the case of a person whose nomination is recommended by the Directors, at least 28 days before the meeting;
  - (b) in the case of a general meeting that the Directors have been requested by shareholders to call, at least 30 Business Days before the meeting; and
  - (c) in any other case, at least 35 Business Days before the meeting,
- the Company has received:
- (d) a notice in writing signed by a shareholder that states the shareholder's intention to propose the person for election; and
  - (e) notice in writing signed by the person of his or her willingness to be elected.
- 50.4 The Directors may in their discretion decide to accept the notices and nominations referred to in clause 50.3 closer to the date of the general meeting and without compliance with any candidature requirements but without any obligation to do so.

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## **51. Compulsory retirement**

- 51.1 The following Directors automatically retire at the end of each annual general meeting:
- (a) any Director appointed by the Directors since the last annual general meeting;
  - (b) any Director for whom this would be the third annual general meeting since their last appointment; and
  - (c) one third (or if that is not a whole number, the next lowest whole number) of the Directors that are not retiring in accordance with clause 51.1(a) or 51.1(b)(not counting the managing director);
- 51.2 The Directors who must retire in accordance with clause 51.1(c) are those Directors who have been longest in office since their appointment on registration or their last election (whichever is later). If they became Directors on the same day, they may agree who retires. If they do not agree, they may select who retires by lot or other random method selected by the Directors.
- 51.3 A Director retiring in accordance with this clause 51 is eligible for re-election.
- 51.4 This clause 51 does not apply to the managing director.

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## **52. Vacation of office**

- 52.1 A Director ceases to be a director if:
- (a) the Corporations Act 2001 so provides;

- (b) the director resigns by notice to the Company;
- (c) the Company in general meeting removes the person as a director;
- (d) the director is absent, without the consent of the Directors, from all Directors' meetings over any three month period;
- (e) the director becomes mentally incapable and the director's estate or property has had a personal representative or trustee appointed to administer it; or
- (f) the director automatically retires in accordance with the previous clause.

52.2 In the case of the managing director or an executive director, unless the contract or other arrangements under which they are employed provide otherwise, the person does not automatically cease to hold the office of director on the termination or expiry of that contract or other arrangement.

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**53. Alternate directors**

53.1 A director may appoint an alternate for a specified period with the consent of the Directors.

53.2 The appointor may terminate the alternate's appointment at any time.

53.3 An appointment or termination is effective only if:

- (a) it is in writing;
- (b) the appointor signs it; and
- (c) the Company is given notice of it.

53.4 The alternate need not be a shareholder or director of the Company.

53.5 The alternate is entitled to notice of Directors' meetings.

53.6 If the appointor is not present, the alternate may:

- (a) attend the Directors' meeting, count in the quorum, speak, and vote in the place of the appointor; and
- (b) exercise any other powers (except the power to appoint an alternate) that the appointor may exercise.

53.7 A person may act as an alternate for more than one director.

53.8 If the appointor ceases to be a director, the alternate cannot exercise the appointor's powers.

53.9 Where:

- (a) an appointor ceases to be a director; and
- (b) that appointor's alternate purports to do an act as a director,

that act is as valid, in relation to a person dealing with the Company in good faith and for value and without actually knowing that the appointor has ceased to be a director, as if the appointor had not ceased to be a director.

- 53.10 The Company may pay an alternate any remuneration the Directors decide, in reduction of the appointor's remuneration.
- 53.11 While acting as a director, an alternate is an officer of the Company and not the agent of the appointor.

