

# R H I N O M E D

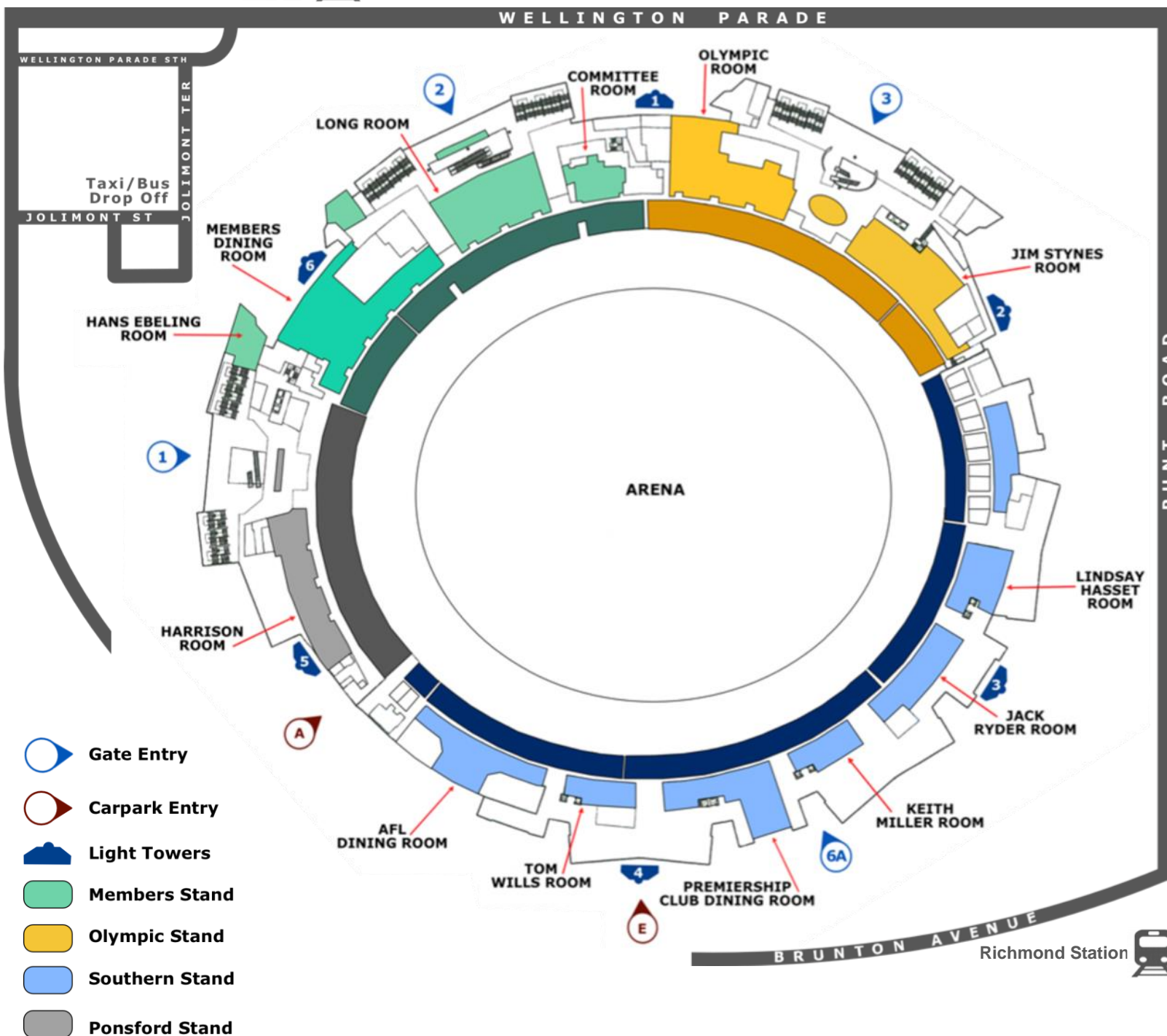
## NOTICE OF 2017 ANNUAL GENERAL MEETING

**Date:** 14 November 2017

**Time:** 10:00 AM AEDT

**Location:** Tom Wills Room in the Great Southern Stand (Level 2)  
Melbourne Cricket Ground, Brunton Avenue, East Melbourne,  
VIC.

*This Notice of Meeting should be read in its entirety. If Shareholders are in doubt as to how they should vote, they should seek advice from their professional advisers prior to voting.*



## Tom Wills Room Level 2

### Gate Entry – Gate 6A

Please use lifts 14,15 to access these rooms

MCG Parking – Entrance E off Brunton Avenue

### IF COMING TO THE GROUND BY TRAIN – RICHMOND STATION

Exit station, cross Punt road, walk towards the MCG via Brunton Ave, go up the stairs, enter at the above allocated room gate

### TRAIN – JOLIMONT STATION TRAM – FROM WELLINGTON PARADE

Exit station, walk through the park towards the MCG, enter at the above allocated room gate

### TRAM FROM OLYMPIC PARK

Get off at Rod Laver, walk up the ramp to footbridge to the MCG, enter at the above allocated room gate

### TAXI

Ask to be dropped off at Jolimont Terrace and Jolimont St, enter at the above allocated room gate

### PUBLIC PARKING FACILITIES

Federation Square – cnr Flinders & Swanston St  
City Square – 202-208 Flinders Lane  
MOPT - Entrance D off Olympic Boulevard  
Metered parking in area – Jolimont St, Jolimont Terrace, Clarendon St

### BRUNTON AVENUE - Car parking

Right hand turns into parking entrances are **ILLEGAL**

**RHINOMED LIMITED**  
**ACN: 107 903 159**

**NOTICE OF ANNUAL GENERAL MEETING**

Notice is hereby given that the 2017 Annual General Meeting of Rhinomed Limited ACN 107 903 159 will be held in the Tom Wills Room in the Great Southern Stand (Level 2) of the Melbourne Cricket Ground on Tuesday, 14 November 2017 at 10:00am.

Where to go:

Tom Wills Room, Level 2  
Please use lifts 14,15 to access Tom Wills Room  
MCG Parking – Entrance E off Brunton Avenue  
Gate Entry – Gate 6A (between light towers 3&4)

The attached Explanatory Statement is provided to supply Shareholders with information to enable Shareholders to make an informed decision regarding the Resolutions set out in this Notice. The Explanatory Statement is to be read in conjunction with this Notice.

**1. Agenda for the Meeting**

**Financial statements and reports**

To receive the Annual Financial Report, including Directors' declarations and accompanying reports of the Directors and auditors for the financial year ended 30 June 2017.

While no resolution is required in relation to this item, Shareholders will be given the opportunity to ask questions and make comments on the Company's annual financial statements and reports.

The Company's auditor, HLB Mann Judd, will be present at the Meeting and Shareholders will have an opportunity to ask the auditor questions in relation to the conduct of the audit, the auditor's report, the Company's accounting policies, and the independence of the auditor.

The Rhinomed Limited 2017 Annual Report can be viewed online at the Company's website [www.rhinomed.global](http://www.rhinomed.global) on the "Annual Reports" page under "Investor Information".

**Special Resolution 1 - Adoption of Remuneration Report**

To consider and if thought fit, to pass, with or without amendment, the following resolution as a non-binding resolution:

*"That for the purposes of section 250R(2) of the Corporations Act and for all other purposes, the Remuneration Report for the year ended 30 June 2017 included in the Directors' Report, which is attached to the Company's annual financial report as required under section 300A of the Corporations Act, be adopted by the Company."*

**Voting Exclusion Statement:** In accordance with the Corporations Act the Company will disregard any votes cast in relation to this resolution by or on behalf of the Key Management Personnel, which includes the Directors and executives in the consolidated group whose remuneration is included in the Remuneration Report and their closely related parties (Excluded Persons). However, the Company need not disregard a vote if:

- it is cast by an Excluded Person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

## **Resolution 2 – Re-election of Dr. Eric Knight as a Director**

To consider, and if thought fit, to pass, with or without amendment, the following resolution as an ordinary resolution:

*"That, for the purposes of clause 11.3 of the Constitution and for all other purposes, Dr. Eric Knight, a Director who retires by rotation, and being eligible, is re-elected as a Director of the Company."*

## **Resolution 3 – Approval of Employee Share and Option Plan**

To consider, and if thought fit, to pass, with or without amendment, the following resolution as an ordinary resolution:

*"That, the Employee Share and Option Plan (ESOP), which is summarized in the attached Explanatory Statement, be approved and that for the purposes of Listing Rule 7.2 (Exception 9) and for all other purposes, the issue of securities under the ESOP within three (3) years from the date of this resolution be an exception to Listing Rules 7.1 and 7.1A."*

**Voting Exclusion Statement:** In accordance with the Corporations Act the Company will disregard any votes cast in relation to this resolution by or on behalf of the Key Management Personnel, which includes the Directors and executives in the Company. However, the Company need not disregard a vote if:

- it is cast by an Excluded Person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

## **Resolution 4 – Increase in Total Fee Pool of Non-Executive Directors**

To consider, and if thought fit, to pass, with or without amendment, the following resolution as an ordinary resolution:

*"That, the total fee pool available for remuneration to Non-Executive Directors of the Company as remuneration for their services be increased by \$200,000 to \$400,000 per year."*

## **Special Resolution 5 – Approval of additional capacity to issue shares under ASX Listing Rule 7.1A**

To consider, and if thought fit, to pass, with or without amendment, the following resolution as a special resolution:

*"That, pursuant to and in accordance with Listing Rule 7.1A and for all other purposes, Shareholders approve the issue of equity securities up to 10% of the issued capital of the Company (at the time of the issue) calculated in accordance with the formula prescribed in Listing Rule 7.1A.2 and on the terms and conditions in the Explanatory Statement."*

**Voting Exclusion Statement:** The Company will disregard any votes cast on this Resolution by a person who may participate in the 10% Placement Facility issue and a person who might obtain a benefit (except a benefit solely in the capacity of a holder of ordinary securities) if this Resolution is passed, and any associates of those persons. However, the Company will not disregard a vote if:

- it is cast by the person as proxy for a person who is entitled to vote, in accordance with directions on the Proxy Form; or
- it is cast by the Chairman as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

## **Special Resolution 6 – Adoption of New Constitution**

To consider, and if thought fit, to pass, with or without amendment, the following resolution as a special resolution:

*“That for the purposes of section 136 of the Corporations Act and for all other purposes, the constitution contained in the Explanatory Statement be approved and adopted as the constitution of the Company in substitution for, and to the exclusion of, the existing constitution of the Company, with effect from the close of the meeting.”*

### **2. Determination of voting entitlement**

For the purpose of determining a person's entitlement to vote at the Meeting, a person will be recognized as a shareholder and the holder of Shares if that person is registered as a holder of those Shares at 7:00 p.m. AEDT on 10 November 2017.

### **3. Votes**

Unless a poll is demanded in advance of voting on a resolution, voting on each resolution will initially be by way of a show of hands. On a show of hands, each member present in person or by proxy or, in the case of a body corporate, by a representative, shall have one vote.

On a poll, every member present in person or by attorney or by proxy or, in the case of a body corporate, by a representative, shall have one vote for each share held by him, her or it.

### **4. Proxies**

A Shareholder entitled to attend and vote is entitled to appoint a proxy to attend and vote instead of the Shareholder.

Where the Shareholder is entitled to cast two or more votes, the Shareholder may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise.

If the Shareholder appoints two proxies and the appointment does not specify the proportion or number of the Shareholder's votes each proxy may exercise, each proxy may exercise half of the votes. A proxy need not be a Shareholder.

To be effective, the instrument of appointment of a proxy (and power of attorney or other authority, if any, under which it is signed or a certified copy of that power or authority) must be received by the Company by 10:00 a.m. AEDT on 12 November 2017:

If you choose to appoint a proxy, you are encouraged to direct your proxy how to vote on Resolution 1 by marking either “For”, “Against” or “Abstain” on the form of proxy for that item of business.

Subject to the voting restrictions set out in the Voting Exclusion Statement, the Chairperson will vote undirected proxies on, and in favour of all Resolutions.

If the proxy is the Chairman, the Chairman can also vote undirected proxies on Resolution 1 provided that the proxy form authorises the Chairman to vote even though Resolution 1 is connected with the remuneration of key management personnel.

A form of proxy accompanies this Notice. Further instructions are on the Proxy Form.

## **5. Questions and Comments by Shareholders at the Meeting**

A reasonable opportunity will be given to Shareholders to ask questions and/or make comments on the management of the Company at the Meeting.

A reasonable opportunity will be given for Shareholders to ask questions of the Company's external auditor, HLB Mann Judd. These questions should be relevant to:

- a) the conduct of the audit;
- b) the preparation and contents of the audit report;
- c) the accounting policies adopted by the Company in relation to the preparation of its financial statements; and
- d) the independence of the auditor in relation to the conduct of the audit.

Shareholders may also submit a written question to HLB Mann Judd if the question is relevant to the content of the audit report or the conduct of its audit of the Company's financial report for the year ended 30 June 2017. Relevant written questions for HLB Mann Judd must be received by the Company no later than 10:00am AEDT on 7 November 2017. A representative of HLB Mann Judd will provide answers to the questions at the Meeting.



Phillip Hains  
**Joint Company Secretary**  
On behalf of the Board of Directors  
Rhinomed Limited

## **EXPLANATORY STATEMENT**

This Explanatory Statement is intended to provide Shareholders with sufficient information to assess the merits of the Resolutions contained in this Notice.

The Directors recommend that Shareholders read this Explanatory Statement in full before making any decision in relation to the Resolutions.

### **Resolution 1: Adoption of remuneration report**

In accordance with Section 300A(1) of the Corporations Act the Remuneration Report is included in the Directors Report for the financial year ended 30 June 2017.

The Remuneration Report sets out details of the remuneration received by the directors and key Company executives, in addition to describing Board policy in respect of remuneration. Resolution 1 seeks shareholder approval of the adoption of the Remuneration Report by the Company.

The outcome of this resolution is not binding on the Company or the Board. However, sections 250U to 250Y of Corporations Act requires a 'two strikes and re-election' process in relation to the shareholder vote on the Remuneration Report and provide that:

- A 'first strike' will occur if this Remuneration Report resolution receives a 'no' vote of 25% or more. If this occurs, the Company's subsequent remuneration report will contain an explanation of the Board's proposed action in response to the 'no' vote or an explanation of why no action has been taken by the Board.
- A 'second strike' will occur if the resolution to adopt the Remuneration Report at the 2018 Company Annual General Meeting also receives a 'no' vote of 25% or more. If this occurs, shareholders will vote at that Annual General Meeting to determine whether the Directors will need to stand for re-election at a separate, subsequent meeting (the 'spill resolution'). If the spill resolution passes with 50% or more of eligible votes cast, the spill meeting must take place within 90 days.

The Company has not received a first strike.

The Remuneration Report is set out in the Company's 2017 Annual Report which can be viewed online at the Company's website, [www.rhinomed.global](http://www.rhinomed.global).

### **Resolution 2: Election of Dr. Eric Knight as a Director**

In accordance with clause 11.3 of Constitution, Dr. Eric Knight, a Director who retires by rotation at the close of this Annual General Meeting, offers himself for re-election as a Director.

Dr. Eric Knight brings a depth of experience in corporate strategy and management, having previously worked for the Boston Consulting Group. He specialised in rapid transformations and corporate innovation in the healthcare, digital media, and public sector sectors. In digital marketplaces, he was intimately involved in integrating the sports broadcast and editorial assets inside one of the country's largest media organisations, and in driving digital subscriptions under a pay wall. Dr. Knight draws upon his expansive corporate strategic and management expertise, across healthcare, sports and digital organisations. He is currently leading the business and entrepreneurship programs at the University of Sydney Business School.

## **Director's recommendation**

All of the non-associated Directors recommend that shareholders vote in favour of Resolution 2.

## **Resolution 3 – Approval of Employee Share and Option Plan**

### **Introduction**

The Company proposes to adopt an employee share and option plan (**ESOP**) pursuant to which issued capital of the Company may be made available to directors, senior management and staff as a form of longer term equity incentive.

If Resolution 3 is passed, the ESOP will enable the Company to issue options to employees and officers of the Company (**Employee Options**) and to issue Shares to those employees and officers if they choose to exercise their Employee Options. In the case of a director, no Employee Options may be issued to the director without express shareholder approval of the numbers and terms of the Employee Options.