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## **54. Remuneration**

- 54.1 The Company may remunerate each director as the Directors decide, but the total amount of the remuneration of non-executive directors may not exceed:
- (a) the amount fixed by the Company in general meeting for that purpose; or
  - (b) if no amount has been fixed by the Company in general meeting for that purpose, \$200,000 per annum.
- 54.2 A director's remuneration may be any combination of:
- (a) a stated salary;
  - (b) a fixed sum for each attendance at a Directors' meeting;
  - (c) if a non-executive director, a share of the amount fixed in accordance with clause 54.1, divided among them as the Directors decide and in default equally.
- 54.3 A director's remuneration must not include a commission on, or percentage of, operating revenue.
- 54.4 A stated salary or a share of a fixed amount accrues from day to day.
- 54.5 The Company must also pay travelling and other expenses that a director properly incurs on the Company's business.
- 54.6 If a director performs extra or special services for the Company, the Company may pay to the director any special remuneration the Directors decide, in addition to the director's normal remuneration.
- 54.7 The Company may pay a former director, or the estate of a director who dies in office, a benefit for past services as the Directors decide. This must not exceed the amount permitted by the Corporations Act 2001 and the Listing Rules.
- 54.8 The Company may establish or support superannuation or similar funds for the directors, as the Directors decide.

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## **55. Qualification**

- 55.1 The auditor of the Company (including a body corporate, partner, employer or employee of that auditor) is not eligible to be appointed or elected as a director or alternate director of the Company.

55.2 A director, who is not a shareholder, may still attend and speak at meetings of shareholders.

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## **56. Director's interests**

56.1 Subject to the Corporations Act 2001 and the Listing Rules, a director may:

- (a) hold an office or place of profit (except as auditor) in the Company, on any terms the Directors decide;
- (b) hold an office or otherwise be interested in any related body corporate or other body corporate in which the Company is interested;
- (c) enter into any agreement, deed or arrangement with the Company;
- (d) act in a professional capacity for the Company (except as an auditor), whether in the director's own capacity or as a member of a professional services entity which provides professional services to the Company; and
- (e) participate in any scheme (whether registered or unregistered), fund, trust, institution or association for, or with, employees or directors of the Company (whether past or present) or persons that are connected with, or dependent on, such employees or directors, and

retain benefits for doing so.

56.2 Subject to the Corporations Act 2001 and the Listing Rules:

- (a) a director who has a material personal interest in a matter that is being considered at a Directors' meeting:
  - (1) may be present while the matter is being considered at the meeting;
  - (2) may be counted in a quorum for a meeting considering the matter;
  - (3) may vote on the matter;
- (b) a director (or a Spouse, parent or child of a director, or any entity in which a director or a Spouse, parent or child of a director has an interest) may contract or make an arrangement with the Company (or a related body corporate or a body corporate in which the Company is interested) in any matter in any capacity;
- (c) a director may sign for the Company, or attest the affixing of the common seal to, any document in respect of that contract or arrangement;
- (d) a director may retain benefits in accordance with that contract or arrangement; and
- (e) the Company cannot avoid that contract or arrangement because of the director's interest.

## **Part 7 - Proceedings of Directors**

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### **57. Circulating resolutions**

- 57.1 The Directors 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. An alternate appointed by a director may sign the document instead of that director.
- 57.2 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.
- 57.3 The resolution is passed when the last director signs.
- 57.4 Passage of the resolution must be recorded in the Company's minute book.
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## **58. Meetings**

- 58.1 The Directors may meet, adjourn and otherwise regulate their meetings as they decide.
- 58.2 A Directors' meeting may be held using any technology consented to by all the directors. The consent may be a standing one. A director may only withdraw consent within a reasonable period before the meeting.
- 58.3 If a Directors' meeting is held by telephone link-up or other contemporaneous audio or audio visual communication, a director is taken to be present unless the director states to the chairperson that the director is disconnecting his or her telephone or communication device.
- 

## **59. Calling meetings**

- 59.1 Any director may call a Directors' meeting.
- 59.2 On the request of any director, the company secretary must call a Directors' meeting.
- 

## **60. Notice**

- 60.1 Notice of a Directors' meeting must be given to each director and each alternate.
- 60.2 The notice must:
- (a) specify the day, time and place of the meeting;
  - (b) state the business to be transacted; and
  - (c) be given at least 48 hours before the meeting, unless all directors otherwise agree.
- 60.3 Non-receipt of notice of a meeting, or failure to give notice of a meeting to a director or an alternate, does not invalidate anything done at the meeting if:
- (a) the failure was accidental;
  - (b) the director or alternate gives notice to the Company that they waive the notice or agree to the thing done at the meeting; or
  - (c) the director or alternate attends the meeting.



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**61. Quorum**

- 61.1 The quorum for a Directors' meeting is three directors, unless the Directors otherwise decide.
- 61.2 In determining whether a quorum is present, the chairperson must count alternates. If a director is also an alternate, the chairperson must count the director as a director and separately as an alternate. If a person is an alternate for more than one director, the chairperson must count the person separately for each appointment.
- 61.3 The quorum must be present at the start of the meeting.
- 61.4 If there are not enough directors in office to form a quorum, the remaining directors may act only:
- (a) to increase the number of directors to a quorum;
  - (b) to call a general meeting of the Company; or
  - (c) in an emergency.

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**62. Chairperson and deputy chairperson**

- 62.1 The Directors may elect a director as chairperson for any period they decide.
- 62.2 The Directors may elect a director as deputy chairperson for any period they decide.
- 62.3 The Directors may remove the chairperson or deputy chairperson.
- 62.4 The Directors may decide that either office is an extra or special service for the Company, for the purpose of deciding special remuneration.
- 62.5 The chairperson is entitled to chair each Directors' meeting.
- 62.6 If there is no chairperson, or if the chairperson is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the deputy chairperson may chair the Directors' meeting. If there is no deputy chairperson, or if the deputy chairperson is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the directors present must elect one of themselves to chair the meeting.
- 62.7 If the chairperson is unable or unwilling to chair a part of the meeting, the deputy chairperson may chair that part. If there is no deputy chairperson, or the deputy chairperson is unable or unwilling to act, the directors present must elect one of themselves to chair that part.

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**63. Decisions of Directors**

- 63.1 Subject to the Corporations Act 2001, each director has one vote.
- 63.2 If a director is also an alternate, the director has one vote as a director and one vote as an alternate. If a person is an alternate for more than one director, the person has one vote for each appointment.
- 63.3 A resolution of the Directors is passed by a majority of votes cast.

63.4 The chairperson has a casting vote, if the chairperson has a personal deliberative vote.

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#### **64. Validity of acts**

64.1 Subject to the Corporations Act 2001, notwithstanding any defect in the appointment of a person as a director or a member of a committee, or any disqualification of that person to act (or continue to act) as a director or committee member, any and all acts by that person, and by any meeting of the Directors or of the committee or committees, is valid and effective as though there was no defect or disqualification.

64.2 Clause 64.1 applies regardless of the nature of any defect or disqualification and regardless of whether the defect or disqualification occurred before or after this Constitution was adopted.

### **Part 8- Directors' powers**

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#### **65. General powers**

65.1 The business of the Company is managed by or in accordance with the direction of the Directors.

65.2 The Directors may exercise all the powers of the Company except any powers that the Corporations Act 2001 or this Constitution requires the Company to exercise in general meeting.

#### **66. Execution of documents**

66.1 The Company may execute a document without a common seal if the document is signed by:

- (a) two directors of the Company; or
- (b) a director and a company secretary of the Company.

66.2 If the Company has a common seal, it may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:

- (a) two directors of the Company; or
- (b) a director and a company secretary of the Company.

66.3 The Directors may authorise one or more Directors to execute documents on behalf of the Company.

66.4 Any authorisation by the Directors in accordance with clause 66.3 may be varied or revoked by the Directors at any time and for any reason.

66.5 The Directors may decide, generally or in a particular case, that a director or company secretary may sign certificates for securities of the Company by mechanical or other means.

66.6 This clause 66 does not limit the ways in which the Company may execute a document (including a deed).

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**67. Negotiable instruments**

The Directors may decide how negotiable instruments (including cheques) may be signed, drawn, accepted, endorsed or otherwise executed.