### **ASX Listing Rule 7.1**

Listing Rule 7.1 provides that a company must not, subject to specified exceptions, issue or agree to issue during any 12 month period any equity securities, or other securities with rights to conversion to equity (such as an option), if the number of those securities exceeds 15% of the number of securities on issue at the commencement of that 12 month period.

An exception to Listing Rule 7.1 is set out in Listing Rule 7.2 (Exception 9) which provides that Listing Rule 7.1 does not apply to an issue under an employee incentive scheme if, within the three years before the date of issue, shareholders have approved this issue as an exception to Listing Rule 7.1.

Shareholder approval is sought to adopt the ESOP in accordance with Listing Rule 7.2 (Exception 9) and to enable the Company to subsequently grant Employee Options under the plan without having to obtain shareholder approval each time the Company wishes to issue securities which exceed the 15% limit contained in Listing Rule 7.1 and do not otherwise fall within one of the nominated Listing Rule exemptions.

The maximum number of Employee Options that can be issued under the ESOP (and any other equity incentive plan of the Company) is not to be in excess of 5% of the total number of shares on issue.

### **Material terms of the ESOP**

The ESOP Plan is set out in Appendix A to this Notice of Meeting.

### **Specific Information required by Listing Rule 7.2**

- a) The material terms of the ESOP are set out in Appendix A to this Notice of Meeting;
- b) Shareholders previously approved the Company's existing ESOP under Listing Rule 7.2 (Exception 9) at the Company's 2014 AGM.



c) Table below shows all the securities issued under ESOP since the Company's 2014 AGM.

Date of Issue	Number of Options	Exercise Price	Expiry Date
11 April 2016	1,800,000	\$0.65	11 April 2019
10 May 2017	150,000	\$0.40	30 December 2020

d) The Rules of the Plan are set out in Appendix A.

### **Director's recommendation**

All of the Directors recommend that shareholders vote in favour of Resolution 3.

### **Resolution 4 – Increase in Total Fee Pool of Non-Executive Directors**

The Constitution provides that each Director is entitled to such remuneration from the Company for his or her service as a Director as the Directors decide but the total amount provided to all Directors for their services as Directors must not exceed in aggregate in any financial year the amount fixed by the Company in general meeting. The aggregate amount approved by Shareholders excludes remuneration paid to executive Directors.

At present, the maximum aggregate amount of fees (total fee pool) that may be paid to the Non-executive Directors of the Company is \$200,000. Resolution 4 seeks Shareholder approval to increase this amount by \$200,000 to \$400,000 per year for the following reasons:

- a) The Board wishes to provide headroom and flexibility to allow for temporary fluctuations in the size of the Board, if and when appropriate, and to manage Committee appointments, as part of its management of Board succession planning; and
- b) The Board wishes to allow for some future increases in fees to maintain market competitiveness, and in line with market data, to reflect increasing demands on Non-executive Directors, with a view to attracting and retaining high quality Non-executive Directors with an appropriate range of skills, expertise and diversity.

The proposed increased pool reflects a maximum limit. The Board does not intend presently to increase fees to that limit.

The table below shows all the securities issued to Non-Executive Directors in the previous 3 years:

Date of Issue	Number of Equity Securities*	Class of Equity Securities *	Security Holder
20/5/16	1,000,000	Unlisted Options Exercise Price: \$0.674 Expiry: 30/4/19	Ron Dewhurst
10/5/17	1,000,000	Unlisted Options Exercise Price: \$0.27 Expiry: 30/4/20	Brent Scrimshaw
10/5/17	1,000,000	Unlisted Options Exercise Price: \$0.27 Expiry: 30/4/20	Eric Knight

\*On 3 May 2017 the share capital of the Company has been consolidated through the conversion of every ten shares into one share. Numbers have been restated to align with the consolidation.

## **Resolution 5 – Approval of additional capacity to issue shares under ASX Listing Rule 7.1A**

### **ASX Listing Rule 7.1A**

In 2012, the ASX introduced ASX Listing Rule 7.1A which enables certain 'eligible entities' to issue equity securities of up to 10% of their issued share capital through placements over a 12 month period commencing after the annual general meeting (Additional Placement Capacity). ASX Listing Rules require that Shareholders approve the Additional Placement Capacity by special resolution, at an annual general meeting before any equity securities are issued under the Additional Placement Capacity.

For the purposes of ASX Listing Rule 7.1A an 'eligible entity' is an entity that is not included in the S&P/ASX 300 Index and has a market capitalisation of \$300 million or less. The Company is an 'eligible entity'. The Additional Placement Capacity is in addition to the Company's 15% placement capacity under ASX Listing Rule 7.1. Therefore, if the Additional Placement Capacity is approved, the Directors will be allowed to issue equity securities of up to 25% (Up to 10% pursuant to ASX Listing Rule 7.1A and up to 15% pursuant to ASX Listing Rule 7.1) of the Company's issued share capital. If the Additional Placement Capacity is not approved, the Directors will still be allowed to issue equity securities of up to 15% of the Company's issued capital pursuant to ASX Listing Rule 7.1.

The Company seeks Shareholder approval by way of a special resolution to have the ability to issue equity securities under the Additional Placement Capacity should the need arise.

### **Formula for calculating 10% Placement Facility**

Listing Rule 7.1A.2 provides that eligible entities which have obtained shareholder approval at an annual general meeting may issue or agree to issue, during the 12 month period after the date of the annual general meeting, a number of equity securities calculated in accordance with the following formula:

$$(A \times D) - E$$

**A** is the number of shares on issue 12 months before the date of issue or agreement:

- plus the number of fully paid shares issued in the 12 months under an exception in Listing Rule 7.2;
- plus the number of partly paid shares that became fully paid in the 12 months;

- c) plus the number of fully paid shares issued in the 12 months with approval of holders of shares under Listing Rule 7.1 and 7.4. This does not include an issue of fully paid shares under the entity's 15% placement capacity without shareholder approval;
- d) less the number of fully paid shares cancelled in the 12 months.

(Note that A has the same meaning in Listing Rule 7.1 when calculating an entity's 15% placement capacity).

**D** is 10%

**E** is the number of equity securities issued or agreed to be issued under Listing Rule 7.1A.2 in the 12 months before the date of the issue or agreement to issue that are not issued with the approval of shareholders under Listing Rule 7.1 or 7.4.

### **ASX Listing Rule 7.3A**

In accordance with ASX Listing Rule 7.3A the Company provides the following information.

Any securities issued under the Additional Placement Capacity will be in the same class as existing quoted securities of the Company.

The issue price for each security issued under the Additional Placement Capacity will not be less than 75% of the volume weighted average price for securities in that class over the 15 trading days on which trades in that class were recorded immediately before:

- the date on which the price at which the securities are to be issued is agreed; or
- if the securities are not issued within 5 trading days of the date above, the date on which the securities are issued.

The issue of equity securities under the Additional Placement Capacity may result in voting dilution of existing ordinary shareholders (as shown in Table 1). There is also the risk that:

- the market price for equity securities in that class may be significantly lower on the issue date than on the date of the Meeting; and
- the equity securities may be issued at a price that is at a discount to the market price for those equity securities on the issue date.

Equity securities under the Additional Placement Capacity may be issued until the earlier of:

- 14 November 2018; and
- the date of approval by ordinary shareholders of a significant change to the Company's activities under ASX Listing Rule 11.1.2 or the date of approval by ordinary shareholders of a disposal of a major asset under ASX Listing Rule 11.2.

Any approval of the Additional Placement Capacity at this Meeting will cease to be valid in the event that ordinary shareholders approve a transaction under ASX Listing Rule 11.1.2 or 11.2.

The Company may issue equity securities under the Additional Placement Capacity for the following purposes:

- non-cash consideration: for the acquisition of new biotechnology assets and investments (in such circumstances the Company will provide a valuation of the non-cash consideration as required by ASX Listing Rules); or
- cash consideration: to raise funds for working capital purposes, to fund the continued development and commercialisation of the Company's product range and/or to fund the acquisition of new biotechnology assets.

The Company's allocation policy for issues under the Additional Placement Capacity is dependent on prevailing market conditions at the time of any proposed issue.

The identity of the allottees of the equity securities will be determined on a case-by-case basis having regard to the factors including but not limited to the following:

- the methods of raising funds that are available to the Company, including rights issues or other issues in which existing shareholders may participate;
- the effect of the issue of the equity securities on the control of the Company;
- the financial position of the Company; and
- advice from the Company's advisors.

The allottees under the Additional Placement Capacity have not yet been determined but allottees may include existing shareholders, existing substantial shareholders and/or new shareholders who are not related parties or associates of a related party of the Company.

Table 1 shows the dilution of Shareholders on the basis of the current market price of Shares and the current number of ordinary securities for variable "A" calculated in accordance with the formula in Listing Rule 7.1A(2).

Table 1 also shows:

- I. two examples where variable "A" has increased, by 50% and 100%. Variable "A" is based on the number of ordinary securities the Company has on issue. The number of ordinary securities on issue may increase as a result of issues of ordinary securities that do not require Shareholder approval (for example, a pro rata entitlements issue or scrip issued under a takeover offer) or future specific placements under Listing Rule 7.1 that are approved at a future Shareholders' meeting; and
- II. two examples of where the issue price of ordinary securities has decreased by 50% and increased by 100% as against the current market price

**Table 1**

Variable 'A' in Listing Rule 7.1A.2		Dilution		
		\$0.080 50% decrease in Issue Price	\$0.160 Current Issue Price	\$0.320 100% increase in Issue Price
Variable A - 93,636,159 Shares	10% Voting Dilution	9,363,716 Shares	9,363,716 Shares	9,363,716 Shares
	Funds Raised	\$749,097	\$1,498,195	\$2,996,389
50% increase in Variable A - 140,455,739 Shares	10% Voting Dilution	14,045,574 Shares	14,045,574 Shares	14,045,574 Shares
	Funds Raised	\$1,123,646	\$2,247,292	\$4,494,584
100% increase in Variable A - 187,274,318 Shares	10% Voting Dilution	18,727,432 Shares	18,727,432 Shares	18,727,432 Shares
	Funds Raised	\$1,498,195	\$2,996,389	\$5,992,778

Table 1 has been prepared based on the following assumptions:

- Variable A is based on the number of Shares on issue as at 2 October 2017.
- The Company issues the maximum number of equity securities available under the Additional Placement Capacity.
- The 10% voting dilution reflects the aggregate percentage dilution against the issued share capital at the time of issue.
- The table shows only the issue of equity securities under the Additional Placement Capacity and not under ASX Listing Rule 7.1.
- The issue of equity securities under the additional placement capacity includes only Shares.
- The Current Issue Price of \$0.16 was the most recent price of Shares as traded on ASX as the time of preparing this Notice (2 October 2017). This price may fluctuate between the time of preparing this Notice and the date of the Meeting and the date that any Shares are issued by the Company pursuant to ASX Listing Rule 7.1A.

The Company previously obtained approval for the Additional Placement Capacity at its 2012, 2013, 2014, 2015 and 2016 Annual General Meetings.

A voting inclusion statement is included in this Notice. In accordance with ASX Listing Rule 14.11.1 and the relevant Note under that rule concerning Rule 7.1A, as at the date of this Notice of Meeting it is not known who may participate in the proposed issue (if any). On that basis, no security holders are currently excluded.

**Issues of Equity Securities in the 12-month period before the date of the Meeting**

The information in the below table is provided in accordance with ASX Listing Rule 7.3A.6 (b).

In the 12 months prior to the Meeting, the Company has issued 18,363,510 equity securities representing 16.91% of equity securities on issue 12 months prior to the Meeting.

The information in the below table is provided in accordance with ASX Listing Rule 7.3A.6 (b).

Date of Issue	Number of equity securities	Class of equity security	Issue Price	Closing Price*	Discount / Premium#	Issued to / basis of issue	Cash / Non-Cash	Funds Raised	Use of funds or if non-cash then value
23/03/17	12,213,500	Ordinary Shares (RNO)	\$0.18	\$0.18	0% Discount / Premium	Issued to Paul H. Stephens & Eleanor M. Stephens and W. Whitney George	Cash	\$2,198,430	To date, of the funds raised, approximately \$2,000,000 of after cost proceeds have been spent on working capital, product development and commercialization costs. The remaining funds will be used for working capital and product development and commercialization.
23/03/17	10	Ordinary Shares (RNO)	\$1.00	\$0.18	455% Premium	Issued to The CFO Solution Team Pty Ltd	Cash	\$10	After cost proceeds have been spent on working capital, product development and commercialization.
10/05/17	6,000,000	Unlisted Options Exercise Price: \$0.27 Expiry: 30/4/20	Nil	N/A	N/A	Issued to Brent Scrimshaw, Eric Knight and an associated entity of Michael Johnson, as approved by shareholders.	Non-Cash	Nil	The 6,000,000 Options were valued at \$633,000 in the Company's 2017 Annual Financial Report.
10/05/17	150,000	Unlisted Options Exercise Price: \$0.40 Expiry: 30/12/20	Nil	N/A	N/A	Issued under ESOP	Non-Cash	Nil	The 150,000 Options were valued at \$14,580 in the Company's 2017 Annual Financial Report.

\* Closing Price: Closing price of security as traded on ASX on date of issue.

# Discount / Premium: Discount / premium of Issue Price to Closing Price.

**Director's recommendation**

All of the Directors recommend that shareholders vote in favour of Resolution 5.

**Resolution 6 – Adoption of new constitution**

Section 136 of the Corporations Act provides that a company may repeal its constitution and adopt a new constitution by special resolution.

The new constitution proposed to be adopted by the Company incorporates provisions reflecting the Company's current trading name and refinement in the presentation of the document.

A copy of the proposed new constitution are set out in Appendix B.

The total fee pool of Non-Executive Directors set out in the new constitution (\$400,000) is based on the assumption that Resolution 4 will pass. In the event that Resolution 4 does not pass, the total fee pool will remain at \$200,000.

**Director's recommendation**

All of the Directors recommend that shareholders vote in favour of Resolution 6.



## GLOSSARY

In the Notice of Meeting and Explanatory Statement the following terms have the following meanings:

**AEDT** means Australian Eastern Daylight Savings Time.

**ASIC** means the Australian Securities and Investments Commission.

**ASX** means ASX Limited.

**ASX Listing Rules** means the listing rules of ASX.

**Board** means the board of directors of the Company.

**Company or Rhinomed** means Rhinomed Limited (ACN 107 903 159).

**Constitution** means the Company's constitution.

**Corporations Act** means Corporations Act 2001 (Cth).

**Director** means a current director of the Company.

**Explanatory Statement** means the explanatory statement to this Notice of Meeting.

**Meeting** means the 2017 Annual General Meeting of the Shareholders of the Company to be held on 14 November 2017, to which the Notice of Meeting and Explanatory Statement relate.

**Notice of Meeting** means this notice of meeting of the Company dated 13 October 2017.

**Resolution** means a resolution referred to in the Notice.

**Share** means a fully paid ordinary share in the capital of the Company.

**Shareholder** means a holder of Shares.

Words importing the singular include the plural and vice versa.

All references to currency are in Australian dollars.

## **APPENDIX A**

### **RHINOMED LIMITED**

ACN: 107 903 159

### **EMPLOYEE SHARE OPTION PLAN**

### **PLAN RULES**

# 1. Definitions and Interpretation

## 1.1 Definitions

The following definitions apply unless the context requires otherwise:

**Application Form** means a form for the application for an Option in respect of an Offer made to an Eligible Employee, or other person who is declared by the Board to be eligible to participate in the Plan;

**ASIC** means the Australian Securities and Investments Commission;

**ASX** means the Australian Securities Exchange Limited;

**Board** means the board of directors of the Company or a committee of the Board appointed to administer the Plan;

**Class Order** means Class Order 03/184 issued by ASIC as amended or replaced;

**Closing Date** means the closing date for acceptance of an Offer;

**Company or Rhinomed** means Rhinomed Limited ACN 107 903 159;

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

**Director** means a director of the Company

**Eligible Employee** means an employee or executive (including a director employed in an executive capacity) of an Employer Company who is declared by the Board to be an Eligible Employee for the purposes of the Plan;

**Employer Company** means the Company, a Subsidiary or any other company approved by the Board in which the Company holds not less than 20 per cent of the voting shares;

**Exchange** means any stock exchange on which the shares of the Company become listed;

**Exercise Condition** means, in respect of any Option, one or more conditions that must be met before the Option may be exercised, as determined by the Board in its absolute discretion;

**Exercise Period** means, in respect of any Option, the period designated by the Board and notified in writing to the Participant as being the period during which the Participant may exercise the Option or any part of it in accordance with rule 9;

**Exercise Price** means, in respect of any Offer, the price per Share calculated in accordance with rule 6, subject to any adjustment in accordance with rule 11;

**Expiry Date** means the final date to exercise an Option;

**Grant Date**, in relation to an Option, means the date on which the Option is granted in accordance with rule 8.1;

**Listing Rules** means the rules of the Exchange and, if the Exchange is ASX, means the Listing Rules of ASX and any other rules of ASX which are applicable while the Company is admitted to the official list of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX;

**Market Price**, in relation to a Share, on a particular day means:

- a) If there was at least one transaction on the Exchange during the 5 business days before that day, the weighted average of the prices at which a Share was traded on the Exchange during the 5 business days before that day, or;
- b) If there were no transactions on the Exchange in that 5 business days in Shares, the last price at which an offer was made on the Exchange in that period to buy a Share;

**Offer** means an invitation to an Eligible Employee, or other person declared by the Board to be eligible to apply for an Option under the Plan;

**Option** means right to acquire a Share;

**Participant** means an Eligible Employee, or other person declared by the Board to be eligible, who has been granted an Option under the Plan;

**Plan** means the Company's Employee Share Option Plan constituted by these rules as amended from time to time;

**Share** means a fully paid ordinary share in the capital of the Company;

**Subsidiary** has the meaning given to that term in section 9 of the Corporations Law;

**Takeover Bid** has the same meaning as in section 9 of the Corporations Law;

**Total Exercise Amount** means, in relation to each Option, the Exercise Price multiplied by the number of Shares for which the Option is being exercised; and

**Trigger Event** means:

- a) the despatch of a notice of meeting to consider a scheme of arrangement between the Company and its creditors or members or any class thereof pursuant to section 411 of the Corporations Act;
- b) the announcement of a takeover bid or receipt by the Company of a bidder's statement in respect of the Company; or

the date upon which a person or a group of associated persons becomes entitled, subsequent to the date of grant of the Option, to sufficient Shares to give it or them the ability, in general meeting, to replace all or allow a majority of the Board in circumstances where such ability was not already held by a person associated with such person or group of associated persons.

## 1.2 Interpretation

- a) The singular includes the plural and conversely.
- b) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.
- c) A reference to a rule is a rule of these Rules.

## **1.3 Governing Law**

This Plan and any Options issued under it are governed by the laws of Victoria.

## **2 Total number of Shares**

The Company must take reasonable steps to ensure that:

- a) The total numbers of Shares which are the subject of unexercised Options granted under this Plan, when aggregated with the Shares which have been issued on exercise of the Options granted under this Plan, during the three years preceding the date on which an Option is issued, do not exceed ten per cent (10%) percent of the total number of issued Shares in the capital of the Company at the date of issue of any Option; and
- b) The number of Shares which are the subject of unexercised Options granted under this Plan when aggregated with the number of Shares which are the subject of unexercised Options granted under this Plan in the preceding 5 years (or any other employee share plan extended only to Eligible Employees) and the number of Shares that would be issued if each unexercised option granted under this Plan or under any other employee incentive scheme of the Company were to be exercised or accepted, does not exceed 5% of the total number of Shares on issue at the time of an Offer (but disregarding any offer of Shares or options to acquire Shares that can be disregarded pursuant to the Class Order).

## **3 Eligibility**

The Board may in its absolute discretion:

- a) Declare that an employee or executive of an Employer Company is an Eligible Employee; and
- b) Declare that any other person is eligible to participate in the Plan provided such participation will not require compliance with Chapters 6D.2, 6D.3 and 7.9 of the Corporations Act.

## **4 Shares comprised in each Option**

- a) Subject to rule 2 and paragraph (b), the Board must decide, in its absolute discretion, the number of Shares the subject of an Option to be offered to an Eligible Employee, or other person declared by the Board to be eligible, in accordance with the Plan.
- b) In making a decision under paragraph (a), the Board may take into account the actual

and potential contribution of the Eligible Employee, or other person declared by the Board to be eligible, to the growth of an Employer Company.

## **5 Offer**

### **5.1 Offer to participate**

The Board may, from time to time, at its absolute discretion, make an Offer (in such form as the Board decides from time to time) to:

- a) Eligible Employees; and/or;

Other persons who the Board has declared to be eligible, inviting applications for the number of Options specified in the Offer.

### **5.2 Information about Options**

In respect of each Offer, the Board must advise each person to whom the Offer is made under rule 5.1 of the following information relevant to an Option that may be granted under the Plan, namely:

- a) The Exercise Price;
- b) The designated Exercise Period;
- c) The number of Shares for which the Participant will be entitled to subscribe upon the exercise of the Option;
- d) The Closing Date;
- e) The Expiry Date; and
- f) Any designated Exercise Condition.

## **6 Exercise Price**

The Exercise Price of Options issued pursuant to the Plan will be, at the discretion of the Board equal to or greater than the Market Price on the Grant Date.

## **7 Market Price**

During the Exercise Period, the Board will, make available to the Eligible Employee, the Market Price of Shares in the same class as those offered subject to the Options, within a reasonable time of the Eligible Employee making such a request.

## **8 Application for Options**

### **8.1 Requirements for Application**

Each application for an Option must:

- a) Be made on an Application Form;
- b) Conform with any instructions contained in the Application Form or in the Offer; and
- c) Be received by the Board at the specified place prior to the Closing Date.

## **8.2 Formal Application**

Each Application Form when properly completed and signed by the Participant in accordance with rule 7.1 constitutes an application for the grant of an Option to subscribe for the Shares at the Exercise Price.

## **8.3 Payment for Grant of Option**

Unless the Board otherwise determines, no payment is required at the time an Option is granted.

# **9 Grant of Options**

## **9.1 Date of Grant**

Upon acceptance of a duly signed and completed Application Form, together with any monies payable in respect of the Options applied for, the Company may grant Options to the Eligible Employee, or other person declared by the Board to be eligible, as specified in the Offer, with effect from the date the Board determines, on the terms of the Plan and terms of the Offer.

## **9.2 Certificate**

On the grant of the Option, the Company must issue to the Participant a certificate evidencing the Option and the number of Shares for which the Participant is entitled to subscribe.

## **9.3 Personal**

An Option granted under the Plan is personal to the Participant and may not be assigned to or exercised by any other person or body corporate.

# **10 Exercise of Options**

## **10.1 Right to Exercise**

Subject to rule 9.3, a Participant may exercise the Option, or any part of it, in the applicable Exercise Period, provided any exercise is for a minimum of a marketable parcel (as defined in the Listing Rules) of Shares or such other number or multiple of a number as the Board

may determine.

## **10.2 Exercise Periods**

Options may only be exercised during the applicable Exercise Period. The Exercise Period of Options will be determined by the Board at its absolute discretion.

## **10.3 Restrictions on Exercise**

Except where an Option becomes exercisable by virtue of the provisions of rule no 12, an Option may not be exercised unless at that time any Exercise Conditions imposed by the Board have been satisfied. Exercise Conditions of Options will be determined by the Board at its absolute discretion.

## **10.4 Lapse**

Any Option not exercised on or before the Expiry Date automatically lapses.

## **10.5 Notice of Exercise**

- a) In order to exercise an Option, the Participant (or his or her personal representative in the case of a deceased Participant) must deliver to the Company a completed and signed notice of exercise in a form prescribed by the Board and made available to the Participants, together with the Total Exercise Amount. All payments made pursuant to this rule shall be made by cheque, bank draft or postal order made out in favour of the Company.
- b) If a Participant exercises only part of the Option, the Company must issue to the Participant a new certificate evidencing the remaining number of Shares for which the Participant is entitled to subscribe.

## **10.6 Allotment of Shares**

Subject to rule 9.6, upon receipt of the Total Exercise Amount the Company must promptly allot to the Participant the Shares for which the Participant is entitled to subscribe.

## **10.7 Quotation of Shares**

After Shares have been allocated pursuant to rule 9.6, if the Company's Shares are listed on the Exchange at the date of allotment, the Company will apply for listing of the Shares on the Exchange within the timeframe required by the Listing Rules.

## **11 New Issues**

There is no inherent right in the Option to participate in any new issues of Shares which may be offered to shareholders from time to time prior to the exercise of the Option.

## **12 Rights of Participant upon exercise of Option**



## **12.1 Ranking of Shares**

The Shares to be allotted upon the exercise of an Option will upon allotment rank equally in all respects with the then existing ordinary issued Shares in the capital of the Company and will be subject to the provisions of the Constitution of the Company.

## **12.2 Adjustment for Rights issue**

As required by the Exchange if:

- a) Shares are offered pro rata for subscription by the Company's shareholders generally by way of a rights issue; and
- b) The price at which each Share is so offered is less than the Market Price on the day of public announcement of the rights issue.

The Exercise Price applicable to each Share shall be reduced in accordance with the Listing Rules.

## **12.3 Adjustment for Bonus Issue**

In the event of a Bonus Issue of Shares being made pro-rata to ordinary shareholders (other than issue in lieu of dividends), the number of Shares over which an Option is exercisable will be increased by the number of Shares which the Option Holder would have received if the Option had been exercised before the record date for the Bonus Issue. No adjustment will be made to the exercise price per share of the Option.

## **12.4 Subdivision or consolidation**

If, prior to the expiry or lapse of any Options there is a pro rata issue (except a bonus issue) to the holders of Shares in the Company, the Exercise Price of the options may be reduced in accordance with the ASX Listing Rules.

## **12.5 Return of capital**

If the Company make a return of capital to its shareholders generally, the Exercise Price applicable to each Share comprised in the Option will be reduced by the amount of the capital returned in respect of each Share.

## **12.6 Other reconstruction**

If there occurs any other reconstruction of the capital of the Company affecting issued Shares, the Shares comprised in the Option and the Exercise Price applicable to each such Share will be reconstructed (as appropriate) in a manner which will not result in any benefits being conferred to the Participant which are not conferred on holders of issued Shares, and (subject to the provisions of that reconstruction with respect to rounding of entitlements as sanctioned by the meeting of shareholders approving the reconstruction of capital) in all other respects the terms of the Options shall remain unchanged.

## **12.7 No additional Rights**

The Plan shall afford a Participant no additional rights to compensation or damages as a consequence of the termination of his or her employment or appointment for any reason whatsoever.

## **13 Trigger Event**

Notwithstanding the Terms and Conditions, upon the occurrence of a Trigger Event, the Directors may determine:

- a) that the Options may be exercised at any time from the date of such determination, and in any number until the date determined by the Board acting bona fide so as to permit the holder to participate in any change of control arising from a Trigger Event, provided that the Board will forthwith advise in writing each holder of such determination. Thereafter, the Options shall lapse to the extent they have not been exercised; or
- b) to use their reasonable endeavours to procure that an offer is made to holders of Options on like terms (having regard to the nature and value of the Options) to the terms proposed under the Trigger Event in which case the Board shall determine an appropriate period during which the holder may elect to accept the offer and, if the holder has not so elected at the end of that period, the Options shall immediately become exercisable and if not exercised within 10 days, shall lapse.

## **14 Duration of the Plan**

- a) The Plan will continue in operation at the Board's discretion.
- b) If for any reason the Plan terminates or is discontinued, such termination or discontinuance will not prejudice the rights of the Participants to whom Options have been granted.

## **15 Amendment of the Plan**

The Board may at any time and from time to time by resolution, revoke, add to or vary any of the rules of the Plan or all or any of the rights or obligations of the Participants or any of them provided the interests of the Participants are not, in the opinion of the Board, materially prejudiced by such addition or variation.

## **16 Administration**

The Plan will be administered by the Board or a committee appointed by the Board in its absolute discretion with such powers and duties as are conferred upon it.

## **17 Notices and Correspondence**

### **17.1 Notice to Company**

Any notice required to be given by a Participant under the Plan or any correspondence to be made between a Participant and the Company or the Board may be given or made to the principal office of the Company or such other address as may be notified in writing.

## **17.2 Notice to the Participant**

Any notice required to be given by the Company or the Board to the Participant or any correspondence to be made between the Company or the Board and a Participant may be given or made by the Board on behalf of the Company.

## **18 Disputes**

Any disputes or differences of any nature arising under the Plan must be referred to the Board and its decision will be final and binding in all respects.

## **19 Advice**

Participants should obtain their own independent advice at their own expense on the financial, taxation and other consequences to them of or relating to participation in the plan.

## **20 Taxation**

Neither the Company nor its Directors are liable for taxes assessed against or imposed upon a Participant arising from participation in the Plan and neither the Company nor its Directors represents or warrants that any person will gain any financial or taxation advantage by participating in the Plan.

## **21 Listing Rules and Constitution**

The terms and conditions as set out in these Rules are subject to the Listing Rules of the Exchange and the Company's Constitution.

**APPENDIX B**

**Constitution of Rhinomed Limited**

**ACN 107 903 159**

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## Constitution

### 1. Definitions and Interpretation

#### 1.1 Definitions

In this document the following words and expressions have the meaning shown unless the context requires otherwise:

<b>Alternate Director</b>	means a person appointed as an alternate director under clause 16.7.
<b>Approving Resolution Deadline</b>	in relation to a proportional takeover bid means the day that is the 14th day before the last day of the bid period.
<b>ASX</b>	means ASX Limited ABN 98 008 624 691.
<b>ASX Listing Rules</b>	means the listing rules of ASX and any other rules of ASX applicable to the Company or the Shares while the Company is admitted to the Official List, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX.
<b>ASX Settlement</b>	means ASX Settlement Pty Limited ABN 49 008 504 532.
<b>ASX Settlement Rules</b>	means the operating rules of ASX Settlement.
<b>Auditor</b>	means the Company's auditor.
<b>Business Day</b>	has the same meaning as in the ASX Listing Rules.
<b>CHESS Holding</b>	Has the same meaning as in the ASX Listing Rules.
<b>Company</b>	means [Rhinomed Limited and ACN 107 903 159].
<b>Constitution</b>	means the constitution of the Company as amended from time to time.
<b>Corporations Act</b>	means the <i>Corporations Act 2001</i> (Cth) as amended or replaced from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Company.
<b>CS Facility Rules</b>	Means the operating rules of an applicable CS facility licensee.
<b>Director</b>	Means a person appointed to the position of a director of the Company and where appropriate, includes an Alternate Director.
<b>Directors</b>	means all or some of the Directors acting as a board.
<b>Dividend</b>	includes bonus.
<b>Executive Director</b>	has the meaning given by clause 17.1(b).
<b>Issuer Sponsored Holding</b>	has the same meaning as in the ASX Settlement Rules.



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<b>Managing Director</b>	means a Director appointed as managing director under clause 17.1(a).
<b>Marketable Parcel</b>	has the same meaning as in the business rules of ASX in force from time to time.
<b>Member</b>	means a person who is a member of the Company under the Corporations Act.
<b>Non-Executive Director</b>	means a Director who is not an Executive Director.
<b>Non-Marketable Parcel</b>	means a parcel of securities that is less than a Marketable Parcel.
<b>Register</b>	means the register of Members of the Company.
<b>Representative</b>	means a person appointed by a Member to act as its representative under clause 14.10(a).
<b>Restricted Securities</b>	has the same meaning as in the ASX Listing Rules.
<b>Seal</b>	means the Company's common seal.
<b>Secretary</b>	means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if more than one person is appointed, any one or more of such persons.
<b>Shares</b>	means shares in the share capital of the Company.

In this Constitution, except where the context otherwise requires, an expression in a clause of this Constitution has the same meaning as in the Corporations Act. Where the expression has more than one meaning in the Corporations Act and a provision of the Corporations Act deals with the same matter as a clause of this Constitution, that expression has the same meaning as in that provision.

### 1.2 Interpretation

In this Constitution, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Constitution, and a reference to this Constitution includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to **A\$, \$A, dollar** or \$ is to Australian currency;
- (f) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;

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### **1.3 Headings**

Headings are for ease of reference only and do not affect interpretation.