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**68. Committee and delegate**

- 68.1 The Directors may delegate any of their powers (including this power to delegate) to a committee of directors or to one director.
- 68.2 The Directors may revoke or vary that delegation.
- 68.3 A committee or delegate must exercise the powers delegated subject to any directions of the Directors. The effect of the committee or delegate exercising a power in this way is the same as if the Directors exercised it.
- 68.4 Part 7 of this Constitution applies with the necessary changes to meetings of a committee.
- 68.5 The Directors may decide that membership of a committee or acting as a delegate is an extra or special service for the Company, for the purpose of deciding special remuneration.
- 68.6 Nothing in this Constitution limits the Directors' powers under the Corporations Act 2001 or any other law to delegate any of the Directors' powers to any person.

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**69. Attorney and agent**

- 69.1 The Directors may appoint any person to be the attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) the Directors decide.
- 69.2 The Directors may delegate any of their powers (including the power to delegate) to an attorney or agent.
- 69.3 The Directors may revoke or vary:
- (a) the appointment; or
  - (b) any power delegated to the attorney or agent.

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**Part 9 - Executive officers**

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**70. Managing director and executive directors**

- 70.1 The Directors may appoint:
- (a) one of themselves as managing director, for any period and on any terms (including as to remuneration) the Directors decide, and may appoint the chief executive officer as a director, in which case that officer becomes the managing director;

- (b) appoint persons to be executive directors of the Company for any period and on any terms (including as to remuneration) that the Directors decide.
- 70.2 Subject to any agreement between the Company and the managing director or any executive director (as applicable), the Directors may remove or dismiss the managing director or executive director at any time, with or without cause.
- 70.3 The Directors may delegate any of their powers (including the power to delegate) to a managing director.
- 70.4 The Directors may revoke or vary:
  - (a) the appointment; or
  - (b) any power delegated to the managing director.
- 70.5 A managing director must exercise the powers delegated subject to any directions of the Directors. The effect of the managing director exercising a power in this way is the same as if the Directors exercised it.
- 70.6 Unless the contract or other arrangements under which they are employed provide otherwise, a person does not automatically cease to be a director of the Company if the person ceases to hold the office of managing director or executive director.

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## **71. Company secretary**

- 71.1 The Directors must ensure that there is at least one company secretary at all times.
- 71.2 The Directors may appoint one or more company secretaries, for any period and on any terms (including as to remuneration) the Directors decide.
- 71.3 Subject to any agreement between the Company and the company secretary, the Directors may remove or dismiss the company secretary at any time, with or without cause.
- 71.4 Unless the Directors otherwise decide, the company secretary is the public officer of the Company.
- 71.5 The Directors may vest in the company secretary such powers, duties and authorities as they may from time to time determine and the company secretary must exercise all such powers and authorities subject at all times to the control of the Directors.
- 71.6 The company secretary is entitled to attend all meetings of the Directors and all general meetings of the Company and may be heard on any matter.

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## **72. Indemnity**

- 72.1 To the maximum extent permitted by the Corporations Act 2001, the Company:
  - (a) must indemnify each person who is or has been an Officer against any liability incurred as an Officer; and
  - (b) may pay a premium for a contract insuring an Officer against that liability.

- 72.2 Subject to the Corporations Act 2001, the Company may enter into an agreement or deed with an Officer under which the Company must do all or any of the following:
- (a) keep a set of the Company's books (including minute books) and allow the Officer and the Officer's advisers access to the books for any period agreed;
  - (b) indemnify the Officer against any liability incurred by the Officer as an Officer;
  - (c) keep the Officer insured for any period agreed in respect of any act or omission by the Officer while an Officer.
- 72.3 In this clause 72, Officer means an officer of the Company or of a Related Body Corporate of the Company or both.

## Part 10 – Dividends

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### 73. Who may determine dividends

- 73.1 Subject to any special rights or restrictions attached to a share, the Directors may pay dividends as they decide, including without limitation by paying dividends in any of the ways set out in clause 74.
- 73.2 The Directors may determine that a dividend will be payable on a share and fix:
- (a) the amount;
  - (b) the time for payment; and
  - (c) the method of payment.

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

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### 74. Dividends for different classes

Dividends may be paid:

- (a) on shares of one class but not another; and
  - (b) at different rates for different classes of shares or, in the case of shares with special rights or restrictions, at different rates as between different holders of shares in the class.
- 

### 75. Dividends proportional to paid up capital

- 75.1 Subject to any special rights or restrictions attached to a share:
- (a) the holder of a fully paid share is entitled to the full dividend on the share (whether the issue price was paid or credited or both); and

- (b) the holder of a partly paid share is not entitled to a greater proportion of a dividend than the proportion which the amount paid (not credited) is of the total amounts paid and payable (excluding amounts credited) on the share.

75.2 Amounts paid or credited as paid in advance of a call are ignored.

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## **76. Transfers before payment of dividend**

Subject to the Listing Rules, the Directors may fix a record date to identify shareholders entitled to a dividend. A transferee of shares is entitled to a dividend on the shares only if:

- (a) the Directors fix a record date and the transfer is registered or left with the Company for registration on or before the record date; or
  - (b) the Directors do not fix a record date and the transfer is registered or left with the Company for registration on or before the date the Directors pass the resolution that a dividend will be payable.
- 

## **77. No interest**

Interest is not payable on a dividend.

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## **78. Calls**

The Directors may deduct from a dividend payable to or for a shareholder any money presently payable by the shareholder to the Company for calls or otherwise in respect of any shares held by the shareholder.

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## **79. Capitalising profits**

- 79.1 The Directors may capitalise any profits and distribute that capital to the shareholders, in the same proportions as the shareholder are entitled in a distribution by dividend.
  - 79.2 The Directors may decide to apply that capital in either or both of the following ways:
    - (a) in paying up amounts unpaid on shares already issued;
    - (b) in paying up in full any unissued shares or other securities in the Company.
  - 79.3 The shareholders must accept that application of capital in full satisfaction of their interests in the capital.
  - 79.4 Nothing in this Constitution limits any power of the Company under the Corporations Act or other law to capitalise profits.
- 

## **80. Transfer of assets**

The Directors may settle any dispute, discrepancy or irregularity in respect of a distribution under this Part of the Constitution in any way. This may include:

- (a) rounding down amounts to the nearest whole number;

- (b) ignoring fractions;
- (c) valuing assets for distribution;
- (d) paying cash to any shareholder on the footing of the valuation of the assets;
- (e) vesting assets in trustees on trust for the shareholders entitled.

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**81. Notice of Dividend**

The Company must give to the shareholders notice of any dividend.

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**82. Payments**

82.1 The Company may pay dividends and other amounts in respect of a share:

- (a) by crediting a financial institution account authorised by the shareholder; or
- (b) by cheque or warrant posted to:
  - (1) the address of the holder of the share shown in the register of shareholders;
  - (2) if joint holders, to the address (shown in the register of shareholders) of the holder named first in the register of shareholders; or
  - (3) to any other address which the holder or joint holders direct in writing.

82.2 A cheque may be made payable to bearer or to the order of the shareholder or any other person the shareholder directs.

82.3 Any joint holder of a share may give an effective receipt for the dividend or other amounts paid in respect of the share.

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**83. Dividend reinvestment plan**

The Directors may:

- (a) implement a dividend reinvestment plan on any terms, under which the dividends of participants are applied in subscribing for securities of the Company or a related body corporate; and
- (b) amend, suspend or end the plan.

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**84. Unclaimed dividends**

The Directors may invest unclaimed dividends for the benefit of the Company, until they are claimed or dealt with under a law about unclaimed money.