### **1.4 Priority of documents**

The Corporations Act prevails over any inconsistency with:

- (a) this Constitution;
- (b) the ASX Listing Rules; and
- (c) the CS Facility Rules.

Before the Company is Listed a provision of this constitution subject to or in any way restricted by the ASX Listing Rules or the CS Facility Rules is construed as if it were not subject to or restricted by the ASX Listing Rules or the CS Facility Rules.

## **2. Relationship with other rules**

### **2.1 Replaceable Rules**

The provisions of the Corporations Act that apply to certain companies as replaceable rules are displaced by this Constitution in their entirety and do not apply to the Company

### **2.2 Listing Rules**

When the Company is admitted to the Official List of ASX, it must comply with the following:

- (a) if the Listing Rules prohibit an act being done, notwithstanding anything in this Constitution, the act shall not be done;
- (b) if the Listing Rules require an act to be done, nothing contained in this Constitution prevents it being 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 the Constitution to contain a provision and it does not, the Constitution is deemed to contain that provision;
- (e) if the Listing Rules require the Constitution not to contain a provision and it does, the Constitution is deemed not to contain that provision; and
- (f) if any provision of this document is or becomes inconsistent with the Listing Rules, this document is deemed not to contain that provision to the extent of the inconsistency.

## **3. Shares**

### **3.1 Rights**

Subject to this Constitution and to the terms of issue of Shares, all Shares attract the following rights:

- (a) the right to receive notice of and to attend and vote at all general meetings of the Company;

## **Constitution**

- (b) the right to receive dividends; and
- (c) in a winding up or a reduction of capital, the right to participate equally in the distribution of the assets of the Company (both capital and surplus), subject to any amounts unpaid on the Share and, in the case of a reduction, to the terms of the reduction.

### **3.2 Issue of Shares**

- (a) Subject to the Corporations Act, the ASX Listing Rules and this Constitution, the Directors may issue and allot, or dispose of, Shares:
  - (i) on terms determined by the Directors;
  - (ii) at the issue price that the Directors determine; and
  - (iii) to Members whether in proportion to their existing shareholdings or otherwise, and to such other persons as the Directors may determine.
- (b) The Directors' power under clause 3.2(a) includes the power to:
  - (i) grant options over unissued Shares;
  - (ii) issue and allot Shares:
    - (A) with any preferential, deferred or special rights, privileges or conditions;
    - (B) with any restrictions in regard to dividend, voting, return of capital or otherwise;
    - (C) which are liable to be redeemed;
    - (D) which are bonus Shares for whose issue no consideration is payable to the Company; or
    - (E) which have any combination of the characteristics described in clauses 3.2(b)(ii)(A) to 3.2(b)(ii)(D) inclusive.

### **3.3 Brokerage and commission**

Any brokerage or commission which may be paid by the Company may be made in cash, by the issue and allotment of Shares, or the issue of debentures, or by a combination of any of those methods.

### **3.4 Joint holders**

- (a) If two or more persons are registered as the holders of a Share, they are taken to hold the Share as joint tenants with benefit of survivorship and the person whose name appears first on the Register is the only joint holder entitled to receive notices from the Company.
- (b) Any one of the joint holders of a Share may give an effective receipt for any dividend or return of capital payable to the joint holders.
- (c) The Company is entitled to and in respect of CHESS Holdings, must:
  - (i) record the names of only the first three joint holders of a Share on the Register;

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- (ii) regard the three joint holders of a Share appearing first on the Register as the registered holders of that Share to the exclusion of any other holders; and
- (iii) disregard the entitlement of any person to be registered on the Register as a holder if the name of the person would appear on the Register after the first three holders for that Share.

### 3.5 Trusts not recognised

- (a) Except as required by law, the CS Facility Rules or as otherwise provided by this Constitution, the Company will not recognise any person as holding a Share on trust and the Company will not be bound to recognise any equitable, contingent, future or partial interest or any other right in respect of a Share except the registered holder's absolute right of ownership.
- (b) This clause 3.5 applies even if the Company has notice of the relevant trust, interest or right.

### 3.6 Share certificates

- (a) The Directors will not, unless they determine otherwise or the ASX Listing Rules require, issue a certificate to a Member for any Shares registered in the Member's name or record any holding as held on a certificated subregister.
- (b) Any certificate for Shares must be issued and despatched in accordance with the Corporations Act, the ASX Listing Rules and the CS Facility Rules.
- (c) Subject to the ASX Listing Rules, the Directors may in their absolute discretion elect whether to maintain a certificated subregister for any class of Shares.
- (d) Subject to the ASX Listing Rules and the CS Facility Rules, Shares may be held on any subregister maintained by or on behalf of the Company or on any branch register kept by the Company.
- (e) The Directors may order worn out or defaced certificates to be cancelled and, if necessary, replaced by new certificates.

### 3.7 Non-Marketable Parcels

- (a) If one or more Members hold less than a Marketable Parcel of Shares, the Directors may invoke the procedure for the sale of Shares under this clause 3.7 (Procedure).
- (b) To invoke the Procedure, the Directors must give each Member (or each Member whose Shares are not held in a CHESS Holding) who holds less than a Marketable Parcel of Shares (Eligible Member) written notice (Notice of Divestiture) that complies with this clause 3.7.
- (c) A Notice of Divestiture given to a Member must:
  - (i) state that the Shares referred to in the Notice of Divestiture are liable to be sold in accordance with the Procedure if the Member does not advise the Company before a specified date (Relevant Date) that the Member wishes to keep those Shares; and
  - (ii) if the Member holds Shares in a CHESS Holding, contain a statement to the effect that if those Shares remain in a CHESS Holding after the Relevant Date, the Company may, without further notice, move those

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Shares from the CHESS Holding to an Issuer Sponsored Holding or a Certificated Holding for the purposes of divestment by the Company in accordance with the Procedure.

- (d) The Relevant Date must be six weeks or more after the date that the Notice of Divestiture is sent.
- (e) A copy of a Notice of Divestiture must be given to any other person required by the CS Facility Rules.
- (f) If an Eligible Member on whom a Notice of Divestiture has been served, wants to keep the Shares referred to in the Notice of Divestiture, the Eligible Member must give the Company written notice before the Relevant Date, advising the Company that the Member wants to keep those Shares in which event the Company will not sell the Shares.
- (g) If an Eligible Member on whom a Notice of Divestiture has been served does not give the Company written notice before the Relevant Date advising the Company that the Eligible Member wants to keep the Shares referred in the Notice of Divestiture, the Company may:
  - (i) if the Member holds those Shares in a CHESS Holding, move those Shares from the CHESS Holding to an Issuer Sponsored Holding or a Certificated Holding; and
  - (ii) in any case, sell those Shares in accordance with the Procedure,but only if the Shares held by the Eligible Member on the Relevant Date is less than a Marketable Parcel.
- (h) Any Shares which may be sold under this clause 3.7 may be sold on the terms, in the manner (whether on-market, by private treaty, through a share sale facility established by, on behalf or, or at the request of the Company, or otherwise) and at the time or times determined by the Directors and, for the purposes of a sale under this clause 3.7, each Eligible Member:
  - (i) appoints the Company as the Eligible Member's agent for sale;
  - (ii) authorises the Company to effect on the Eligible Member's behalf a transfer of the Shares sold and to deal with the proceeds of the sale of the Shares in accordance with clause 3.7(j);
  - (iii) appoints the Company, its Directors and the Secretary jointly and severally as the Eligible Member's attorneys to execute an instrument or take other steps, in the Eligible Member's name and on the Eligible Member's behalf, as they or any of them may consider appropriate to transfer the Shares sold and;
  - (iv) authorises each of the attorneys appointed under clause 3.7(h)(iii) to appoint an agent to do a thing referred to in clause 3.7(h)(iii).
- (i) The title of the transferee to Shares acquired under this clause 3.7 is not affected by an irregularity or invalidity in connection with the sale of Shares to the Transferee.
- (j) The proceeds of any sale of Shares under this clause 3.7 less any unpaid calls and interest (**Sale Consideration**) will be paid to the relevant Member or as that Member may direct.

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- (k) The Company will hold the Sale Consideration in trust for the Member whose Shares are sold under this clause and will forthwith notify the Member in writing that the Sale Consideration in respect of the Member's Shares has been received by the Company and is being held by the Company pending instructions from the Member as to how it is to be dealt with. If the Member has been issued with a share certificate or certificates, the Member's instructions, to be effective, must be accompanied by the share certificate or certificates to which the Sale Consideration relates or, if the certificate or certificates has or have been lost or destroyed, by a statement and undertaking under subsection 1070D(5) of the Corporations Act.
- (l) Subject to the Corporations Act, the Company or the purchaser will bear all costs, including brokerage and stamp duty, associated with the sale of any Shares under this clause.
- (m) The Procedure may only be invoked once in any 12 month period after its adoption or renewal.
- (n) If the Procedure has been invoked and there is an announcement of a takeover bid for Shares, no more sales of Shares may be made under this clause 3.7 until after the close of the offers made under the takeover. The Procedure may then be invoked again.

### **3.8 Meetings of classes of shareholders**

- (a) The rights attached to any class of Shares may be varied in accordance with the Corporations Act.
- (b) The provisions of this Constitution relating to general meetings apply, with necessary changes, to a meeting of a class of Members holding Shares in that class as if it was a general meeting except that:
  - (i) a quorum is two persons holding or representing by proxy, attorney or Representative not less than 5% of the Shares of the class or, if there is one holder of Shares in the class, that holder or a proxy, attorney or representative of that holder; and
  - (ii) any five holders, or holders of Shares of the class present in person or by proxy, attorney or Representative who can vote not less than 5% of all votes held by Members of that class, may demand a poll.

## **4. Calls**

### **4.1 General**

- (a) Subject to the Corporations Act and the terms on which partly paid Shares are issued, the Directors may make calls on the holders of the Shares for any money unpaid on them.
- (b) A call is made when the resolution of the Directors authorising it is passed.
- (c) The Directors may revoke or postpone a call before its due date for payment.
- (d) The Directors may require a call to be paid by instalments.
- (e) The Company must comply with the Corporations Act and the ASX Listing Rules in relation to the dispatch and content of notices to Members on whom a call is made.

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- (f) A Member to whom notice of a call is given in accordance with this clause 4.1 must pay to the Company the amount called in accordance with the notice.
- (g) Failure to send a notice of a call to any Member or the non-receipt of a notice by any Member does not invalidate the call.
- (h) Joint holders of Shares are jointly and severally liable to pay all calls in respect of their Shares.

### **4.2 Differentiation**

The Directors may, on the issue of Shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

### **4.3 Instalment payments**

If:

- (a) the Directors require a call to be paid by instalments; or
- (b) an amount becomes payable by the terms of issue of Shares on allotment, or at a time or in circumstances specified in the terms of issue,

then:

- (c) every instalment or the amount payable under the terms of issue is payable as if it were a call made by the Directors and as if they had given notice of it; and
- (d) the consequences of late payment or non-payment of an instalment or the amount payable under the terms of issue are the same as the consequences of late payment or non-payment of a call.

### **4.4 Expenses and interests**

If an amount called is not paid on or before the due date, the person liable to pay the amount must also pay:

- (a) interest on the amount from the due date to the time of actual payment at a rate determined by the Directors (not exceeding 20% per annum); and
- (b) all expenses incurred by the Company as a consequence of the non-payment,

but the Directors may waive payment of the interest and expenses in whole or in part.

### **4.5 Recovery of amounts**

On the hearing of any action for the recovery of money due for any call, proof that:

- (a) the name of the person sued was, when the call was made, entered in the Register as a holder or the holder of Shares in respect of which the call was made;
- (b) the resolution making the call is duly recorded in the Directors' minute book; and
- (c) notice of the call was given to the person sued, will be conclusive evidence of the debt.

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### **4.6 Advance payment of calls**

- (a) The Directors may accept from a Member the whole or part of the amount unpaid on a Share before the amount accepted has been called.
- (b) The Company may
  - (i) pay interest on any amount accepted, until the amount is payable under a call and at a rate (not exceeding 20% per annum) agreed between the Member and the Directors; and
  - (ii) subject to any contract between the Company and the Member, repay all or any of the amount accepted in excess of the amount called on the Share.
- (c) Payment of an amount in advance of a call does not entitle the paying Member to any:
  - (i) dividend, benefit or advantage, other than the payment of interest under this clause 4.6; or
  - (ii) voting right,to which the Member would not have been entitled if it had paid the amount when it became due.

## **5. Lien**

### **5.1 Lien**

- (a) To the extent permitted by the ASX Listing Rules, the Company has a first and paramount lien on every partly paid Share and dividends payable in respect of the Share for all money:
  - (i) due and unpaid to the Company at a fixed time, in respect of the Share;
  - (ii) presently payable by a holder or the holder of the Share, or the holder's estate, to the Company in respect of the Share; or
  - (iii) which the Company is required by law to pay (and has paid) in respect of the Share.
- (b) The lien extends to reasonable interest and expenses incurred because the amount is not paid.
- (c) If any law for the time being of any country, state or place imposes or purports to impose an immediate or contingent liability on the Company to make any payment or authorises a taxing authority or Government official to require the Company to make payment in respect of Shares or dividends or other moneys accruing due to the Member who holds the Shares:
  - (i) the Member or, if the Member is deceased, the Member's legal personal representative, indemnifies the Company in respect of any such payment or liability; and
  - (ii) subject to the Corporations Act and the ASX Listing Rules, the Company:
    - (A) has a lien on the Shares and dividends and other moneys payable in respect of the Shares, whether the Shares are held by the



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Member solely or jointly with another person in respect of any payment made or liability incurred by the Company, together with reasonable expenses and interest on any payment made by the Company at a rate to be fixed by the Directors not exceeding 20% per annum from the date of payment by the Company to the date of repayment by the Member;

- (B) may set off amounts so paid by the Company against amounts payable by the Company to the Member as dividends or otherwise; and
  - (C) may recover as a debt due from the Member or its legal personal representative the amount of all payments made by the Company together with reasonable expenses and interest at the rate and for the period referred to in clause 5.1(c)(ii)(A).
- (d) The Company may do all things which the Directors think necessary or appropriate to do under the ASX Listing Rules and the CS Facility Rules to enforce or protect the Company's lien.
  - (e) Unless the Directors determine otherwise, the registration of a transfer of a Share operates as a waiver of the Company's lien on the Share.
  - (f) The Directors may declare a Share to be wholly or partly exempt from a lien.

### 5.2 Lien sale

If:

- (a) the Company has a lien on a Share for money presently payable;
- (b) the Company has given the Member or the Member's executors or administrators (as the case may be) holding the Share written notice demanding payment of the money; and
- (c) that Member fails to pay all of the money demanded,

then 14 or more days after giving the notice, the Directors may, if the ASX Listing Rules permit, sell the Share in any manner determined by them.

## 6. Forfeiture

### 6.1 Notice of forfeiture

- (a) The Directors may at any time after a call or instalment becomes payable and remains unpaid by a Member, serve a notice on the Member requiring the Member to pay all or any of the following:
  - (i) the unpaid amount;
  - (ii) any interest that has accrued; and
  - (iii) all expenses incurred by the Company as a consequence of the non-payment.
- (b) The notice under clause 6.1(a) must:
  - (i) specify a day (not earlier than 14 days after the date of the notice) on or before which the payment required by the notice must be made; and

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- (ii) state that if a Member does not comply with the notice, the Shares in respect of which the call was made or instalment is payable will be liable to be forfeited.

### **6.2 Forfeiture**

- (a) If a Member does not comply with a notice served under clause 6.2, then any or all of the Shares in respect of which the notice was given may be forfeited under a resolution of the Directors.
- (b) Unpaid dividends in respect of forfeited Shares will also be forfeited.
- (c) On forfeiture, Shares become the property of the Company and forfeited Shares must be:
  - (i) if the ASX Listing Rules permit, sold, disposed of, or cancelled on terms determined by the Directors; or
  - (ii) offered by public auction in accordance with any requirements of the ASX Listing Rules.
- (d) The Directors may, at any time before a forfeited Share is sold, disposed of or cancelled, annul the forfeiture of the Share on conditions determined by them.
- (e) Promptly after a Share has been forfeited:
  - (i) notice of the forfeiture must be given to the Member in whose name the Share was registered immediately before its forfeiture; and
  - (ii) the forfeiture and its date must be noted in the Register.
- (f) Omission or neglect to give notice of or to note the forfeiture as specified in clause 6.2(e) will not invalidate a forfeiture.

### **6.3 Liability of former Member**

- (a) The interest of a person who held Shares which are forfeited is extinguished but subject to the ASX Listing Rules, the former Member remains liable to pay:
  - (i) all money (including interest and expenses) that was payable by the Member to the Company at the date of forfeiture in respect of the forfeited Shares; and
  - (ii) interest from the date of forfeiture until payment of the money referred to in clause 6.3(a)(i), of this clause at a rate determined by the Directors (not exceeding 20% per annum).
- (b) A former Member's liability to the Company ceases if and when the Company receives payment in full of all money (including interest and expenses) payable by the former Member in respect of the Shares. The liability may only be released or waived in accordance with the ASX Listing Rules.

### **6.4 Disposal of Shares**

- (a) The Company may:
  - (i) receive the consideration (if any) given for a forfeited Share on any sale or disposition of the Share, or a Share sold under a lien sale; and

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- (ii) effect a transfer of the Share in favour of a person to whom the Share is sold or disposed of.
- (b) The purchaser of the Share:
  - (i) is not bound to check the regularity of the sale or the application of the purchase price;
  - (ii) obtains title to the Share despite any irregularity in the sale; and
  - (iii) will not be subject to complaint or remedy by the former holder of the Share in respect of the purchase.
- (c) A statement signed by a Director and the Secretary that the Share has been regularly forfeited and sold or reissued or regularly sold without forfeiture to enforce a lien, is conclusive evidence of the matters stated as against all persons claiming to be entitled to the Share.
- (d) Subject to the terms on which a Share is on issue, the net proceeds of any sale made to enforce a lien or on forfeiture must be applied by the Company in the following order:
  - (i) in payment of the costs of the sale;
  - (ii) in payment of all amounts (if any) secured by the lien or all money (if any) that was payable in respect of the forfeited Share; and
  - (iii) where the Share was forfeited under clause 6.2(a), in payment of any surplus to the former Member whose Share was sold.

## **7. Transfer of Shares**

### **7.1 General**

- (a) Subject to this Constitution, a Member may transfer Shares held by that Member.
- (b) Subject to clause 7.1(c), Shares may be transferred by:
  - (i) a written transfer instrument in any usual or common form; or
  - (ii) any other form approved by the Directors.
- (c) The Company may participate in any computerised or electronic system for market settlement, securities transfer and registration conducted in accordance with the Corporations Act, the ASX Listing Rules and the CS Facility Rules, or corresponding laws or securities exchange rules in any other country.
- (d) If the Company participates in a system of the kind described in clause 7.1(c), then despite any other provision of this Constitution:
  - (i) Shares may be transferred, and transfers may be registered, in any manner required or permitted by the ASX Listing Rules or the CS Facility Rules (or corresponding laws or securities exchange rules in any other country) applying in relation to the system;
  - (ii) the Company must comply with and give effect to those rules; and
  - (iii) the Company may, in accordance with those rules, decline to issue certificates for holdings of Shares.

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- (e) A written transfer instrument must be:
  - (i) executed by the transferor or (where the Corporations Act permits) stamped by the transferor's broker;
  - (ii) unless the Directors decide otherwise in the case of a fully paid Share, executed by the transferee or (where the Corporations Act permits) stamped by the transferee's broker; and
  - (iii) in the case of a transfer of partly paid Shares, endorsed or accompanied by an instrument executed by the transferee or by the transferee's broker to the effect that the transferee agrees to accept the Shares subject to the terms and conditions on which the transferor held them, to become a Member and to be bound by the Constitution.

Subject to the Corporation Act, the written transfer instrument may comprise more than one document.

- (f) Except as required by the CS Facility Rules:
  - (i) a transferor of Shares remains the holder of the Shares transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the Shares; and
  - (ii) a transfer of Shares does not pass the right to any dividends on the Shares until such registration.

### 7.2 Transfer process

- (a) Except where the Directors determine (to comply with laws or securities exchange rules of a foreign country or the CS Facility Rules), for a transfer of Shares that is not an AXS Settlement-regulated transfer:
  - (i) the written transfer instrument must be left at the Company's registered office or another place acceptable to the Company;
  - (ii) the instrument must be accompanied by a certificate for the Shares dealt with in the transfer where a certificate has been issued, unless the Directors waive production of the certificate on receiving satisfactory evidence of the loss or destruction of the certificate; and
  - (iii) the Directors may, if the ASX Listing Rules permit, require other evidence of the transferor's right to transfer the Shares.
- (b) For a transfer of Shares that is an ASX Settlement-regulated transfer, a Share transfer must be effected in accordance with the ASX Listing Rules and the ASX Settlement Rules.

### 7.3 Right to refuse registration

- (a) The Directors may in their absolute discretion refuse to register any transfer of Shares or other securities where the Shares or other securities are not quoted by ASX. Where the Shares or other securities are quoted by ASX, the Directors may in their absolute discretion refuse to register any transfer in any of the circumstances permitted by the ASX Listing Rules.

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- (b) The Director must:
  - (i) except as permitted by ASX, refuse to register any transfer of Shares or other securities which are Restricted Securities if that transfer is or might be in breach of the ASX Listing Rules or any restriction agreement entered into by the Company under the ASX Listing Rules in relation to the Shares; and
  - (ii) refuse to register any transfer where the Company is, or the Directors are, required to do so by the ASX Listing Rules.
- (c) Despite clauses 7.3(a) and 7.3(b), the Company must not refuse or fail to register or give effect to, or delay or in any way interfere with, a proper ASX Settlement transfer of Shares or other securities quoted by ASX.
- (d) If a person has lodged a transfer which the Directors have refused to register, the Company must, within five Business Days after the date of lodgment, give to the lodging person written notice of the refusal and the reasons for it.
- (e) Subject to clause 7.3(c), Restricted Securities cannot be disposed of during the escrow period except as permitted by the ASX Listing Rules or ASX. The Company will refuse to acknowledge a disposal of Restricted Securities to the extent required under the ASX Listing Rules.

## **8. Transmission of Shares**

### **8.1 Title after death**

- (a) The legal personal representative of a deceased Member who was the sole holder of Shares is the only person whom the Company will recognise as having any title to the deceased Member's Shares.
- (b) If a deceased Member was a joint holder of Shares, the other joint holder is the only person whom the Company will recognise as having any title to the deceased Member's Shares.
- (c) The estate of the deceased Member will not be released from any liability to the Company in respect of the Shares.
- (d) The Company may register or give effect to a transfer to a transferee who dies before the transfer is registered.

### **8.2 Entitlement to transmission**

- (a) A person who becomes entitled to a Share in consequence of the death, mental incapacity or bankruptcy of a Member may, subject to clause 7.3 and to producing to the Company evidence of its entitlement which is satisfactory to the Directors, elect to:
  - (i) be registered as the holder of the Share; or
  - (ii) transfer the Share to some other person nominated by it.
- (b) If the person who has become entitled to a Share:
  - (i) elects to be registered as the holder, then the person must deliver or send to the Company a written notice of election signed by him or her; or

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- (ii) elects to transfer the Share, then the person must effect a transfer of the Share.
- (c) An election to be registered as a holder of a Share under clause 8.2(a)(i) or a transfer of a Share from a Member or deceased Member under this clause 8.2 is subject to the same limitations, restrictions and provisions of this Constitution as would apply if the election were a transfer or the transfer were made by the Member or deceased Member himself or herself.
- (d) A person who:
  - (i) has become entitled to a Share by operation of law; and
  - (ii) has produced evidence of that person's entitlement which is satisfactory to the Directors,is entitled to the dividends and other rights of the registered holder of the Share.
- (e) Where two or more persons are jointly entitled to any Share in consequence of the death of the registered holder, they will be considered to be joint holders of the Share.
- (f) Any person who is registered under this clause must indemnify the Company against all liabilities, costs, losses and expenses incurred by the Company as a result of registering the person.

## 9. Dividends and reserves

### 9.1 Dividends

The Directors may by resolution either:

- (a) declare a dividend and may fix the amount, the time for and method of payment;  
or
- (b) determine a dividend is payable and fix the amount and the time for and method of payment.

### 9.2 No interest

Interest is not payable by the Company on a dividend.

### 9.3 Amending or revoking resolutions to pay dividends

If the Directors determine that a dividend is payable under clause 9.1(a), they may, if permitted by the ASX Listing Rules, amend or revoke the resolution to pay the dividend before the record date notified to ASX for determining entitlements to that dividend.

### 9.4 Reserves

- (a) The Directors may set aside out of profits such amounts by way of reserves as they think appropriate before declaring a dividend or determining to pay a dividend.
- (b) The Directors may apply the reserves for any purpose for which profits may be properly applied.
- (c) Pending any application of the reserves, the Directors may invest or use the reserves in the business of the Company or in other investments as they think fit.

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- (d) The Directors may carry forward any undistributed profits without transferring them to a reserve.

### **9.5 Entitlement to dividends**

- (a) Subject to the rights of persons (if any) entitled to Shares with special rights as to dividends:
  - (i) all fully paid Shares on which any dividend is declared or paid, are entitled to participate in that dividend equally; and
  - (ii) each partly paid Shares is entitled to a fraction of the dividend declared or paid on a fully paid Share of the same class, equivalent to the proportion which the amount paid (not credited) on the Share bears to the total amounts paid and payable, whether or not called, (excluding amounts credited) on the Share.
- (b) An amount paid on a Share in advance of a call is not to be taken as paid for the purposes of clause 9.5.
- (c) Unless otherwise determined by the Directors, Shares rank for dividends from their date of allotment.
- (d) Subject to the Corporations Act and the CS Facility Rules, a transfer of Shares registered after the record date notified to ASX for determining entitlements to a dividend paid or payable in respect of the transferred Shares, does not pass the right to that dividend.

### **9.6 Restricted securities**

During a breach of the ASX Listing Rules relating to Shares which are Restricted Securities, or a breach of a restriction agreement, the holder of the relevant Restricted Securities is not entitled to any dividend in respect of those Restricted Securities.

### **9.7 Deductions from dividends**

The Directors may deduct from a dividend payable to a Member all sums presently payable by the Member to the Company on account of calls or otherwise in relation to Shares in the Company.

### **9.8 Distribution of assets**

- (a) The Directors may resolve that a dividend (interim or final) will be paid wholly or partly by the transfer or distribution of specific assets, including fully paid shares in, or debentures of, any other corporation.
- (b) If a difficulty arises in making a transfer or distribution of specific assets, the Directors may:
  - (i) deal with the difficulty as they consider expedient;
  - (ii) fix the value of all or any part of the specific assets for the purposes of the distribution;
  - (iii) determine that cash will be paid to any Members on the basis of the fixed value in order to adjust the rights of all the Members; and
  - (iv) vest any such specific assets in trustees as the Directors consider expedient.

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- (c) If a transfer or distribution of specific assets to a particular Member or Members is illegal or, in the Directors' opinion, impracticable, the Directors may make a cash payment to the Member or Members on the basis of the cash amount of the dividend instead of the transfer or distribution of specific assets.

### **9.9 Reinvestment of dividends**

The Directors may:

- (a) establish a plan under which Members or any class of Members may elect to reinvest cash dividends paid by the Company by subscribing for Shares;
- (b) vary, suspend or terminate the arrangements established under clause 9.9(a).

### **9.10 Payments in respect of Shares**

- (a) Any dividend or other money payable in respect of Shares may be paid:
  - (i) by cheque sent through the mail directed to:
    - (A) by the address of the Member shown in the Register or to the address of the joint holder of Shares shown first in the Register; or
    - (B) by an address which the Member has, or joint holders have, in writing notified the Company as the address to which dividends should be sent;
  - (ii) by electronic funds transfer to an account with a bank or other financial institution nominated by the Member and acceptable to the Company; or
  - (iii) by any other means determined by the Directors.
- (b) Any joint holder may give an effectual receipt for any dividend or other money paid in respect of Shares held by holders jointly.

### **9.11 Shares in lieu of dividend**

- (a) The Directors may resolve, in respect of any dividend which it is proposed to pay on any Shares, that holders of those Shares may elect to:
  - (i) forego their right to share in the proposed dividend or part of the proposed dividend; and
  - (ii) instead receive an issue of Shares credited as fully paid.
- (b) If the Directors resolve to allow the election provided for in clause 9.11, each holder of Shares conferring a right to share in the proposed dividend may, by notice in writing to the Company given in such form and within such period as the Directors may decide, elect to:
  - (i) forego the dividend which otherwise would have been paid to the holder on such of the holder's Shares conferring a right to share in the proposed dividend as the holder specifies in the notice of election; and
  - (ii) receive instead Shares to be issued to the holder credited as fully paid, on and subject to such terms and conditions as the Directors may determine.



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- (c) Following the receipt of duly completed notices of election under clause 9.11(a)(ii), the Directors must:
  - (i) appropriate from the Company's profits or any reserve available for distribution to Members an amount equal to the aggregate issue price (if any) of the Shares to be issued credited as fully paid to those holders of Shares who have given such notices of election; and
  - (ii) apply the amount (if any) in paying up in full the number of Shares required to be so issued.
- (d) The Directors may rescind, vary or suspend a resolution of the Directors made under clause 9.11(a) and the arrangements implemented under the resolution.
- (e) The powers given to the Directors by this clause 9.11 are additional to the provisions for capitalisation of profits provided for by this Constitution. If the Directors exercise their power to capitalise profits under clause 9.13 then any Member who has elected to participate in arrangements established under this clause 9.11 is deemed, for the purpose of determining the Member's entitlement to share in the capitalised sum, not to have so elected.

### 9.12 Unclaimed dividends

All dividends unclaimed for one year after the time for payment has passed may be invested by the Directors as they think fit for the benefit of the Company until claimed or until required to be dealt with in accordance with any law relating to unclaimed money.

### 9.13 Capitalisation of profits

- (a) The Directors may resolve:
  - (i) to capitalise any sum being the Company's profits or any reserve available for distribution to Members; and
  - (ii) that:
    - (A) no Shares be issued and no amounts unpaid on Shares be paid up on capitalisation of the sum; or
    - (B) the sum be applied in any of the ways mentioned in clause 9.13(b) for the benefit of Members in the proportions in which the members would have been entitled if the sum had been distributed by way of Dividend.
- (b) The ways in which a sum may be applied for the benefit of Members under clause 9.13(a)(ii)(B) are:
  - (i) in paying up any amounts unpaid on Shares held or to be held by Members;
  - (ii) in paying up in full unissued Shares or debentures to be issued to Members as fully paid; or
  - (iii) partly as mentioned in clause 9.13(b)(i) and partly as mentioned in clause 9.13(b)(ii).

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- (c) To the extent necessary to adjust the rights of the Members among themselves, the Directors may:
    - (i) make cash payments in cases where Shares or debentures become issuable in fractions; and
    - (ii) authorise any person to make, on behalf of all the Members entitled to a benefit on the capitalisation, an agreement with the Company providing for:
      - (A) the issue to them, credited as fully paid up, of any such further Shares or debentures; or
      - (B) the payment by the Company on their behalf of the amount or any part of the amount remaining unpaid on their existing Shares by the application of their respective proportions of the sum resolved to be capitalised,
- and any agreement made under the authority of clause 9.13(c)(ii) is effective and binding on all the Members concerned.

### **10. Changes to Share capital**

For the purpose of giving effect to any consolidation or division of Shares, the Directors may, subject to the CS Facility Rules, settle any difficulty which arises with respect to fractions of Shares in any manner that they think expedient.

### **11. Power of attorney**

- (a) If a Member executes or proposes to execute any document or do any act by or through an attorney which is relevant to the Company or the Member's shareholding in the Company, that Member must deliver the instrument appointing the attorney to the Company for notation.
- (b) The Company may require the Member to lodge a certified copy of the instrument for retention by the Company, and ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.
- (c) Any power of attorney granted by a Member will, as between the Company and the Member who granted the power of attorney:
  - (i) continue in force; and
  - (ii) may be acted on,unless express notice in writing of its revocation or of the death of the Member who granted it is lodged with the Company.
- (d) Where a Member proposes that an attorney represent the Member at a general meeting or adjourned meeting, the Member must comply with clause 14.8(a) of this Constitution.