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**85. Restricted securities**

For so long as the Company is Listed, a shareholder is not entitled to a dividend on restricted securities (within the meaning of the Listing Rules) in accordance with a current Restriction Agreement, while in breach of the agreement.

## Part 11 - Winding up

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### 86. Distribution of assets

Subject to any special rights or restrictions attached to shares:

- (a) if on a winding up there are enough assets to repay all capital to shareholders, all capital must be repaid to the shareholders and any surplus must be distributed among the shareholders in proportion to the number of fully paid shares held by them and for this purpose a partly paid share is treated as a fraction of a share equal to the proportion which the amount paid bears to the total issue price of the share before the winding up began; and
- (b) if on a winding up there are not enough assets to repay all capital to shareholders, the available assets must be distributed among the shareholders in proportion to the number of fully paid shares held by them and for this purpose a partly paid share is treated as a fraction of a share equal to the proportion which the amount paid bears to the total issue price of the share before the winding up began (without the necessity of a call up).

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### 87. Distribution of property in kind

87.1 Subject to any special rights or restrictions attached to shares, on a winding up, the liquidator may, with the sanction of a special resolution of shareholders:

- (a) distribute among the shareholders the whole or any part of the property (in its actual state) of the Company; and
- (b) decide how to distribute the property as between the shareholders or different classes of shareholders.

87.2 The liquidator may, with the sanction of a special resolution of shareholders, distribute the property contrary to the legal rights of the shareholders, or give or remove special rights in respect of any class of shareholders. However, a dissenting shareholder has the same rights as if section 507 of the Corporations Act 2001 applied.

87.3 The liquidator may settle any problem about a distribution in accordance with this clause 87 in any way. This may include:

- (a) rounding down amounts to the nearest whole number;
- (b) ignoring fractions;
- (c) valuing assets for distribution;
- (d) paying cash to any shareholder on the footing of the valuation of the assets;
- (e) vesting assets in a trustee on trust for the shareholders entitled;



(f) capitalising profits and distributing capital as if the liquidator were the Directors.

87.4 A shareholder need not accept a security carrying a liability.

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**88. Restricted shares**

Restricted shares, under a Restriction Agreement current at the start of the winding up, must rank behind all other shares in the repayment of capital on a winding up.

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**89. Commissions**

89.1 The Company must not pay to a director, the Directors or a liquidator a commission or fee for sale of assets on a winding up, unless approved by the shareholders.

89.2 The Company must notify the shareholders of the amount of the proposed commission or fee at least seven days before the shareholders' meeting.

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**Part 12 – Records**

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**90. Register**

The Company must keep a register of shareholders in accordance with the Corporations Act 2001.

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**91. Branch registers**

91.1 The Company may keep a branch register of shareholders in any place.

91.2 The Directors may regulate the transfer of shares among the main register of shareholders and branch registers of shareholders.

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**92. Inspection**

The Company must allow inspection of any register of shareholders or other security holders only as required by the Corporations Act 2001.

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**93. Evidence of register**

Unless proved incorrect, the register of shareholders or other security holders is sufficient evidence of the matters shown in the register.

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**94. Minute book**

94.1 The Company must keep minute books in which it records within one month:

- (a) proceedings and resolutions of meetings of the shareholders;
  - (b) proceedings and resolutions of Directors' meetings (including meetings of a committee of directors);
-

- (c) resolutions passed by shareholders without a meeting;
  - (d) resolutions passed by directors without a meeting.
- 94.2 The Company must ensure that minutes of a meeting are signed within a reasonable time after the meeting by one of the following:
- (a) the chair of the meeting;
  - (b) the chair of the next meeting.
- 94.3 The Company must ensure that minutes of the passing of a resolution without a meeting are signed by a director within a reasonable time after the resolution is passed.
- 94.4 A minute that is so recorded and signed is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

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**95. Financial records**

- 95.1 The Company must keep the financial records required by the Corporations Act 2001.
- 95.2 The financial records must be audited as required by the Corporations Act 2001.