### **12. General meetings**

#### **12.1 Calling meetings**

- (a) A Director may call a meeting of Members.

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- (b) The Directors must call annual general meetings in accordance with the Corporations Act, to be held by the Company at times to be determined by the Directors.
- (c) Members may also request or call and arrange to hold general meetings in accordance with the procedures and requirements set out in the Corporations Act.
- (d) A general meeting may be held at two or more venues simultaneously using any technology that gives the Members as a whole a reasonable opportunity to participate.

### 12.2 Notice for meetings

- (a) Notice of a general meeting must be given in accordance with the Corporations Act to the persons referred to in clause 23.2(a).
- (b) Except as permitted by the Corporations Act, general meetings must be called on at least the minimum number of days' notice required by the Corporations Act (which at the date of adoption of this Constitution is 28 days) and otherwise in accordance with the procedures set out in the Corporations Act.
- (c) Subject to the requirements of the Corporations Act, a notice calling a general meeting must:
  - (i) specify the place, date and time of the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
  - (ii) state the general nature of the business to be transacted at the meeting;
  - (iii) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution;
  - (iv) include such statements about the appointment of proxies as are required by the Corporations Act;
  - (v) specify a place and facsimile number and may specify an electronic address for the purposes of proxy appointments;
  - (vi) subject to the CS Facility Rules, specify particulars of any determination made under regulation 7.11.37 of the *Corporations Regulations* 2001 (Cth); and
  - (vii) comply with any other requirements of the Corporations Act.

### 12.3 Business of meetings

- (a) The business of an annual general meeting may include:
  - (i) any of the following matters, even if not referred to in the notice of meeting:
    - (A) consideration of the annual financial report, directors' report and auditor's report;
    - (B) election of directors;
    - (C) appointment of the auditor;

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- (D) fixing the auditor's remuneration;
  - (ii) any business which under this Constitution or the Corporations Act is required to be transacted at an annual general meeting; and
  - (iii) any other business which may lawfully be transacted at a general meeting.
- (b) The chairperson of an annual general meeting must allow a reasonable opportunity for the Members as a whole at the meeting to:
  - (i) ask questions about or make comments on the management of the Company; and
  - (ii) ask the Auditor or their representative questions relevant to the conduct of the audit and the preparation and content of the Auditor's report for the Company.
- (c) The Directors may postpone or cancel any general meeting (other than a meeting requested or called by Members under clause 12.1(c)) at any time before the day of the meeting. The Directors must give notice of the postponement or cancellation to all persons entitled to receive notices of a general meeting.
- (d) An accidental omission to send a notice of a general meeting (including a proxy appointment form) or the postponement of a general meeting to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the general meeting.

## **13. Proceedings at general meetings**

### **13.1 Admission to meetings**

The chairperson of a general meeting may refuse admission to a person, or require a person to leave and not return to, a meeting if the person:

- (a) refuses to permit examination of any article in the person's possession; or
- (b) is in possession of any:
  - (i) electronic or recording device;
  - (ii) placard or banner; or
  - (iii) other article,which the chairperson considers to be dangerous, offensive or liable to cause disruption; or
- (c) causes any disruption to the meeting.

### **13.2 Quorum**

- (a) No business may be transacted at a general meeting unless a quorum of Members is present at the commencement of business.
- (b) A quorum of Members is two Members unless there is only one Member, when a quorum is that Member.

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- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
  - (i) the general meeting is automatically dissolved if it was requested or called by Members under clause 12.1(c); or
  - (ii) in any other case:
    - (A) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
    - (B) if at the adjourned general meeting a quorum is not present within 30 minutes after the time appointed for the general meeting the quorum shall be that Member or those Members in attendance at that time.

### 13.3 Members

In clauses 13.2, 13.4, 13.9 and 14.1, Member includes a Member present in person or by proxy, attorney or Representative.

### 13.4 Chairperson

- (a) The chairperson, or in the chairperson's absence the deputy chairperson, of Directors' meetings will be the chairperson at every general meeting.
- (b) If:
  - (i) there is no chairperson or deputy chairperson; or
  - (ii) neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the general meeting; or
  - (iii) the chairperson and deputy chairperson are unwilling to act as chairperson of the general meeting,the Directors present may elect a chairperson of the general meeting of the Members.
- (c) If no chairperson is elected in accordance with clause 13.4(b), then:
  - (i) the Members may elect one of the Directors present as chairperson; or
  - (ii) if no Director is present or is willing to take the chair, the Members may elect one of the Members present as chairperson.
- (d) At any time during a meeting and in respect of any specific item or items of business, the chairperson may elect to vacate the chair in favour of another person nominated by the chairperson (which person must be a Director unless no Director is present or is willing to act). That person is to be taken to be the chairperson and will have all the powers of the chairperson (other than the power to adjourn the meeting), during the consideration of that item of business or those items of business.
- (e) If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

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### **13.5 Conduct**

The general conduct of each general meeting of the Company and the procedures to be adopted at the meeting will be determined by the chairperson, including the procedure for the conduct of the election of Directors.

### **13.6 Polls**

- (a) Subject to clause 13.6(e), a poll will be taken when and in the manner that the chairperson directs. No notice need be given of any poll.
- (b) The result of the poll will determine whether the resolution on which the poll was demanded is carried or lost.
- (c) The chairperson may determine any dispute about the admission or rejection of a vote, and such determination, if made in good faith, will be final and conclusive.
- (d) A poll cannot be demanded on any resolution concerning the election of the chairperson of a general meeting.
- (e) A poll demanded by the chairperson on any resolution concerning the adjournment of a general meeting must be taken immediately.
- (f) After a poll has been demanded at a general meeting, the general meeting may continue for the transaction of business other than the question on which the poll was demanded.

### **13.7 Auditor's right to be heard**

The Auditor is entitled to:

- (a) attend any general meeting of the Company;
- (b) be heard at any general meeting of the Company on any part of the business of the meeting that concerns the Auditor in their capacity as auditor, even if:
  - (i) the Auditor retires at the general meeting; or
  - (ii) Members pass a resolution to remove the Auditor from office; and
- (c) Authorise a person in writing to attend and speak at any general meeting as the Auditor's representative.

### **13.8 Adjournment**

- (a) The chairperson of a general meeting at which a quorum is present:
  - (i) in his or her discretion may adjourn the general meeting; and
  - (ii) must adjourn the general meeting if the meeting directs him or her to do so.
- (b) An adjourned general meeting may take place at a different venue from the initial general meeting.
- (c) The only business that can be transacted at an adjourned general meeting is the unfinished business of the initial general meeting.

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- (d) If a general meeting has been adjourned for more than 30 days, notice of the adjourned general meeting must be given to Members as if it were an original general meeting, but otherwise it is not necessary to give notice of an adjourned general meeting or the business of the adjourned general meeting.
- (e) A poll cannot be demanded on any resolution concerning the adjournment of a general meeting except by the chairperson.

### **13.9 Resolutions**

- (a) Subject to the Corporations Act in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.
- (b) A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded by:
  - (i) at least 5 Members entitled to vote on the resolution;
  - (ii) Members with at least 5% of the votes that may be cast on the resolution on a poll; or
  - (iii) the chairperson.
- (c) A poll may be demanded:
  - (i) before a vote is taken; or
  - (ii) in the case of a vote taken on a show of hands, immediately before or immediately after, the results of the vote are declared.
- (d) Unless a poll is demanded:
  - (i) a declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
  - (ii) an entry to that effect in the minutes of the meeting,

are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.
- (e) The demand for a poll may be withdrawn.
- (f) A decision of a general meeting may not be impeached or invalidated on the ground that a person voting at the meeting was not entitled to do so.

### **13.10 Chairperson's casting vote**

The chairperson has a casting vote (in addition to the chairperson's votes as a Member, proxy, attorney or Representative) on a show of hands or on a poll.

## **14. Votes of Members**

### **14.1 Voting entitlement**

- (a) Subject to this Constitution and to any rights or restrictions attaching to any class of Shares:
  - (i) every Member may vote;

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- (ii) subject to clause 14.3(c) and the Corporations Act, on a show of hands every Member has one vote; and
- (iii) on a poll every Member has:
  - (A) for each fully paid Share held by the Member, one vote; and
  - (B) for each partly paid Share held by the Member, a fraction of a vote equivalent to the proportion which the amount paid (not credited) is of the total amounts paid and payable, whether or not called (excluding amounts credited), on the Share. Without limiting the generality of clause 4.6(c), an amount paid on a Share in advance of a call is not to be taken as paid for the purposes of this clause.
- (b) During a breach of the ASX Listing Rules relating to Shares which are Restricted Securities, or a breach of a restriction agreement, the holder of the relevant Restricted Securities is not entitled to any voting rights in respect of those Restricted Securities.
- (c) If a Member:
  - (i) dies; or
  - (ii) through mental or physical infirmity, is incapable of managing the Member's affairs,

and a personal representative, trustee or other person is appointed under law to administer the Member's estate or property, the personal representative, trustee or person so appointed may exercise any rights of the Member in relation to a general meeting as if the personal representative, trustee or person (as the case may be) was a Member.

### 14.2 Voting of joint holders

- (a) If two or more joint holders purport to vote, the vote of the joint holder whose name appears first in the Register will be accepted, to the exclusion of the other joint holder or holders.
- (b) For the purposes of this clause 14.2, several executors or administrators of a deceased Member in whose sole name any Shares are registered will be taken to be joint holders of those Shares.

### 14.3 Voting by proxy

- (a) A Member who is entitled to vote at a general meeting of the Company may appoint not more than two proxies to attend and vote at the general meeting on that Member's behalf.
- (b) A proxy need not be a Member.
- (c) If a Member appoints one proxy, that proxy may, subject to the Corporations Act, vote on a show of hands.
- (d) If a Member appoints two proxies and the appointment does not specify the proportion or number of the Member's votes each proxy may exercise, each proxy may exercise half the votes. However, neither proxy may vote on a show of hands.
- (e) A proxy may demand or join in demanding a poll.



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- (f) A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If an appointment directs the way the proxy is to vote on a particular resolution:
  - (i) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
  - (ii) if the proxy has two or more appointments that specify different ways to vote on the resolution - the proxy must not vote on a show of hands;
  - (iii) if the proxy is the chair - the proxy must vote on a poll and must vote that way; and
  - (iv) if the proxy is not the chair - the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.
- (g) If:
  - (i) a Member nominates the chairperson of the meeting as the Member's proxy; or
  - (ii) the chairperson is to act as proxy under clause 14.7 or otherwise under a default appointment according to the terms of the proxy form,then the person acting as chairperson in respect of an item of business at the meeting must act as proxy under the appointment in respect of that item of business.

### **14.4 Unpaid calls**

A Member is entitled to:

- (a) vote; or
- (b) be counted in a quorum,

only in respect of Shares on which all calls due and payable have been paid.

### **14.5 Objections**

- (a) An objection to the qualification of a voter may only be raised at the general meeting or adjourned general meeting at which the voter tendered its vote.
- (b) An objection must be referred to the chairperson of the general meeting, whose decision made in good faith is final.
- (c) Subject to clause 14.5(d), a vote which the chairperson does not disallow under an objection is valid for all purposes.
- (d) A vote which the ASX Listing Rules require the Company to disregard is not valid.

### **14.6 Appointments of proxy**

- (a) An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the information required by subsection 250A(1) of the Corporations Act.

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- (b) For the purposes of clause 14.6(a), an appointment received at an electronic address will be taken to be signed by the Member if:
  - (i) a personal identification code allocated by the Company to the Member has been input into the appointment; or
  - (ii) the appointment has been verified in another manner approved by the Directors.
- (c) The Company may send a proxy appointment form to Members in a form which has been approved by the Directors or by the chairperson and the Managing Director.
- (d) A proxy's appointment is valid at an adjourned general meeting.
- (e) A proxy or attorney may be appointed for all meetings or for any number of general meetings or for a particular purpose.
- (f) Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:
  - (i) to vote on:
    - (A) any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion; and
    - (B) any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the general meeting, even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
  - (ii) to vote on any motion before the general meeting whether or not the motion is referred to in the appointment.

### 14.7 Proxy in blank

If a proxy appointment is signed by the Member but does not name the proxy or proxies in whose favour it is given, the chairperson may either act as proxy or complete the proxy appointment by inserting the name or names of one or more Directors or the Secretary.

### 14.8 Lodgement of proxy

- (a) Subject to clause 14.8(c), the appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless reduced in the notice of meeting to which the appointment relates) before the general meeting (or the resumption of an adjourned general meeting) at which the appointee is to attend and vote.
- (b) If the appointment purports to be executed under a power of attorney or other authority, the original document or a certified copy of it must be received by the Company at least 48 hours (unless reduced in the notice of meeting to which the appointment relates) before the general meeting (or the resumption of an adjourned general meeting)].

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- (c) The Company receives an appointment of a proxy or attorney or other authority under which it was signed when they are received at:
  - (i) the Company's registered office;
  - (ii) a facsimile number at the Company's registered office; or
  - (iii) a place, facsimile number or electronic address specified for that purpose in the notice of general meeting.

### **14.9 Validity**

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) died;
- (b) became mentally incapacitated;
- (c) revoked the proxy or power; or
- (d) transferred the Shares in respect of which the vote was cast,

unless the Company received written notification of the death, mental incapacity, revocation or transfer before the relevant general meeting or adjourned general meeting.

### **14.10 Representatives of bodies corporate**

- (a) Any Member that is a body corporate may appoint an individual as its representative as provided by the Corporations Act.
- (b) The appointment of a Representative may set out restrictions on the Representative's powers.
- (c) The original form of appointment of a Representative, a certified copy of the appointment, or a certificate of the body corporate evidencing the appointment of a Representative is prima facie evidence of a Representative having been appointed.
- (d) The chairperson of a general meeting may permit a person claiming to be a Representative to exercise the body's powers even if he or she has not produced a certificate or other satisfactory evidence of his or her appointment.

### **14.11 Direct Voting**

- (a) The Directors may determine that at any general meeting or class meeting, a Member who is entitled to attend and vote at that meeting is entitled to a Direct Vote.
- (b) A Direct Vote includes a vote delivered to the Company by post, fax or other electronic means approved by Directors from time to time. The Directors may prescribe rules to govern direct voting including specification as to the form, method and timing of giving the Direct Vote in order for the vote to be valid. To avoid doubt, a Direct Vote includes any form of vote that the directors may prescribe or accept including by any electronic means.
- (c) If a member casts a Direct Vote on a particular resolution they are taken to have revoked the authority of a previously authorised proxy to vote on their behalf on that resolution.

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- (d) If a member attempts to cast more than one vote on a particular resolution in respect of the same share, only the last vote received by the returning officer is to be taken to have been cast, irrespective of whether the vote is by way of Direct Vote or proxy.
- (e) A member is entitled to cast a Direct Vote prior to the relevant general meeting.
- (f) If sent by post or fax, the Direct Vote must be signed by the member or, if the member is a corporation, either under seal or by a duly authorised officer, attorney or representative.
- (g) If sent by electronic transmission, the Direct Vote is to be taken to have been signed if it has been signed or authorised by the member in the manner approved by the directors or specified in the notice of meeting.
- (h) At least 48 hours before the time for holding the relevant general meeting, an adjourned meeting or a poll at which a person proposes to cast a notice of their voting intention, there must be received at the Company's registered office or such other place as is specified for that purpose in the notice of meeting, or be transmitted to a facsimile number at the Company's registered office or a facsimile number or electronic address specified for that purpose in the notice of meeting:
  - (i) notice of their voting intention, and
  - (ii) any authority or power under which the Direct Vote was signed or a certified copy of that power or authority.
- (i) A notice of a voting intention is valid if it contains or can be linked to the following information:
  - (i) the member's name and address or any applicable identifying notations such as the holder identification number or similar approved by the directors or specified in the notice of meeting, and
  - (i) the member's voting intention on any or all of the resolutions to be put before the meeting.
- (j) A vote cast in accordance with a Direct Vote is valid even if before the vote was cast the member:
  - (i) Died;
  - (ii) became of unsound mind, or
  - (iii) wishes to change their vote,

unless written notification of the relevant event is received at the Company's registered office before the meeting, adjourned meeting or the taking of the poll in respect of which the Direct Vote was to have been cast.
- (k) The Chairman's decision as to whether a Direct Vote is valid is conclusive.
- (l) A person who has cast a Direct Vote is entitled to attend the meeting. The member's attendance cancels the direct vote, unless the member instructs the company or at its instruction the company's share registry otherwise.
- (m) If a vote is taken at a meeting on a resolution on which a Direct Vote was cast, the Chairman of the meeting must:

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- (i) on a vote by show of hands, count each member who has submitted a Direct Vote for or against the resolution in accordance with their Direct Vote, and
  - (ii) on a poll, count the votes cast by each member who has submitted a Direct Vote directly for or against the resolution, by the number of shares held by each member.
- (n) The Chairman of a meeting should call for a poll on a resolution where he or she believes that, having regard to the Direct Votes cast or directed proxies received, the result may differ from that obtained on a show of hands.
- (o) The Chairman of a meeting must ensure that a certificate signed by the returning officer of Direct Votes received is available at the meeting ahead of any vote being taken.