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**96. Inspection**

Unless authorised by the Directors or the Company in general meeting or the Corporations Act 2001, a shareholder is not entitled to inspect the Company's books.

### **Part 13 - Notices and interpretation**

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**97. Notices Generally**

- 97.1 Notice must be in writing and in English, and may be given by an authorised representative of the sender.
- 97.2 Nothing in this Constitution limits the way in which notice must be given in accordance with the Listing Rules or the Corporations Act.

---

**98. Notice to shareholders**

- 98.1 The Company may give notice to a shareholder:
- (a) personally;
  - (b) by sending it by post to the address of the shareholder in the register of shareholders or the alternative address (if any) nominated by the shareholder;
  - (c) by sending it to the fax number or electronic address (if any) nominated or normally used by the shareholder.

- 98.2 The Company may give notice to a person entitled to a share because of a Transmission Event in the same ways.
- 98.3 Notice to joint shareholders must be given to the joint shareholder named first in the register of shareholders.
- 98.4 Notice to a person, entitled to a share because of a Transmission Event, is taken to be notice to the shareholder.
- 98.5 A notice to a shareholder is sufficient, even if the shareholder (whether or not a joint shareholder) is dead, mentally incapacitated, an infant, bankrupt or an externally-administered body corporate, and the Company has notice of that event.
- 98.6 A person, entitled to a share because of a transfer, Transmission Event or otherwise, is bound by every notice given in respect of the share.
- 

#### **99. Notice to directors**

The Company may give notice to a director or alternate director:

- (a) personally;
  - (b) by sending it by post to the director's or alternate director's usual residential or business address or any other address nominated by them;
  - (c) if a notice calling a meeting - by sending it to the fax or electronic address (if any) nominated or normally used by the director or alternate, only if all the directors have consented to the use of that technology;
  - (d) if any other notice - by sending it to the fax or electronic address (if any) nominated or normally used by the director or alternate.
- 

#### **100. Notice to the Company**

A person may give notice to the Company:

- (a) by leaving it at the Company's registered office;
  - (b) by sending it by post to the Company's registered office;
  - (c) by sending it to the fax or electronic address (if any) of the Company's registered office.
- 

#### **101. Addresses outside Australia**

A notice sent by post to or from a place outside Australia must be sent by air mail.

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#### **102. Time of service**

- 102.1 A notice sent by post within Australia is taken to be given two Business Days after posting.
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- 102.2 A notice sent by post to or from a place outside Australia is taken to be given five Business Days after posting.
- 102.3 A notice sent by fax, or other electronic means, is taken to be given on the Business Day after it is sent:
- (a) in the case of a fax - if the sender's transmission report shows that the whole notice was sent to the correct facsimile number; and
  - (b) in the case of other electronic means – if the sender does not receive a delivery failure report.

---

### **103. Listing Rules**

If the Company is Listed:

- (a) notwithstanding anything contained in this Constitution, if the Listing Rules prohibit an act being done, the act must not be done;
- (b) nothing contained in this Constitution prevents an act being done that the Listing Rules require to be done;
- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision;
- (e) if the Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision; and
- (f) if any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

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### **104. CHESS Rules**

While any securities in the Company are CHESS Approved Securities, the Company must comply with the CHESS Rules.

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### **105. Interpretation**

In this Constitution, unless the context otherwise requires:

- (a) subject to the next clause, a word or phrase has the same meaning as it has in the Corporations Act 2001;
- (b) singular includes plural and plural includes singular;
- (c) words of one gender include any other gender;

- (d) reference to legislation includes any amendment to it, any legislation substituted for it, and any statutory instruments issued in accordance with it and in force;
- (e) reference to a person includes a corporation, a firm and any other entity;
- (f) headings do not affect interpretation;
- (g) the Company must not exercise any power in contravention of the Corporations Act 2001, the Listing Rules or the ASX Settlement Operating Rules; and
- (h) a reference to the ASX, the Listing Rules or the ASX Settlement Operating Rules applies only while the Company is Listed.

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**106. Definitions**

In this Constitution:

|                                       |  |
|---------------------------------------|--|
| <b>Approving Resolution</b>           | means a resolution to approve a Proportional Takeover Bid.   |
| <b>ASX</b>                            | means ASX Limited ACN 008 624 691 (also known as Australian Securities Exchange);  |
| <b>ASX Settlement</b>                 | means ASX Settlement Pty Ltd ACN 008 504 532   |
| <b>ASX Settlement Operating Rules</b> | means the settlement operating rules made by ASX Settlement.   |
| <b>Ballot Closing Date</b>            | means the date specified for the close of a postal ballot.   |
| <b>Business Day</b>                   | means:<br><br>(a) while the Company is Listed, Monday to Friday inclusive, except New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day, and any other day that ASX declares is not a business day;<br><br>(b) while the Company is not Listed, any day except a Saturday or Sunday or other public holiday in Victoria. |
| <b>CHESS</b>                          | means Clearing House Electronic Subregister System;  |
| <b>CHESS Approved Securities</b>      | means securities of the Company which are the subject of the CHESS Rules.  |
| <b>CHESS Rules</b>                    | means the ASX Settlement Operating Rules and the provisions of the Corporations Act 2001 and the Listing Rules about the electronic share registration and transfer system.  |
| <b>Company</b>                        | means Red River Resources Limited ACN 100 796 754.   |
| <b>Constitution</b>                   | means this constitution as amended from time to time.  |
| <b>Direct Vote</b>                    | means a notice setting out a shareholder's voting intention for a meeting of shareholders.   |
| <b>Directors</b>                      | means all or some of the directors of the Company acting as a board and may include an alternate director.   |
| <b>Divestment Notice</b>              | means a notice in writing setting out the Company's intention to sell, or arrange the sale of, all of the shares of a shareholder within the Divestment Notice Period (which must be set out in the notice).   |
| <b>Divestment Notice Date</b>         | means the date on which a shareholder is taken to have received the Divestment Notice in accordance with the terms   |

of this Constitution.

|                                  |  |
|----------------------------------|--|
| <b>Divestment Notice Period</b>  | means the period ending on the date that is 42 days from the Divestment Notice Date, or such longer period from the Divestment Notice Date as determined by the Directors and as set out in the Divestment Notice and in accordance with the Listing Rules.  |
| <b>Listed</b>                    | means being admitted to the official list of the ASX.  |
| <b>Listing Rules</b>             | means the listing rules of ASX and any other rules of ASX which are applicable while the Company is Listed, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX.  |
| <b>Marketable Parcel</b>         | has the meaning given in the Listing Rules.  |
| <b>Proportional Takeover Bid</b> | has the meaning given in the <i>Corporations Act 2001</i> (Cth).   |
| <b>Related Body Corporate</b>    | has the meaning given in the <i>Corporations Act 2001</i> (Cth).   |
| <b>Restriction Agreement</b>     | means a restriction agreement within the meaning of the Listing Rules.   |
| <b>Spouse</b>                    | of a person means: <ul style="list-style-type: none"><li>(a) that person's husband, wife, widow or widower (whether or not remarried);</li><li>(b) anyone else who, although not legally married to that person, in the Directors' opinion, lives or lived with that person on a genuine domestic basis as the husband or wife of that person.</li></ul>   |
| <b>Takeover</b>                  | has the meaning given in the Listing Rules.  |
| <b>Transmission Event</b>        | means: <ul style="list-style-type: none"><li>(a) if the shareholder is an individual - death, bankruptcy, or becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health;</li><li>(b) if the shareholder is a body corporate - the deregistration or winding up of the shareholder or the succession by another body corporate to the assets and liabilities of the shareholder.</li></ul> |