## **15. Appointment and removal of Directors**

### **15.1 Number of Directors**

- (a) Subject to the Corporations Act, the Company may by resolution passed at a general meeting increase the minimum number of Directors or increase or reduce the maximum number of Directors.
- (b) Until the Company resolves otherwise in accordance with clause 15.1(a) there will be:
  - (i) a minimum of three Directors; and
  - (ii) a maximum of ten Directors.
- (c) Subject to any resolution of the Members determining the maximum and minimum numbers of Directors, the Directors may from time to time determine the respective numbers of Executive and Non-Executive Directors.
- (d) The initial Directors of the Company are the persons who have consented to act as directors and are set out in the Company's application for registration as a company. Those persons hold office subject to this Constitution.

### **15.2 Power to remove and appoint Directors**

- (a) The Company may, subject to the Corporations Act, by resolution passed in general meeting:
  - (i) remove any Director before the end of the Director's term of office; and
  - (ii) if the outgoing Director is a Non-Executive Director, elect another person to replace the Director.
- (b) A person appointed under clause 15.2(a) will hold office for the remainder of the term for which the Director replaced would have held office if the Director had not been removed.
- (c) Subject to the provisions of this Constitution, the Company may appoint a person as a Director by resolution passed in general meeting.
- (d) A Director appointed or elected at a general meeting is taken to have been appointed or elected with effect from immediately after the end of that general

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meeting unless the resolution by which the Director was appointed or elected specifies a different time.

- (e) If the conduct or position of any Director is such that continuance in office appears to the majority of the Directors to be prejudicial to the interests of the Company, a majority of Directors at a meeting of the Directors specifically called for that purpose may suspend that Director.
- (f) A suspended Director may not take any part in the business or affairs of the Company until the suspension has been terminated.
- (g) Within 14 days of suspension of Director, the Directors must call a general meeting, at which the Members may consider a motion to remove the Director from office in accordance with clause 15.2(a)(i).
- (h) If a motion to remove a suspended Director from office is not carried at the general meeting called to consider the matter, the suspension of the Director is terminated and the Director is reinstated in his or her office.

### 15.3 Nomination of Directors

- (a) A person, other than a Director retiring under clause 15.5(b) or under clause 15.6(a) who seeks re-election, is not eligible for election as a Director at a general meeting unless:
  - (i) the person is proposed as a candidate by at least 50 Members or Members holding between them at least 5% of the votes that may be cast at a general meeting of the Company; and
  - (ii) the proposing Member leaves a notice at the Company's registered office which nominates the candidate for the office of Director and includes the signed consent of the candidate.
- (b) A notice given in accordance with clause 15.3(a) must be left at the Company's registered office not less than 35 Business Days before the relevant general meeting.

### 15.4 Qualification to be a Director

- (a) Neither a Director nor an Alternate Director has to hold any Shares in the Company. If Shares are converted into a larger or smaller number then the number of Shares a Director must hold will be adjusted accordingly.
- (b) A Director must hold the requisite share qualification at the time of the Director's election or appointment and must continue to hold that qualification so long as the Director continues to hold office as Director.
- (c) In addition to the circumstances which disqualify a person from managing a corporation according to the Corporations Act, no person who has been an insolvent under administration within the previous 5 years is eligible to become a Director.
- (d) A Director (and an Alternate Director when acting as a Director) is entitled to notice of all general meetings and meetings of the holders of any class of Shares.

### 15.5 Casual and additional Directors

- (a) Subject to clause 15.1, the Directors may appoint any person as a Director to fill a casual vacancy or as an addition to the existing Directors.

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- (b) Unless the Director is an Executive Director and the ASX Listing Rules do not require that Director to be subject to retirement as set out in this clause, a Director appointed under clause 15.5(a) will hold office until the end of the next annual general meeting of the Company, at
- (c) which the Director may be re-elected but he or she will not be taken into account in determining the number of Directors who must retire by rotation at the meeting in accordance with clause 15.6(a).

### 15.6 Retirement through rotation

- (a) At the close of each annual general meeting one-third of the Directors or, if their number is not a multiple of three, then the number nearest to but not more than one-third of the Directors, must retire.
- (b) The Directors to retire by rotation at an annual general meeting are those Directors who have been longest in office since their last election.
- (c) Directors elected on the same day may agree among themselves or determine by lot which of them must retire.
- (d) Subject to clause 17.1(h), a Director must retire from office at the conclusion of the third annual general meeting after the Director was last elected, even if his or her retirement results in more than one-third of all Directors retiring from office.
- (e) A retiring Director remains in office until the end of the meeting and will be eligible for re-election at the meeting.

### 15.7 Vacation of office

The office of a Director immediately becomes vacant if the Director:

- (a) ceases to be a Director by virtue of the Corporations Act;
- (b) is prohibited by the Corporations Act from holding office or continuing as a Director;
- (c) is liable to pay a call but does pay the call within 21 days after the date on which it is payable;
- (d) is prohibited from holding or is removed from the office of Director by an order made under the Corporations Act;
- (e) becomes bankrupt or makes any general arrangement or composition with his or her creditors;
- (f) cannot fully participate in the management of the Company because of his or her mental incapacity or is a person whose estate is liable to have a person appointed, under the law relating to the administration of estates of persons who through mental or physical infirmity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Directors incapable of performing his or her duties;
- (g) resigns from his or her office of Director by notice in writing to the Company;
- (h) is removed by a resolution of the Company; or

## Constitution

- (i) is resident in Australia and not being engaged abroad on the business of the Company, is absent from Directors' meetings for three consecutive months without leave of absence from the Directors.

## 16. Proceedings of Directors

### 16.1 Directors' interests

- (a) As required by the Corporations Act, a Director must give the Directors notice of any material personal interest in a matter that relates to the affairs of the Company.
- (b) Subject to the provisions of this clause 16.1, a Director or a body or entity in which a Director has a direct or indirect interest may:
  - (i) enter into any agreement or arrangement with the Company;
  - (ii) hold any office or place of profit other than as auditor in the Company; and
  - (iii) act in a professional capacity other than as auditor for the Company,and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.
- (c) The fact that a Director holds office as a director, and has fiduciary obligations arising out of that office:
  - (i) will not void or render voidable a contract made by a Director with the Company;
  - (ii) will not void or render voidable a contract or arrangement entered into by or on behalf of the Company and in which the Director may have any interest; and
  - (iii) will not require the Director to account to the Company for any profit realised by or under any contract or arrangement entered into by or on behalf of the Company and in which the Director may have any interest.
- (d) A Director may be or become a director or other officer of, or otherwise be interested in:
  - (i) any related body corporate of the company; or
  - (ii) any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise,and is not accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.
- (e) A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:
  - (i) be present while the matter is being considered at the meeting; or
  - (ii) vote on the matter,



## Constitution

unless permitted to do so by the Corporations Act, in which case the Director may:

- (iii) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
  - (iv) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
  - (v) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.
- (f) A Director must give to the Company such information about the Shares or other securities in the Company in which the Director has a relevant interest and at the times that the Secretary requires, to enable the Company to comply with any disclosure obligations it has under the Corporations Act or the ASX Listing Rules.

### 16.2 Meetings of Directors

- (a) The chairperson, the deputy chairperson, or any two Directors may at any time, and the Secretary must on the request of the chairperson, the deputy chairperson, or any two Directors, call a meeting of the Directors.
- (b) A Directors' meeting must be called by not less than 48 hours' notice of a meeting to each Director, unless the Directors unanimously agree otherwise. The notice may be in writing or given using any technology consented to by all the Directors.
- (c) An accidental omission to send a notice of a meeting of Directors to any Director or the non-receipt of such a notice by any Director does not invalidate the proceedings, or any resolution passed, at the meeting.
- (d) Subject to the Corporations Act, a Directors' meeting may be held by the Directors communicating with each other by any technological means consented to by all the Directors. The consent may be a standing one.
- (e) The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- (f) A Director who participates in a meeting held in accordance with clause 16.2(d) is taken to be present and entitled to vote at the meeting.
- (g) A Director can only withdraw his or her consent under clause 16.2(d) to the means of communication between Directors proposed for a Directors' meeting if the Director does so at least 48 hours before the meeting.
- (h) Clause 16.2(d) applies to meetings of Directors' committees as if all committee members were Directors.
- (i) A quorum for meetings of Directors may be fixed by the Directors and unless so fixed, is three Directors present. The quorum must be present at all times during the meeting.
- (j) Where a quorum cannot be established for the consideration of a particular matter at a meeting of Directors, one or more of the Directors may call a general meeting of Members to deal with the matter.

## **Constitution**

### **16.3 Minutes of meetings**

- (a) The Directors must cause minutes to be made of:
  - (i) the names of the Directors present at all Directors' meetings and meetings of Directors' committees;
  - (ii) all proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
  - (iii) all resolutions passed in accordance with clause 16.5;
  - (iv) appointments of officers, but only if the Directors resolve that a minute of the appointment should be made; and
  - (v) all disclosures of interests made in accordance with the Corporations Act.
- (b) Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting, and if so signed will be conclusive evidence of the matters stated in such minutes.

### **16.4 Decisions**

- (a) Questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting or if not present, voting by any means approved by the Directors and, subject to the Corporations Act, each Director has one vote.
- (b) Subject to the ASX Listing Rules, in the case of an equality of votes the chairperson of a meeting, has a casting vote in addition to his or her deliberative vote.
- (c) An Alternate Director has one vote for each Director for whom he or she is an alternate. If an Alternate Director is a Director, he or she also has a vote as a Director.

### **16.5 Written resolutions**

- (a) If:
  - (i) all the Directors who are eligible to vote on a resolution; or
  - (ii) the majority of Directors who are eligible to vote on a resolution,have signed a document containing a statement that they are in favour of a resolution set out in the document, then a resolution in those terms is taken to have been passed by the Directors without a meeting. The resolution is passed when the last Director signs.
- (b) For the purposes of clause 16.5(a), separate copies of a document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy.
- (c) Any document referred to in this clause may be in the form of a facsimile transmission or electronic notification.
- (d) If a resolution is taken to have been passed in accordance with this clause 16.5, the minutes must record that fact.

## **Constitution**

- (e) This clause 16.5 applies to meetings of Directors' committees as if all members of the committee were Directors.
- (f) Any document referred to in this clause 16.5 must be sent to every Director who is entitled to vote on the resolution.

### **16.6 Chairperson**

- (a) The Directors may elect a Director as chairperson of Directors' meetings and may determine the period for which the chairperson will hold office.
- (b) If no chairperson is elected or if the chairperson is not present at any Directors' meeting within 10 minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of the meeting.
- (c) The Directors may elect a Director as deputy chairperson to act as chairperson in the chairperson's absence.

### **16.7 Alternate Directors**

- (a) A Director may, with the approval of the Directors, appoint any person as his or her alternate.
- (b) An Alternate Director is entitled to notice of Directors' meetings while he or she is acting in that capacity and, if the appointor is not present at a meeting, is entitled to attend, be counted in a quorum and vote as a Director.
- (c) An Alternate Director is an officer of the Company and is not an agent of the appointor.
- (d) The provisions of this Constitution which apply to Directors also apply to Alternate Directors, except that Alternate Directors are not entitled in that capacity to any remuneration from the Company.
- (e) The appointment of an Alternate Director may be revoked at any time by the appointor or by the other Directors.
- (f) An Alternate Director's appointment ends automatically when his or her appointor ceases to be a Director.
- (g) Any appointment or revocation under this clause must be effected by written notice delivered to the Secretary.
- (h) An Alternate Director does not have an interest in a contract or arrangement or a material personal interest in a matter by reason only of the fact that his or her appointor has such an interest.

### **16.8 Remaining Directors**

- (a) The Directors may act even if there are vacancies on the board.
- (b) If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Director or Directors may act only to:
  - (i) appoint a Director or Directors; or
  - (ii) call a general meeting.

## **Constitution**

### **16.9 Delegation of Directors' powers**

- (a) The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to a committee or committees.
- (b) The Directors may at any time revoke any delegation of power under clause 16.9(a).
- (c) At least one member of each committee of Directors must be a Director.
- (d) A committee may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.
- (e) Meetings of any committee of Directors will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each member was a Director.

### **16.10 Validity of acts of Directors**

- (a) An act done by a Director is effective even if their appointment, or the continuance of their appointment, is invalid because the Company or Director did not comply with this Constitution or any provision of the Corporations Act.
- (b) Clause 16.10(a) does not deal with the question whether an effective act by a director:
  - (i) binds the company in its dealings with other people; or
  - (ii) makes the company liable to another person.

## **17. Executive Directors**

### **17.1 Appointment of Executive Directors**

- (a) The Directors may appoint a Director to the office of Managing Director on such terms as they think fit.
- (b) The Directors may appoint a Director to any other full time or substantially full time executive position in the Company on such terms as they think fit.
- (c) A Director appointed under clause 17.1(a) or 17.1(b), and a Director (however appointed) occupying for the time being a full time or substantially full time executive position in the Company or a related body corporate of the Company, is referred to in this Constitution as an Executive Director.
- (d) The Directors may, subject to the terms of the Executive Director's employment contract, suspend, remove or dismiss him or her from executive office and appoint another Director in that place.
- (e) If an Executive Director (including the Managing Director) ceases to be a Director, his or her appointment as an Executive Director terminates automatically.
- (f) If an Executive Director (including the Managing Director) ceases to hold an executive office in the Company, then, unless the Directors resolve otherwise, he or she also ceases to be a Director from the same date.

## **Constitution**

- (g) If an Executive Director is suspended from executive office of the Company or of a related body corporate of the Company, his or her duties and obligations as Director are suspended for the same period.
- (h) A Managing Director is not subject to retirement by rotation and is not to be taken into account in determining the rotation of retirement of Directors. Any other Executive Directors are subject to retirement by rotation.

### **17.2 Powers of Executive Directors**

- (a) The Directors may confer on an Executive Director any powers exercisable by the Directors, subject to any terms and restrictions determined by the Directors.
- (b) The Directors may authorise an Executive Director to sub-delegate all or any of the powers vested in him or her.
- (c) Any power conferred under this clause may be concurrent with but not to the exclusion of the Directors' powers.
- (d) The Directors may at any time withdraw or vary any of the powers conferred on an Executive Director.

## **18. Management of the Company**

- (a) The business of the Company is managed by or under the direction of the Directors who may exercise all powers of the Company that this Constitution, the Corporations Act or the ASX Listing Rules do not require to be exercised by the Company in general meeting.
- (b) Without limiting the generality of clause 18(a), the Directors may exercise all the powers of the Company to:
  - (i) borrow money;
  - (ii) charge any property or business of the Company or all or any of its uncalled capital;
  - (iii) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
  - (iv) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

## **19. Local Management**

### **19.1 Appointment of attorneys and agents**

- (a) The Directors may from time to time by resolution or power of attorney appoint any person to be the attorney or agent of the Company:
  - (i) for the purposes;
  - (ii) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
  - (iii) for the period; and
  - (iv) subject to the conditions, determined by the Directors.

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- (b) An appointment by the Directors of an attorney or agent of the Company may be made in favour of:
  - (i) any member of any local board established under this Constitution;
  - (ii) any company;
  - (iii) the members, directors, nominees or managers of any company or firm; or
  - (iv) any fluctuating body of persons whether nominated directly or indirectly by the Directors.
- (c) A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.
- (d) An attorney or agent appointed under this clause 19.1 may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

### **19.2 General**

- (a) The Directors may provide for the management and transaction of the affairs of the Company in any place and in such manner as they think fit.
- (b) Without limiting clause 19.2(a), the Directors may:
  - (i) establish local boards or agencies for managing any of the affairs of the Company in a specified place and appoint any persons to be members of those local boards or agencies; and
  - (ii) delegate to any person appointed under clause 19.2(b)(i) any of the powers, authorities and discretions which may be exercised by the Directors under this Constitution,on any terms and subject to any conditions determined by the Directors.
- (c) The Directors may at any time revoke or vary any delegation under this clause 19.2.

## **20. Remuneration of Directors**

### **20.1 Executive Director Remuneration**

- (a) The remuneration of an Executive Director may from time to time be fixed by the Directors. The remuneration may be by way of salary or commission or participation in profits or by all or any of these modes but may not be by commission on, or a percentage of, operating revenue.
- (b) The Company may reimburse an Executive Director for his or her expenses properly incurred as a Director or in the course of his or her office.
- (c) Except in circumstances prohibited by the Corporations Act, the Company may pay a premium for a contract insuring a person who is or has been an Executive Director against liability incurred by the person as a Director.

### **20.2 Non-Executive Director Remuneration**

- (a) Subject to the ASX Listing Rules, the Directors as a whole (other than Executive Directors) may be paid or provided remuneration for their services the total

## **Constitution**

amount or value of which must not exceed an aggregate maximum of \$400,000 per annum or such other maximum amount determined from time to time by the Company in general meeting.

- (b) The notice calling a general meeting at which it is proposed that Members approve an increase of the aggregate maximum sum must state the amount of the increase and the aggregate maximum sum, and any other matters required by the ASX Listing Rules.
- (c) Subject to the ASX Listing Rules, the aggregate maximum sum will be divided among the Non-Executive Directors in such proportion and manner as the Directors agree and, in default of agreement, equally and shall be deemed to accrue from day to day.
- (d) Non-Executive Directors may not be paid a commission on or a percentage of profits or operating revenue.
- (e) If a Non-Executive Director is required to perform services for the Company which in the opinion of the Directors, are outside the scope of the ordinary duties of a Director, the Company may pay or provide the Director remuneration determined by the Directors which may be either in addition to or instead of the Director's remuneration under clause 20.2(a). No remuneration may be paid or provided under this clause 20.2(e) if the effect would be to exceed the aggregate maximum sum of Directors' remuneration determined by the Company in general meeting.
- (f) Non-Executive Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or otherwise in connection with the Company's business.
- (g) The Company may also pay a premium for a contract insuring a person who is or has been a Non-Executive Director against liability incurred by the person as a Director, except in circumstances prohibited by the Corporations Act.
- (h) Shares may be provided to Non-Executive Directors as part of their remuneration under clauses 20.2(c) and 20.2(d) according to the rules of any share plan for the remuneration of Non-Executive Directors that may be introduced by the Company. For the purposes of clause 20.2(a), the value of any Shares provided will be determined according to the rules of the share plan.

### **20.3 Retirement benefits**

- (a) Subject to the Corporations Act, the Company may give a person a benefit in connection with a Director's retirement from a board or managerial office in the Company or a related body corporate of the Company.
- (b) Subject to the Corporations Act, the Company may enter into an agreement or contract with a person for the giving to the person or any other person of a benefit in connection with a Director's retirement from a board or managerial office in the Company or a related body corporate of the Company.

## **21. Secretary**

- (a) There must be at least one Secretary of the Company appointed by the Directors on conditions determined by them.
- (b) The Secretary is entitled to attend all Directors' and general meetings.

## **Constitution**

- (c) The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

### **22. Inspection of records**

- (a) Except as otherwise required by the Corporations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Company or any of them will be open for inspection by Members other than Directors.
- (b) A Member other than a Director does not have the right to inspect any financial records or other documents of the Company unless the Member is authorised to do so by a court order or a resolution of the Directors.
- (c) Notwithstanding clauses 22(a) and 22(b), the books of the Company containing the minutes of general meetings will be kept at the Company's registered office and will be open to inspection of Members at all times when the office is required to be open to the public.

### **23. Notices**

#### **23.1 Service**

- (a) Notice may be given by the Company to any person who is entitled to notice under this Constitution by:
  - (i) serving it on the person;
  - (ii) sending it by post, courier, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Company for sending notices to the person; or
  - (iii) (except in the case of a notice of meeting of Members which is required to be given individually to each Member entitled to vote at the meeting and to each Director), advertising in one or more newspapers published daily (except on weekends) and distributed throughout Australia as determined by the Directors.
- (b) A notice sent by post or courier is taken to be served:
  - (i) by properly addressing the post or courier and sending it; and
  - (ii) on the day after the day on which it was posted or given to the courier for delivery by properly addressing, prepaying and posting or directing the delivery of the notice; and
- (c) A notice sent by facsimile transmission or electronic notification is taken to be served:
  - (i) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
  - (ii) on the day of its transmission except if transmitted after 5pm in which case is taken to be served on the next day.
- (d) A notice given by advertisement is taken to be served on the date on which the advertisement first appears in a newspaper.



## Constitution

- (e) A notice may be served by the Company on joint holders under clause 23.1(a)(i) or 23.1(a)(ii) by giving the notice to the joint holder whose name appears first in the Register.
- (f) Every person who is entitled to a Share by operation of law and who is not registered as the holder of the Share is taken to receive any notice served in accordance with this clause by advertisement or on that person from whom the first person derives title.
- (g) A Share certificate, cheque, warrant or other document may be delivered by the Company either personally or by sending it:
  - (i) in the case of a Member whose address recorded in the Register is not in Australia, by airmail post, facsimile transmission, electronic notification or in another way that ensures that it will be received quickly, as appropriate; and
  - (ii) in any other case by ordinary post,and is at the risk of the addressee as soon as it is given or posted.

A Member whose address recorded in the Register is not in Australia may specify in writing an address in Australia for the purposes of clause 23.1.
- (h) A certificate in writing signed by a Director, Secretary or other officer of the Company, or by any person that the Company has engaged to maintain the Register, that a document or its envelope or wrapper was addressed and stamped and was posted or given to a courier is conclusive evidence of posting or delivery by courier.
- (i) Subject to the Corporations Act the signature to a written notice given by the Company may be written or printed.
- (j) All notices sent by post outside Australia must be sent by prepaid airmail post.
- (k) A notice sent by post, courier, facsimile transmission or electronic notification to a Member's address shown in the Register or the address supplied by the Member to the Company for the purpose of sending notices to the Member is deemed to have been served notwithstanding that the Member has died, whether or not the Company has notice of his or her death.

### 23.2 Entitlement to notices

- (a) Notice of every general meeting must be given to:
  - (i) every Member;
  - (ii) every Director and Alternate Director;
  - (iii) ASX; and
  - (iv) the Auditor.
- (b) No other person is entitled to receive notice of a general meeting.

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### 24. Audit and financial records

- (a) The Directors must cause the Company to keep written financial records and to prepare financial documents and reports in accordance with the requirements of the Corporations Act and the ASX Listing Rules.
- (b) The Directors must cause the financial records and financial documents of the Company to be audited in accordance with the requirements of the Corporations Act and the ASX Listing Rules.

### 25. Winding up the Company

- (a) Nothing in this clause prejudices the rights of the holders of Shares issued on special terms and conditions.
- (b) If the Company is wound up, the liquidator may, with the sanction of a special resolution of the Company:
  - (i) divide among the Members in kind all or any of the Company's assets; and
  - (ii) for that purpose, determine how he or she will carry out the division between the different classes of Members,but may not require a Member to accept any Shares or other securities in respect of which there is any liability.
- (c) The liquidator may, with the sanction of a special resolution of the Company, vest all or any of the Company's assets in a trustee on trusts determined by the liquidator for the benefit of the contributories.

### 26. Indemnity

- (a) To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act, the Company indemnifies every person who is or has been an officer of the Company against any liability (other than for legal costs) incurred by that person as an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).
- (b) To the extent permitted by law and subject to the restrictions in section 199A of the Corporations Act, the Company indemnifies every person who is or has been an officer of the Company against reasonable legal costs incurred in defending an action for a liability incurred or allegedly incurred by that person as an officer of the Company (including such legal costs incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).
- (c) The amount of any indemnity payable under clause 26(a) or 26(b) will include an additional amount (**GST Amount**) equal to any GST payable by the officer being indemnified (Indemnified Officer) in connection with the indemnity (less the amount of any input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.
- (d) The Directors may agree to advance to an officer an amount which it might otherwise be liable to pay to the officer under clause 26(a) on such terms as the Directors' think fit but which are consistent with this clause, pending the outcome of any findings of a relevant court or tribunal which would have a bearing on

## **Constitution**

whether the Company is in fact liable to indemnify the officer under clause 26(a). If after the Company makes the advance, the Directors form the view that the Company is not liable to indemnify the officer, the Company may recover any advance from the officer as a debt due by the officer to the Company.

(e) For the purposes of this clause 26, officer means:

(i) a Director; or

(ii) a Secretary.

## **27. Disclosure by shareholders**

If a Member has entered into any arrangement restricting the transfer or other disposal of Shares and those arrangements are of the nature of arrangements which the Company is required to disclose under the ASX Listing Rules, then the Member must provide to the Company such information that the Company requires and within the time that the Company requires, to comply with the Company's disclosure obligations.

If you are attending the meeting in person, please bring this with you for Securityholder registration.

Holder Number: \_\_\_\_\_

## Vote by Proxy: RNO

Your proxy voting instruction must be received by **10.00am (AEDT) on Sunday, 12 November 2017**, being **not later than 48 hours** before the commencement of the Meeting. Any Proxy Voting instructions received after that time will not be valid for the scheduled Meeting.

### SUBMIT YOUR PROXY VOTE BY PAPER

Complete the form overleaf in accordance with the instructions set out below.

#### YOUR NAME AND ADDRESS

The name and address shown above is as it appears on the Company's share register. If this information is incorrect, and you have an Issuer Sponsored holding, you can update your address through the investor portal:

<https://investor.automic.com.au/#/home> Shareholders sponsored by a broker should advise their broker of any changes.

#### VOTING UNDER STEP 1- APPOINTING A PROXY

If you wish to appoint someone other than the Chairman of the Meeting as your proxy, please write the name of that Individual or body corporate. A proxy need not be a Shareholder of the Company. Otherwise if you leave this box blank, the Chairman of the Meeting will be appointed as your proxy by default.

#### DEFAULT TO THE CHAIRMAN OF THE MEETING

Any directed proxies that are not voted on a poll at the Meeting will default to the Chairman of the Meeting, who is required to vote these proxies as directed. Any undirected proxies that default to the Chairman of the Meeting will be voted according to the instructions set out in this Proxy Voting Form, including where the Resolutions are connected directly or indirectly with the remuneration of KMP

#### VOTES ON ITEMS OF BUSINESS – PROXY APPOINTMENT

You may direct your proxy how to vote by marking one of the boxes opposite each item of business. All your shares will be voted in accordance with such a direction unless you indicate only a portion of voting rights are to be voted on any item by inserting the percentage or number of shares you wish to vote in the appropriate box or boxes. If you do not mark any of the boxes on the items of business, your proxy may vote as he or she chooses. If you mark more than one box on an item your vote on that item will be invalid.

#### APPOINTMENT OF SECOND PROXY

You may appoint up to two proxies. If you appoint two proxies, you should complete two separate Proxy Voting Forms and specify the percentage or number each proxy may exercise. If you do not specify a percentage or number, each proxy may exercise half the votes. You must return both Proxy Voting Forms together. If you require an additional Proxy Voting Form, contact Automic Registry Services.

#### SIGNING INSTRUCTIONS

You must sign this form as follows in the spaces provided

**Individual:** Where the holding is in one name, the Shareholder must sign.

**Joint holding:** Where the holding is in more than one name, all of the Shareholders should sign.

**Power of attorney:** If you have not already lodged the power of attorney with the registry, please attach a certified photocopy of the power of attorney to this Proxy Voting Form when you return it.

**Companies:** To be signed in accordance with your Constitution. Please sign in the appropriate box which indicates the office held by you.

**Email Address:** Please provide your email address in the space provided. **By providing your email address, you elect to receive all communications despatched by the Company electronically (where legally permissible) such as a Notice of Meeting, Proxy Voting Form and Annual Report via email.**

#### CORPORATE REPRESENTATIVES

If a representative of the corporation is to attend the Meeting the appropriate 'Appointment of Corporate Representative' should be produced prior to admission. A form may be obtained from the Company's share registry online at <https://automic.com.au>.

#### ATTENDING THE MEETING

Completion of a Proxy Voting Form will not prevent individual Shareholders from attending the Meeting in person if they wish. Where a Shareholder completes and lodges a valid Proxy Voting Form and attends the Meeting in person, then the proxy's authority to speak and vote for that Shareholder is suspended while the Shareholder is present at the Meeting.

#### POWER OF ATTORNEY

If a representative as power of attorney of a Shareholder of the Company is to attend the Meeting, a certified copy of the Power of Attorney, or the original Power of Attorney, must be received by the Company in the same manner, and by the same time as outlined for proxy forms.

## CONTACT

### Return your completed form:



#### BY MAIL

Automic Registry Services  
PO Box 2226  
Strawberry Hills NSW 2012



#### IN PERSON

Automic Registry Services  
Level 3, 50 Holt Street,  
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### Contact us – All enquiries to Automic:



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## STEP 1: Please appoint a Proxy

### Complete and return this form as instructed

I/We being a Shareholder entitled to attend and vote at the Annual General Meeting of Rhinomed Limited, to be held at **10.00 am (AEDT) on Tuesday, 14 November 2017 at the Tom Wills Room, Great Southern Stand (Level 2) of the Melbourne Cricket Ground, Brunton Avenue, East Melbourne, Victoria 3002** hereby:

**Appoint the Chairman of the Meeting (Chair)** OR if you are not appointing the Chairman of the Meeting as your proxy, please write the name of the person or body corporate you are appointing as your proxy or failing the person so named or, if no person is named, the Chair, or the Chair's nominee, to vote in accordance with the following directions, or, if no directions have been given, and subject to the relevant laws as the proxy sees fit and at any adjournment thereof.

**The Chair intends to vote undirected proxies in favour of all Resolutions in which the Chair is entitled to vote.**

Unless indicated otherwise by ticking the "for," "against" or "abstain" box you will be authorising the Chair to vote in accordance with the Chair's voting intention.

#### AUTHORITY FOR CHAIR TO VOTE UNDIRECTED PROXIES ON REMUNERATION RELATED RESOLUTIONS

Where I/we have appointed the Chair as my/our proxy (or where the Chair becomes my/our proxy by default), I/we expressly authorise the Chair to exercise my/our proxy on Resolutions 1, 3 and 4 (except where I/we have indicated a different voting intention below) even though Resolutions 1, 3 and 4 are connected directly or indirectly with the remuneration of a member of the Key Management Personnel, which includes the Chair.

## STEP 2: Your Voting Direction

#### Resolutions

1. Adoption of Remuneration Report

2. Re-election of Dr Eric Knight as a Director

3. Approval of Employee Share and Option Plan

4. Increase in Total Fee Pool of Non-Executive Directors

5. Approval of additional placement capacity to issue Shares under ASX Listing Rule 7.1A

6. Adoption of New Constitution

#### For

#### Against

#### Abstain

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*Please note: If you mark the abstain box for a particular Resolution, you are directing your proxy not to vote on that Resolution on a show of hands or on a poll and your votes will not be counted in computing the required majority on a poll.*

## STEP 3: Sign

### SIGNATURE OF SHAREHOLDERS – THIS MUST BE COMPLETED

Individual or Securityholder 1

Securityholder 2

Securityholder 3




Sole Director and Sole Company Secretary

Director

Director / Company Secretary

Contact Name.....

Contact Daytime Telephone.....

Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Email Address .....

**By providing your email address, you elect to receive all of your communications despatched by the Company electronically (where legally permissible).**

**Holder Number:**